

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 636 Session of
1993

INTRODUCED BY PESCI, KENNEY, YANDRISEVITS, BELFANTI, DALEY,
LUCYK, LAUGHLIN, BUNT, TRELLO, HALUSKA, J. TAYLOR, VEON,
KASUNIC, PISTELLA, THOMAS, KIRKLAND, CAWLEY AND STEELMAN,
MARCH 22, 1993

REFERRED TO COMMITTEE ON AGING AND YOUTH, MARCH 22, 1993

AN ACT

1 Establishing the Children's Medical Relief Fund and the
2 Children's Medical Relief Fund Commission; prescribing the
3 membership and powers of the commission; providing certain
4 insurance surcharges; and making an appropriation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Children's
9 Medical Relief Fund Act.

10 Section 2. Legislative findings and declaration.

11 The General Assembly finds and declares that:

12 (1) Although the majority of Americans are covered by
13 some form of health insurance, families nevertheless lack
14 protection against the high cost of chronic or single
15 episodes of serious illness that may destroy their resources.
16 An illness resulting in this potentially devastating
17 financial consequence is referred to as a catastrophic
18 illness.

1 (2) Catastrophic illnesses often threaten to push some
2 families into bankruptcy and others toward seeking inferior
3 medical care or postponing prompt treatment and present a
4 major problem for this nation's health care system in that
5 catastrophic illnesses account for over 20% of this nation's
6 health expenditures.

7 (3) The impact of catastrophic illnesses on the family
8 is especially acute in that children have the highest average
9 medical costs among the population as a whole.

10 (4) It is the public policy of this Commonwealth that
11 each child of this Commonwealth should have access to quality
12 health care and adequate protection against the
13 extraordinarily high costs of health care services which are
14 determined to be catastrophic and which severely impact upon
15 a child and his family.

16 (5) To this end, it is incumbent upon the Commonwealth
17 to provide assistance to children and their families whose
18 medical expenses extend beyond the families' available
19 resources.

20 Section 3. Definitions.

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

24 "Catastrophic illness." Any illness or condition the
25 necessary medical expenses of which are not covered by any other
26 Federal, State or other governmental program or any insurance
27 contract and which exceed 30% of the income of a family whose
28 income is \$100,000 or less per year or 40% of the income of a
29 family whose income is over \$100,000 per year.

30 "Child." A person under 18 years of age.

1 "Commission." The Children's Medical Relief Fund Commission.

2 "Family." A child and the child's parent, parents or legal
3 guardian, as the case may be, who is legally responsible for the
4 child's medical expenses.

5 "Fund." The Children's Medical Relief Fund.

6 "Income." All income, from whatever source derived, actually
7 received by a family.

8 "Resident." A person legally domiciled within this
9 Commonwealth for a period of six months immediately preceding
10 the onset of the illness or accident. Mere seasonal or temporary
11 residence within this Commonwealth, of whatever duration, does
12 not constitute domicile. Absence from this Commonwealth for a
13 period of 12 months or more is prima facie evidence of
14 abandonment of domicile. The burden of establishing legal
15 domicile within this Commonwealth is upon the parent or legal
16 guardian of a child.

17 Section 4. Children's Medical Relief Fund.

18 (a) Fund established.--The Children's Medical Relief Fund is
19 established as a nonlapsing, revolving fund. The fund shall be
20 administered by the commission and shall be credited with moneys
21 received pursuant to section 9.

22 (b) Custodian of fund.--The State Treasurer is the custodian
23 of the fund, and all disbursements from the fund shall be made
24 by the State Treasurer upon vouchers signed by the chairman of
25 the commission. The moneys in the fund shall be invested and
26 reinvested by the State Treasurer as are other trust funds in
27 the custody of the State Treasurer in the manner provided by
28 law. Interest received on the moneys in the fund shall be
29 credited to the fund.

