

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1137 Session of  
1997

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APRIL 2, 1997

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 24, 1997

## AN ACT

1 Requiring all health insurance policies to have certain minimum  
2 protections.

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 Mental Health  
7 Parity Act.

8 ~~Section 2. Statement of purpose.~~

&lt;—

9 ~~It is the intent of the General Assembly to extend to all~~  
10 ~~health policies issued in this Commonwealth the protections~~  
11 ~~established in the Health Insurance Portability and~~  
12 ~~Accountability Act of 1996 (Public Law 104 191, 110 Stat. 1936).~~

13 ~~Section 3. Definitions.~~

14 ~~The following words and phrases when used in this act shall~~

~~have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Insurer." Any insurance company, association or reciprocal, nonprofit hospital plan corporation; a nonprofit professional health service plan; or any of the following:~~

~~(1) A preferred provider with a health management gatekeeper role for primary care physicians organized and regulated as a health services corporation or preferred provider organization subject to section 630 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~(2) A risk assuming preferred provider organization organized and regulated under The Insurance Company Law of 1921.~~

~~(3) A health maintenance organization organized and regulated under the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.~~

~~(4) A fraternal benefit society subject to the act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code.~~

~~"Commissioner." The Insurance Commissioner of the Commonwealth.~~

~~"Small employer." A person, firm, corporation, partnership or association that is actively engaged in business, that on at least 50% of its working days during the preceding calendar quarter, employed at least three but no more than 50 full time employees, the majority of whom were employed within this Commonwealth. In determining the number of full time employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of State taxation~~

~~shall be considered one employer.~~

~~Section 4. Parity in application of certain limits to mental health benefits.~~

~~(a) Aggregate lifetime limits. In the case of any policy issued by an insurer that provides both medical and surgical benefits and mental health benefits, the following shall apply:~~

~~(1) If the policy does not include an aggregate lifetime dollar limit on substantially all medical and surgical benefits, the policy shall not impose any aggregate limit on mental health benefits.~~

~~(2) If the policy does include an aggregate lifetime dollar limit on substantially all medical and surgical benefits, the policy shall either apply the applicable lifetime limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between medical and surgical benefits; or not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.~~

~~(3) If the policy is not one described in paragraphs (1) and (2) and includes no or different aggregate lifetime dollar limits on different categories of medical and surgical benefits, the commissioner shall establish rules under which this section shall apply to such a policy with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed, taking into account the weighted average of the aggregate lifetime limits applicable to such categories.~~

~~(b) Annual limits. In the case of any policy issued by an insurer that provides both medical and surgical benefits and~~

~~mental health benefits, the following shall apply:~~

~~(1) If the policy does not include an annual dollar limit on substantially all medical and surgical benefits, the policy shall not impose any annual limit on mental health benefits.~~

~~(2) If the policy does include an annual dollar limit on substantially all medical and surgical benefits, the policy shall either apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between medical and surgical benefits; or not include any annual limit on mental health benefits that is less than the applicable annual limit.~~

~~(3) If the policy is not one described in paragraphs (1) and (2) and includes no or different annual dollar limits on different categories of medical and surgical benefits, the commissioner shall establish rules under which this section shall apply to such a policy with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed, taking into account the weighted average of the annual limit applicable to such categories.~~

#### ~~Section 5.— Exemptions.~~

~~(a) Individuals and small employers.— This act shall not apply to any policy issued to an individual or to a small employer.~~

~~(b) Increased cost exemption.— This act shall not apply to a policy if the application of the act under the policy would result in an increase in the cost under the policy of at least 1%.~~

1 ~~Section 6. Construction.~~

2 ~~Nothing in this act shall be construed as requiring a policy~~  
3 ~~to provide any mental health benefits or, in the case of a~~  
4 ~~policy providing such benefits, as affecting the terms and~~  
5 ~~conditions, including cost sharing, limits on number of visits~~  
6 ~~or days of coverage and requirements relating to medical~~  
7 ~~necessity, relating to the amount, duration or scope of mental~~  
8 ~~health benefits under the policy, except as specifically~~  
9 ~~provided in this act.~~

10 ~~Section 7. Applicability.~~

11 ~~This act shall apply to any health insurance policy,~~  
12 ~~contract, certificate or plan that is issued or renewed on or~~  
13 ~~after the effective date of this act.~~

14 ~~Section 8. Effective date.~~

15 ~~This act shall take effect in 180 days.~~

16 SECTION 2. STATEMENT OF PURPOSE. <—

17 IT IS THE INTENT OF THE GENERAL ASSEMBLY TO EXTEND TO ALL  
18 HEALTH POLICIES ISSUED IN THIS COMMONWEALTH ADDITIONAL  
19 PROTECTIONS TO THOSE ESTABLISHED IN THE HEALTH INSURANCE  
20 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191,  
21 110 STAT. 1936).

