

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2501 Session of
2004

INTRODUCED BY REICHLEY, NICKOL, BAKER, THOMAS, ARMSTRONG,
BALDWIN, BARRAR, CAPPELLI, CRAHALLA, DALLY, DeWEESE, FRANKEL,
GOODMAN, GRUCELA, JAMES, KILLION, LEH, LYNCH, MACKERETH,
MARKOSEK, McCALL, MILLARD, S. MILLER, MUSTIO, SAINATO,
SEMMELE, STERN, E. Z. TAYLOR, J. TAYLOR, TIGUE, TURZAI,
WATSON, YUDICHAK, FREEMAN, YOUNGBLOOD, BROWNE AND PICKETT,
JUNE 7, 2004

REFERRED TO COMMITTEE ON FINANCE, JUNE 7, 2004

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for a disease management tax credit;
11 and making a repeal.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

ARTICLE XVII-C

DISEASE MANAGEMENT TAX CREDIT

19 Section 1701-C. Short title.

20 This article shall be known and may be cited as the Disease

1 Management Insurance Policy Tax Credit Act.

2 Section 1702-C. Definitions.

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

6 "Department." The Department of Revenue of the Commonwealth.

7 "Disease management insurance policy." A group or individual
8 health insurance policy that includes a disease management
9 program.

10 "Disease management program." A set of interventions
11 designed to improve the health of individuals, especially those
12 with certain ailments or diseases. A disease management program
13 may include:

14 (1) Identifying patients and matching the intervention
15 with need.

16 (2) Support for adherence to evidence-based medical
17 practice guidelines, including providing medical treatment
18 guidelines to physicians and other providers, and providing
19 support services to assist the physician in monitoring the
20 patient.

21 (3) Services designed to enhance patient management and
22 adherence to an individualized treatment plan, including
23 patient education, monitoring and reminders, and behavior
24 modification programs aimed at encouraging lifestyle changes.

25 (4) Routine reporting and feedback loops, including
26 communication with patient, physician, health plan and
27 ancillary providers, and practice profiling.

28 (5) Collection and analysis of process and outcome
29 measures.

30 "Master Settlement Agreement." As defined in section 102 of

1 the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco
2 Settlement Act.

3 "Pass-through entity." Any of the following:

4 (1) A partnership, limited partnership, limited
5 liability company, business trust or other unincorporated
6 entity that for Federal income tax purposes is taxable as a
7 partnership.

8 (2) A Pennsylvania S corporation.

9 "Primary contractor." A person licensed to conduct business
10 in this Commonwealth that develops, implements or monitors
11 disease management programs.

12 "Qualified tax liability." The liability for taxes imposed
13 under Article III, IV or VI. The term includes the liability for
14 taxes imposed under Article III on a sole proprietor, partner,
15 shareholder, owner or member of a pass-through entity.

16 "Secretary." The Secretary of Revenue of the Commonwealth.

17 "Service provider." A person licensed to conduct business in
18 this Commonwealth that is selected by the primary contractor to
19 provide disease management programs.

20 "Small business." A taxpayer with fewer than 50 employees.

21 "Tax credit." The disease management insurance policy tax
22 credit authorized under this article.

23 "Taxpayer." An entity subject to tax under Article III, IV
24 or VI. The term includes:

25 (1) the partner, shareholder, owner or member of a pass-
26 through entity that receives a tax credit; or

27 (2) a sole proprietor.

28 "Tobacco Settlement Act." The act of June 26, 2001 (P.L.755,
29 No.77), known as the Tobacco Settlement Act.

30 "Tobacco Settlement Fund." The Tobacco Settlement Fund

established section 303(a) of the act of June 26, 2001 (P.L.755,
No.77), known as the Tobacco Settlement Act.

Section 1703-C. Credit for disease management insurance
policies.