30 Section 5. Children's Medical Relief Fund Commission.

1 (a) Commission established.--There is hereby created an
2 independent administrative commission which shall be known as
3 the Children's Medical Relief Fund Commission. The commission
4 shall consist of the Secretary of Health, the Secretary of
5 Public Welfare, the Insurance Commissioner and the State
6 Treasurer, who shall be members ex officio, and five public
7 members who are residents of this Commonwealth, appointed by the
8 Governor with the advice and consent of a majority of the
9 members elected to the Senate for terms of five years, one of
10 whom shall be appointed upon the recommendation of the President
11 pro tempore of the Senate and shall be a provider of health care
12 services to children in this Commonwealth and one of whom shall
13 be appointed upon the recommendation of the Speaker of the House
14 of Representatives and shall be a provider of health care
15 services to children in this Commonwealth. The five public
16 members first appointed by the Governor shall serve for terms of
17 one, two, three, four and five years, respectively. Each member
18 shall hold office for the term of his appointment and until his
19 successor has been appointed and qualified. A member of the
20 commission is eligible for reappointment. Each ex officio member
21 of the commission may designate an officer employee of his
22 department to represent him at meetings of the commission, and
23 each designee may lawfully vote and otherwise act on behalf of
24 the member for whom he constitutes the designee. Any designation
25 shall be in writing, delivered to the commission, and filed with
26 the office of the Secretary of the Commonwealth and shall
27 continue in effect until revoked or amended in the same manner
28 as provided for designation.

29 (b) Removal.--Each member of the commission may be removed
30 from office by the Governor, for cause, after a public hearing

1 and may be suspended by the Governor pending the completion of
2 the hearing. Each member of the commission, before entering upon
3 his duties, shall take and subscribe an oath to perform the
4 duties of his office faithfully, impartially and justly to the
5 best of his ability. A record of the oaths shall be filed in the
6 office of the Secretary of the Commonwealth.

7 (c) Vacancies.--Any vacancies in the membership of the
8 commission occurring other than by the expiration of a term
9 shall be filled in the same manner as the original appointment,
10 but for the unexpired term only.

11 (d) Chairman and officers.--The Secretary of Health shall be
12 chairman and chief executive officer of the commission. The
13 members shall elect a secretary and a treasurer who need not be
14 members of the commission, and the same person may be elected to
15 serve both as secretary and treasurer.

16 (e) Quorum.--The powers of the commission are vested in the
17 members thereof in office from time to time, and six members of
18 the commission shall constitute a quorum at any meeting of the
19 commission. Action may be taken and motions and resolutions
20 adopted by the commission at any meeting by the affirmative vote
21 of at least six members of the commission. A vacancy in the
22 membership of the commission shall not impair the right of a
23 quorum to exercise all the powers and perform all the duties of
24 the commission.

25 (f) Expenses.--The members of the commission shall serve
26 without compensation, but the commission shall reimburse its
27 members for the reasonable expenses incurred in the performance
28 of their duties based upon the moneys available in the fund.

29 (g) Appointment.--The commission shall be appointed within
30 three months after the effective date of this act and shall

1 organize as soon as may be practicable after the appointment of
2 its members.

3 Section 6. Powers and duties of commission.

4 The commission shall have, but not be limited to, the
5 following powers and duties:

6 (1) To establish, in cooperation with the Department of
7 Health, a program for the purposes of this act, administer
8 the fund and authorize the payment or reimbursement of the
9 medical expenses of children with catastrophic illnesses.

10 (2) To establish procedures for enrollment in the
11 program, determine eligibility for payment or reimbursement
12 of medical expenses for each child, process claim disputes
13 and establish procedures to provide that, in the case of an
14 illness or condition for which the family, after receiving
15 assistance pursuant to this act, recovers damages for the
16 child's medical expenses pursuant to a settlement or judgment
17 in a legal action, the family shall reimburse the fund for
18 the amount of assistance received, or that portion thereof
19 covered by the amount of the damages less the expense of
20 recovery.