22 SECTION 3. DEFINITIONS.

23 (A) GENERAL RULE.--THE FOLLOWING WORDS AND PHRASES WHEN USED  
24 IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
25 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

26 "ASSOCIATION." AN "ASSOCIATION," AS DEFINED IN SECTION 101  
27 OF THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE  
28 INSURANCE COMPANY LAW OF 1921, WHICH HOLDS A CURRENT CERTIFICATE  
29 OF AUTHORITY.

30 "COMMISSIONER." THE INSURANCE COMMISSIONER OF THE

1 COMMONWEALTH.

2 "COMPANY." A "COMPANY," AS DEFINED IN SECTION 101 OF THE ACT  
3 OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE  
4 COMPANY LAW OF 1921, WHICH HOLDS A CURRENT CERTIFICATE OF  
5 AUTHORITY.

6 "DEPARTMENT." THE INSURANCE DEPARTMENT OF THE COMMONWEALTH.

7 "EXCHANGE." AN "EXCHANGE," AS DEFINED IN SECTION 101 OF THE  
8 ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE  
9 COMPANY LAW OF 1921, WHICH HOLDS A CURRENT CERTIFICATE OF  
10 AUTHORITY.

11 "FEDERAL ACT." THE HEALTH INSURANCE PORTABILITY AND  
12 ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191, 110 STAT. 1936).

13 "FRATERNAL BENEFIT SOCIETY." AN ENTITY HOLDING A CURRENT  
14 CERTIFICATE OF AUTHORITY UNDER THE ACT OF DECEMBER 14, 1992  
15 (P.L.835, NO.134), KNOWN AS THE FRATERNAL BENEFIT SOCIETIES  
16 CODE.

17 "HEALTH INSURANCE ISSUER." AN INSURER.

18 "HEALTH MAINTENANCE ORGANIZATION." AN ENTITY HOLDING A  
19 CURRENT CERTIFICATE OF AUTHORITY UNDER THE ACT OF DECEMBER 29,  
20 1972 (P.L.1701, NO.364), KNOWN AS THE HEALTH MAINTENANCE  
21 ORGANIZATION ACT.

22 "HOSPITAL PLAN CORPORATION." AN ENTITY HOLDING A CURRENT  
23 CERTIFICATE OF AUTHORITY ORGANIZED AND OPERATED UNDER 40 PA.C.S.  
24 CH. 61 (RELATING TO HOSPITAL PLAN CORPORATIONS).

25 "INSURER." A FOREIGN OR DOMESTIC INSURANCE COMPANY,  
26 ASSOCIATION OR EXCHANGE, HEALTH MAINTENANCE ORGANIZATION,  
27 HOSPITAL PLAN CORPORATION, PROFESSIONAL HEALTH SERVICES PLAN  
28 CORPORATION, FRATERNAL BENEFIT SOCIETY OR RISK-ASSUMING  
29 PREFERRED PROVIDER ORGANIZATION. THIS TERM DOES NOT INCLUDE A  
30 "GROUP HEALTH PLAN" AS DEFINED IN SECTION 2791 OF THE PUBLIC

1 HEALTH SERVICE ACT (58 STAT. 682, 42 U.S.C. § 300GG-91).

2 "PREFERRED PROVIDER ORGANIZATION." AN ENTITY HOLDING A  
3 CURRENT CERTIFICATE OF AUTHORITY UNDER SECTION 630 OF THE ACT OF  
4 MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY  
5 LAW OF 1921.

6 "PROFESSIONAL HEALTH SERVICES PLAN CORPORATION." AN ENTITY  
7 HOLDING A CURRENT CERTIFICATE OF AUTHORITY UNDER 40 PA.C.S. CH.  
8 63 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS).  
9 THE TERM DOES NOT INCLUDE A "DENTAL SERVICE CORPORATION" OR AN  
10 "OPTOMETRIC SERVICE CORPORATION," AS DEFINED IN 40 PA.C.S. §  
11 6302(A) (RELATING TO DEFINITIONS).