(a) Application.--A taxpayer who purchases and provides a
disease management insurance policy to employees in a taxable
year may apply for a tax credit as provided in this article. By
September 15, a taxpayer must submit an application to the
department for premiums paid in the taxable year that ended in
the prior calendar year.

(b) Tax credit.--A taxpayer qualified under subsection (a)
shall receive a tax credit for the taxable year in the amount of
\$100 for each employee of the taxpayer covered by a disease
management insurance policy.

(c) Notification of credit.--By December 15 of the calendar
year following the close of the taxable year, the department
shall notify the taxpayer of the amount of the taxpayer's tax
credit approved by the department.

Section 1704-C. Certification requirement.

(a) Application.--In order to qualify for the tax credit, a
taxpayer, in conjunction with the Department of Labor and
Industry and the Insurance Department, shall make application
for the certification of the disease management program
purchased as part of the disease management insurance policy.
The Insurance Department shall develop the certification
criteria.

(b) Reapplying.--In the subsequent tax year, a taxpayer
reapplying for the tax credit must provide verification to the
Department of Labor and Industry and the Insurance Department
that the disease management program meets the certification

requirements and continues to be purchased by the taxpayer.
Section 1705-C. Carryover, carryback, refund and assignment of
credit.

(a) General rule.--If the taxpayer cannot use the entire
amount of the tax credit for the taxable year in which the tax
credit is first approved because the amount of the tax credit
exceeds the tax liability of the taxpayer for the year in which
the tax credit under section 1703-C is to be applied, the excess
may be carried over to succeeding taxable years and used as a
credit against the qualified tax liability of the taxpayer for
those taxable years. Each time the tax credit is carried over to
a succeeding taxable year, it shall be reduced by the amount
that was used as a credit during the immediately preceding
taxable year. The tax credit may be carried over and applied to
succeeding taxable years for no more than 15 taxable years
following the first taxable year for which the taxpayer was
entitled to claim the credit.

(b) Application of tax credit.--A tax credit approved by the
department for premiums incurred in a taxable year shall first
be applied against the taxpayer's qualified tax liability for
the current taxable year as of the date on which the credit was
approved before the tax credit may be applied against any tax
liability under subsection (a).

(c) Unused tax credit.--A taxpayer is not entitled to
assign, carry back or obtain a refund of an unused tax credit.

Section 1706-C. Time limitations.

A taxpayer is not entitled to a tax credit for health
insurance premiums providing for disease management programs
incurred in taxable years ending after December 31, 2006.

Section 1707-C. Limitation on credits.

1 (a) Allocation for small businesses.--The total amount of
2 tax credits approved by the department shall not exceed
3 \$19,000,000 in any fiscal year. Of that amount, 40% of available
4 funds shall be allocated exclusively for small businesses.
5 However, if the total amounts allocated to either the group of
6 applicants exclusive of small businesses or the group of small
7 business applicants is not approved in any fiscal year, the
8 unused portion will become available for use by other qualifying
9 taxpayers.

10 (b) Proration of tax credits.--

11 (1) If the total amount of tax credits applied for by
12 all taxpayers, exclusive of small businesses, exceeds the
13 amount allocated for those credits, the tax credit to be
14 received by each applicant shall be prorated by the
15 department among all applicants, exclusive of small
16 businesses, who have qualified for the credit.

17 (2) If the total amount of tax credits applied for by
18 all small businesses exceeds the amount allocated for those
19 credits, the tax credit to be received by each small business
20 applicant shall be prorated by the department among all small
21 business applicants who have qualified for the credit.

22 Section 1708-C. Shareholder, owner or member pass-through.

23 (a) Pennsylvania S corporations.--If a Pennsylvania S
24 corporation does not have an eligible tax liability against
25 which the tax credit may be applied, a shareholder of the
26 Pennsylvania S corporation is entitled to a tax credit equal to
27 the tax credit determined for the Pennsylvania S corporation for
28 the taxable year multiplied by the percentage of the
29 Pennsylvania S corporation's distributive income to which the
30 shareholder is entitled.