21 (3) To establish the amount of reimbursement for the
22 medical expenses of each eligible child using a formula based
23 on a family's ability to pay for medical expenses which takes
24 into account family size, family income and available assets
25 and family medical expenses and to adjust the financial
26 eligibility criteria established in the definition of
27 "catastrophic illness" in section 3, based upon the moneys
28 available in the fund.

29 (4) To disseminate information on the fund and the
30 program to the public.

1 (5) To adopt bylaws for the regulation of its affairs
2 and the conduct of its business, adopt an official seal and
3 alter the same at pleasure, maintain an office at the place
4 within this Commonwealth as it may designate, and sue and be
5 sued in its own name.

6 (6) To employ professional and clerical assistance as
7 may be necessary to perform its duties, and as may be within
8 the limits of funds appropriated or otherwise made available
9 to it for its purposes.

10 (7) To maintain confidential records on each child who
11 applies for assistance under the fund.

12 (8) To do all other acts and things necessary or
13 convenient to carry out the purposes of this act.

14 (9) To adopt rules and regulations in the manner
15 provided in the act of July 31, 1968 (P.L.769, No.240),
16 referred to as the Commonwealth Documents Law, necessary to
17 effectuate the purposes of this act.

18 Section 7. Enrollment in program.

19 A child who is a resident of this Commonwealth shall be
20 eligible, through his parent or legal guardian, to enroll in the
21 program established pursuant to section 6(1).

22 Section 8. Eligibility.

23 Whenever a child has a catastrophic illness and is enrolled
24 in the program, the child, through his parent or legal guardian,
25 shall be eligible for financial assistance from moneys in the
26 fund, subject to the rules and regulations established by the
27 commission and the availability of moneys in the fund. The
28 financial assistance shall include, but not be limited to,
29 payments or reimbursements for the cost of medical treatment,
30 hospital care, drugs, nursing care, rehabilitative services and

1 physician services.

2 Section 9. Funding.

3 For the purpose of providing the moneys necessary to
4 establish and meet the purposes of the fund, the commission
5 shall establish a \$1 annual surcharge per person upon all
6 individual and group health insurance policies written in this
7 Commonwealth. The \$1 surcharge also shall be applied to every
8 enrollee in a health maintenance organization authorized to
9 operate in this Commonwealth. The surcharge shall be collected
10 by the commission and paid over to the State Treasurer for
11 deposit in the fund annually as provided by the commission. The
12 surcharge is a separate charge to the insured or enrollee in
13 addition to the premium to be paid and shall be reflected as
14 such in the policy or evidence of coverage, and commissions
15 shall not be payable thereon. The insurer or health maintenance
16 organization is prohibited from absorbing the surcharge as an
17 inducement for insurance or enrollment or for any other reason.
18 In the case of self-insured groups of ten or more persons, an
19 annual contribution of \$1 per person shall be required and shall
20 be collected by the commission and paid over to the State
21 Treasurer for deposit in the fund.

22 Section 10. Rules for collection of surcharge.

23 The State Treasurer shall adopt rules and regulations in the
24 manner provided in the act of July 31, 1968 (P.L.769, No.240),
25 referred to as the Commonwealth Documents Law, establishing
26 procedures for the collection of the surcharge and contribution.

27 Section 11. Reports.

28 The commission shall report annually to the Governor, the
29 Aging and Youth Committee of the Senate and the Aging and Youth
30 Committee of the House of Representatives on the status of the

1 program. The report shall include information about the number
2 of participants in the program, the average expenditures per
3 participant, the nature and type of catastrophic illnesses for
4 which the fund provided financial assistance and the average
5 income and expenditures of families who received financial
6 assistance under the program. The commission also may make
7 recommendations for changes in the law and regulations governing
8 the fund.

9 Section 12. Appropriation.

10 The sum of \$300,000, or as much thereof as may be necessary,
11 is hereby appropriated to the Children's Medical Relief Fund
12 Commission for the fiscal year July 1, 1993, to June 30, 1994,
13 for administrative and other costs in establishing the program
14 provided for by this act.

15 Section 13. Effective date.

16 This act shall take effect July 1, 1993, or immediately,
17 whichever is later.