12 (B) FEDERAL ACT.--IF A TERM IS DEFINED IN THE FEDERAL ACT,  
13 THAT DEFINITION SHALL APPLY IN THIS ACT UNLESS THE TERM IS  
14 DEFINED IN SUBSECTION (A).

15 SECTION 4. ADOPTION OF FEDERAL ACT FOR MENTAL HEALTH PARITY FOR  
16 ALL GROUP POLICIES.

17 (A) INSURERS.--

18 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), INSURERS SHALL  
19 COMPLY WITH SECTION 2705 OF THE PUBLIC HEALTH SERVICE ACT (58  
20 STAT. 682, 42 U.S.C. § 300GG-5) IN ANY OFFERING OR ISSUING OF  
21 GROUP POLICIES IN THIS COMMONWEALTH.

22 (2) THE SMALL EMPLOYER AND THE INCREASED COST EXEMPTIONS  
23 IN SECTION 2705(C) OF THE PUBLIC HEALTH SERVICE ACT (42  
24 U.S.C. § 00GG-5CC) SHALL NOT APPLY FOR GROUP POLICIES OFFERED  
25 OR ISSUED IN THIS COMMONWEALTH.

26 (B) HEALTH MAINTENANCE ORGANIZATIONS.--LICENSED HEALTH  
27 MAINTENANCE ORGANIZATIONS MAY OFFER POLICIES IN CONFORMITY WITH  
28 SECTION 1301(B)(6) OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. §  
29 300 E(B)(6)).

30 SECTION 5. EXCEPTIONS.

(A) POLICIES.--THIS ACT DOES NOT INCLUDE THE FOLLOWING POLICIES: ACCIDENT ONLY, FIXED INDEMNITY, LIMITED BENEFIT, CREDIT, DENTAL, VISION, SPECIFIED DISEASE, MEDICARE SUPPLEMENT, CHAMPUS (CIVILIAN HEALTH AND MEDICAL PROGRAMS FOR THE UNIFORM SERVICES) SUPPLEMENT, LONG-TERM CARE, DISABILITY INCOME, WORKERS' COMPENSATION OR AUTOMOBILE MEDICAL PAYMENT.

(B) CONSTRUCTION.--NOTWITHSTANDING SECTIONS 4, 7 AND 10, THIS ACT SHALL NOT BE CONSTRUED TO REQUIRE A HEALTH INSURANCE POLICY TO COMPLY WITH THE PROVISIONS OF THIS ACT IF ALL OF THE FOLLOWING APPLY:

(1) THE INDIVIDUAL'S EMPLOYER MAINTAINS THE HEALTH INSURANCE POLICY FOR THE INDIVIDUAL AS AN EMPLOYMENT BENEFIT.

(2) THE INDIVIDUAL IS EMPLOYED OUTSIDE THIS COMMONWEALTH.

#### SECTION 6. PENALTIES.

(A) GENERAL RULE.--UPON SATISFACTORY EVIDENCE OF A VIOLATION OF THIS ACT BY ANY INSURER OR OTHER PERSON, THE COMMISSIONER MAY PURSUE ANY ONE OF THE FOLLOWING COURSES OF ACTION:

(1) SUSPEND, REVOKE OR REFUSE TO RENEW THE LICENSE OF THE OFFENDING PERSON.

(2) ENTER A CEASE AND DESIST ORDER.

(3) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$5,000 FOR EACH ACTION IN RECKLESS OR NEGLIGENT VIOLATION OF THIS ACT.

(4) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR EACH ACTION IN INTENTIONAL VIOLATION OF THIS ACT.

(B) LIMITATION.--PENALTIES IMPOSED AGAINST A PERSON UNDER THIS ACT SHALL NOT EXCEED \$500,000 IN THE AGGREGATE DURING A SINGLE CALENDAR YEAR.

#### SECTION 7. MANDATORY OFFERING.

(A) REQUIREMENT.--ANY HEALTH INSURER OFFERING GROUP POLICIES



1 SHALL OFFER AT LEAST ONE POLICY OR AMENDMENT, ENDORSEMENT OR  
2 RIDER TO AT LEAST ONE EXISTING POLICY WHICH PROVIDES COVERAGE  
3 FOR THE TREATMENT OF MENTAL ILLNESS UNDER THE SAME TERMS AND  
4 CONDITIONS AS THE INSURER PROVIDES FOR PHYSICAL ILLNESSES AND  
5 CONDITIONS.

