
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1870 Session of
2013

INTRODUCED BY METCALFE, AUMENT, CUTLER, OBERLANDER AND TALLMAN,
DECEMBER 9, 2013

REFERRED TO COMMITTEE ON HEALTH, DECEMBER 9, 2013

AN ACT

1 Providing for prioritization of public funds to certain health
2 care entities and for enforcement.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Whole Woman's
7 Health Funding Priorities Act.

8 Section 2. Declaration of purpose.

9 The General Assembly finds and declares as follows:

10 (1) Limited Federal and State funds exist for family
11 planning and preventive health services for women generally
12 and for maternal and fetal patients in particular.

13 (2) Fiscal constraints mandate that the Commonwealth
14 allocate available funds efficiently by ensuring the funds
15 are distributed by priority to the most efficient point-of-
16 service health care providers.

17 (3) Public and private providers of primary and
18 preventive care utilize public funds more effectively than

1 providers of health care services that are specialized to
2 particular medical services or discrete patient populations.

3 (4) It is the intent of the General Assembly through
4 this act to prioritize the distribution and utilization of
5 public funds for family planning, reproductive health care
6 and maternal and fetal care to public and private primary and
7 preventive care providers.

8 (5) Prioritization of public health care funding to
9 primary and preventive care furthers sound health care
10 policy.

11 (6) Individuals who have a primary care clinician are
12 more likely to access health care services, leading to more
13 favorable long-term outcomes.

14 (7) Health care costs are lowered when primary and
15 preventive care is provided by primary care clinicians in a
16 setting that addresses the whole person through counseling,
17 screening and early detection of leading causes of morbidity
18 and mortality, including diabetes, hypertension, obesity,
19 cardiovascular and renal diseases and asthma.

20 (8) Less fragmented health care will reduce indirect
21 costs, such as lost worker productivity and employer health
22 care costs, and will result in individual citizens leading
23 longer, healthier and happier lives.

24 (9) It is the public policy of the Commonwealth to
25 ensure delivery of comprehensive preconception and prenatal
26 care for maternal and fetal patients in order to reduce
27 maternal and fetal morbidity and mortality.

28 (10) The United States Department of Health and Human
29 Services Centers for Disease Control and Prevention states,
30 "Comprehensive preconception and prenatal care includes

1 encouraging women to stop smoking, refrain from using alcohol
2 and other drugs, eat a healthy diet, take folic acid
3 supplements, maintain a healthy weight, control high blood
4 pressure and diabetes, and reduce exposure to workplace and
5 environmental hazards."

6 (11) Moreover, the United States Department of Health
7 and Human Services Centers for Disease Control and Prevention
8 states, "In addition, screening and providing services to
9 prevent intimate partner violence and infections (e.g., HIV,
10 STI and viral hepatitis) help to improve the health of the
11 mother and the baby."

12 (12) Delivery of these critical services is best
13 accomplished through a single point-of-service provider, such
14 as a primary care provider, and directed by a primary care
15 clinician who has knowledge of the patient's medical history
16 and personal, familial and environmental health factors.

17 (13) Medical intervention models that emphasize the
18 provision of services to discrete patient subpopulations,
19 such as women of child-bearing age, to address discrete
20 patient conditions or provide particular therapies conflict
21 with the utilization of public funding to maximize effective
22 delivery of holistic prenatal and maternal health care.

23 (14) Federal law provides that nontherapeutic abortion
24 shall not be subsidized with public funds.

25 (15) It is public policy of the Commonwealth that public
26 funds should not be provided for the direct or indirect
27 costs, such as overhead, rent and utilities, of
28 nontherapeutic or "elective" abortion procedures by providing
29 funds to State contractors or grantees that regularly provide
30 such procedures.

1 Section 3. Definitions.

2 The following words and phrases when used in this act shall
3 have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Abortion." The use of any means to terminate the clinically
6 diagnosable pregnancy of a woman with knowledge that the
7 termination by those means will cause, with reasonable
8 likelihood, the death of the unborn child. The term does not
9 include birth control devices, oral contraceptives used to
10 inhibit or prevent ovulation, conception or the implantation of
11 a fertilized ovum in the uterus or the use of any means to
12 increase the probability of a live birth, to preserve the life
13 or health of the child after a live birth, to terminate an
14 ectopic pregnancy or to remove a dead fetus.