1 (b) Pass-through entities.--If a pass-through entity other
2 than a Pennsylvania S corporation does not have an eligible tax
3 liability against which the tax credit may be applied, an owner
4 or member of the pass-through entity is entitled to a tax credit
5 equal to the tax credit determined for the pass-through entity
6 for the taxable year multiplied by the percentage of the pass-
7 through entity's distributive income to which the owner or
8 member is entitled.

9 (c) Entitlement.--The credit provided under subsection (a)
10 or (b) is in addition to any tax credit to which a shareholder,
11 owner or member of a pass-through entity is otherwise entitled
12 under this article. However, a pass-through entity and a
13 shareholder, owner or member of a pass-through entity may not
14 claim a credit under this article for the same premium or
15 employee.

16 Section 1709-C. Accountability.

17 (a) Review procedures.--Any taxpayer that receives a tax
18 credit under this act shall be subject to a performance review
19 by the Department of Labor and Industry, in conjunction with the
20 Insurance Department. As appropriate, the performance review
21 shall be based upon information submitted to the department that
22 includes the following:

23 (1) The contractor's or service provider's strategic
24 goals and objectives for disease management programs.

25 (2) The contractor's or service provider's annual
26 performance plan setting forth how these strategic goals and
27 objectives are to be achieved and the specific methodology
28 for evaluating results, along with any proposed methods for
29 improvement.

30 (3) The contractor's or service provider's annual

1 performance report setting forth the specific results in
2 achieving its strategic goals and objectives for disease
3 management, including any changes in the health of
4 participants in the disease management program.

5 (4) The progress made in achieving expected program
6 priorities and goals.

7 (5) Any other information deemed necessary by the
8 department.

9 (b) Penalty.--If a performance review indicates that a
10 primary contractor or a service provider failed to comply with
11 contract requirements or meet performance goals, taxpayers may
12 be subject to a reduction in or ineligibility for future tax
13 credit funding under this act.

14 Section 1710-C. Report to General Assembly.

15 (a) Submission of report.--The secretary shall submit an
16 annual report indicating the effectiveness of the credit
17 provided by this article no later than March 15 following the
18 year in which the credits were approved to the Governor, the
19 Chairmen and the Minority Chairmen of the Public Health and
20 Welfare Committee and the Appropriations Committee of the Senate
21 and the Chairmen and Minority Chairmen of the Health and Human
22 Services Committee and the Appropriations Committee of the House
23 of Representatives.

24 (b) Contents.--The report shall include the names of all
25 taxpayers utilizing the credit as of the date of the report and
26 the amount of credits approved and utilized by each taxpayer.

27 (c) Public information.--Notwithstanding any law providing
28 for the confidentiality of tax records, the information
29 contained in the report shall be public information.

30 (d) Recommendations.--The report may also include any

1 recommendations for changes in the calculation or administration
2 of the credit.

3 Section 1711-C. Termination.

4 The department shall not approve a tax credit under this
5 article for taxable years ending after December 31, 2006.

6 Section 1712-C. Regulations.

7 The secretary shall promulgate regulations necessary for the
8 implementation and administration of this article.

9 Section 1713-C. Appropriation from the Tobacco Settlement Fund.

10 The General Assembly hereby appropriates funds in the Tobacco
11 Settlement Fund received by the Commonwealth pursuant to the
12 Master Settlement Agreement in accordance with the following
13 percentages based on actual funds received in each year or upon
14 receipt of the final annual payment:

15 (1) Seven percent for tobacco use prevention and
16 cessation programs pursuant to Chapter 7 of the Tobacco
17 Settlement Act.

18 (2) Five percent for deposit into the General Fund to
19 pay for the pilot program authorized under this article.

20 Section 2. Section 306(b)(1)(iii) of the act of June 26,
21 2001 (P.L.755, No.77), known as the Tobacco Settlement Act, is
22 repealed.

23 Section 3. This act shall take effect in 60 days.