6 (B) COVERAGE.--THE COVERAGE FOR MENTAL ILLNESS OFFERED UNDER  
7 THIS SECTION MUST BE AT LEAST AS FAVORABLE AS THE COVERAGE  
8 PROVIDED FOR OTHER PHYSICAL ILLNESSES AND CONDITIONS AND MUST  
9 PROVIDE FOR THE SAME TERMS AND CONDITIONS OF COVERAGE, INCLUDING  
10 DURATIONAL LIMITS, DOLLAR LIMITS, VISIT LIMITS, OUT-OF-POCKET  
11 LIMITS, COST-SHARING REQUIREMENTS, COPAYMENT AMOUNTS,  
12 DEDUCTIBLES AND COINSURANCE FACTORS.

13 (C) SCOPE.--POLICIES OFFERED UNDER THIS SECTION MUST PROVIDE  
14 FOR ALL HEALTH COVERAGE MANDATES AFFECTING ALL INSURERS AS  
15 DEFINED IN THIS ACT.

16 (D) PREMIUMS.--THE PREMIUM DIFFERENTIAL BETWEEN A POLICY  
17 PROVIDING MENTAL ILLNESS COVERAGE REQUIRED UNDER THIS SECTION  
18 AND A COMPARABLE POLICY OFFERED BY AN INSURER SHALL NOT EXCEED  
19 3%.

20 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
21 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
22 SUBSECTION:

23 "COMPARABLE POLICY." THE HEALTH INSURANCE POLICY PURCHASED  
24 MOST FREQUENTLY FROM THE INSURER.

25 "MENTAL HEALTH BENEFITS." BENEFITS WITH RESPECT TO MENTAL  
26 HEALTH SERVICES, AS DEFINED UNDER THE HEALTH INSURANCE POLICY.  
27 THE TERM DOES NOT INCLUDE SUBSTANCE TREATMENT OR CHEMICAL  
28 DEPENDENCY TREATMENT.

29 SECTION 8. NOTICE.

30 ANY POLICY, AMENDMENT, ENDORSEMENT OR RIDER WHICH DOES NOT

1 PROVIDE MENTAL ILLNESS COVERAGE AS REQUIRED UNDER SECTION 7 MUST  
2 PROVIDE A CLEAR NOTICE THAT THE COVERAGE FOR THE TREATMENT OF  
3 MENTAL ILLNESS IS LESS THAN THE COVERAGE FOR THE TREATMENT OF  
4 OTHER ILLNESSES.

5 SECTION 9. APPLICABILITY.

6 THIS ACT SHALL APPLY AS FOLLOWS:

7 (1) SECTIONS 1, 2, 3, 4, 5, 6, 8, 9, 10, 11 AND 12 SHALL  
8 APPLY TO ALL GROUP HEALTH INSURANCE POLICIES, CONTRACTS,  
9 CERTIFICATES OR PLANS, WHICH ARE ISSUED OR RENEWED AFTER  
10 DECEMBER 31, 1997.

11 (2) SECTIONS 7 AND 4(A)(2) SHALL APPLY TO ALL HEALTH  
12 INSURERS OFFERING, ISSUING, OR RENEWING GROUP POLICIES,  
13 CONTRACTS, CERTIFICATES OR PLANS AFTER JUNE 30, 1998.

14 SECTION 10. REPORT.

15 THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL CONDUCT A  
16 STUDY ON THE EFFECTS OF THIS ACT, INCLUDING THE COSTS OF  
17 PROVIDING THE MENTAL HEALTH SERVICES UNDER SECTION 7, THE EFFECT  
18 ON POLICY PREMIUMS, COST SAVINGS DERIVED FROM INCREASED MENTAL  
19 HEALTH COVERAGE, THE EFFECTS OF ADVERSE SELECTION RESULTING  
20 FROM THE OPTIONAL NATURE OF NONDISCRIMINATORY COVERAGE AND THE  
21 LIKELY EFFECT OF REMOVING THE OPTION. THE COMMITTEE SHALL SUBMIT  
22 ITS FINDINGS TO THE SECRETARY OF THE SENATE AND THE CHIEF CLERK  
23 OF THE HOUSE OF REPRESENTATIVES BY JULY 1, 2001.

24 SECTION 11. EXPIRATION.

25 THIS ACT SHALL EXPIRE SEPTEMBER 30, 2001.

26 SECTION 12. EFFECTIVE DATE.

27 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.