15 "Department." The Department of Health of the Commonwealth.

16 "Federally qualified abortion." An abortion qualified for
17 Federal matching funds under the Medicaid program.

18 "Federally qualified health center." An entity as defined
19 under section 1905(1)(2)(B) of the Social Security Act (49 Stat.
20 620, 42 U.S.C. § 1396d(1)(2)(B)) that is eligible to receive
21 Federal funds.

22 "Hospital." A primary or tertiary care facility licensed
23 under State law.

24 "Public funds." State funds from whatever source, including
25 without limitation, State general revenue funds, State special
26 account and limited purpose grants or loans and Federal funds
27 provided under Title X of the Public Health Service Act (58
28 Stat. 682, 42 U.S.C. § 300 et seq.) and Titles V and XX of the
29 Social Security Act (49 Stat. 620, 42 U.S.C. § 300 et seq. and §
30 701 et seq.).

1 "Rural health clinic." A health care provider that is
2 eligible to receive Federal funds as defined in section 1861(aa)
3 (2) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395x
4 (aa)(2)).

5 Section 4. Prioritization of public funds to health care
6 entities.

7 (a) General rule.--Subject to any applicable requirements of
8 Federal statutes, rules, regulations or guidelines:

9 (1) Any expenditures or grants of public funds for
10 family planning services by the Commonwealth by and through
11 the department shall be made in the following order of
12 priority:

13 (i) To public entities.

14 (ii) To nonpublic hospitals and federally qualified
15 health centers.

16 (iii) To rural health clinics.

17 (iv) To nonpublic health providers that have as
18 their primary purpose the provision of the primary health
19 care services enumerated under section 254b(a)(1) of the
20 Public Health Service Act (58 Stat. 68, 42 U.S.C. §
21 254b(a)(1)).

22 (2) The department may not enter into a contract with or
23 make a grant to any entity that performs abortions that are
24 not federally qualified abortions or maintains or operates a
25 facility where such abortions are performed.

26 (b) Construction.--Nothing in this section shall be
27 construed to apply to the receipt or administration of public
28 funds pursuant to Title XIX of the Social Security Act (49 Stat.
29 620, 42 U.S.C. § 1396 et seq.).

30 Section 5. Enforcement.

1 (a) Attorney General.--The Attorney General may bring an
2 action in law or equity to enforce the provisions of this act
3 and relief shall be available in appropriate circumstances,
4 including, but not limited to, recoupment and declaratory and
5 injunctive relief, including, but not limited to, suspension or
6 debarment.

7 (b) Standing.--Any entity eligible for the receipt of public
8 funds shall possess standing to bring any action that the
9 Attorney General has authority to bring under the provisions of
10 subsection (a), provided, however, if an expenditure or grant of
11 public funds made in violation of this act results in the
12 reduction of public funds and a court awards monetary relief,
13 the amount recovered shall be deposited into one or more
14 accounts maintained by the Commonwealth for public funds.

15 (c) Attorney fees and costs.--In an action brought under
16 this section, a prevailing plaintiff shall be entitled to an
17 award of reasonable attorney fees and costs.

18 Section 6. Right of intervention.

19 The General Assembly, through one or more members duly
20 appointed by resolution of their respective chamber, may
21 intervene as a matter of right in any case in which the
22 constitutionality of this act is challenged.

23 Section 7. Severability.

24 It is the intent of the General Assembly that every provision
25 of this act shall operate with equal force and shall be
26 severable one from the other and that in the event that any
27 provision of this act is held invalid or unenforceable by a
28 court of competent jurisdiction, that provision shall be
29 accordingly deemed severable and the remaining provisions deemed
30 fully enforceable.

1 Section 8. Effect on appropriations.

2 Any encumbrance of public funds made by the department in
3 derogation of the provisions of section 4 shall be null and void
4 as of the effective date of this section, and the funds so
5 encumbered shall be reallocated to eligible entities.

6 Section 9. Effective date.

7 This act shall take effect in 60 days.