

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2455 Session of 2010

INTRODUCED BY EACHUS, DeLUCA, BISHOP, BRIGGS, CALTAGIRONE, CARROLL, CAUSER, COHEN, CONKLIN, D. COSTA, DALEY, DEASY, DePASQUALE, DeWEESE, FABRIZIO, FREEMAN, GOODMAN, GRUCELA, HALUSKA, HARHAI, HESS, HORNAMAN, JOSEPHS, KESSLER, KOTIK, KULA, MAHONEY, McCALL, McGEEHAN, MELIO, MUNDY, M. O'BRIEN, PRESTON, READSHAW, ROEBUCK, SANTONI, SIPTROTH, SOLOBAY, STABACK, THOMAS, WAGNER, WHITE, YOUNGBLOOD, YUDICHAK AND BELFANTI, APRIL 26, 2010

REFERRED TO COMMITTEE ON INSURANCE, APRIL 26, 2010

AN ACT

1 Providing for annual community health reinvestment.

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

4 Section 1. Short title.

5 This act shall be known and may be cited as The Community  
6 Health Reinvestment Act.

7 Section 2. Definitions.

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

11 "Adult basic program." The adult basic coverage insurance  
12 program administered under Chapter 13 of the act of June 26,  
13 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

14 "CHR agreement." The Agreement on Community Health

1 Reinvestment entered into on February 2, 2005, by the Insurance  
2 Department and Capital Blue Cross, Highmark, Inc., Hospital  
3 Service Association of Northeastern Pennsylvania and  
4 Independence Blue Cross and published in the Pennsylvania  
5 Bulletin at 35 Pa.B. 4155 (July 23, 2005).

6 "Commissioner." The Insurance Commissioner of the  
7 Commonwealth.

8 "Community health reinvestment activity." The term shall  
9 have the meaning given to it in Article XXV of the act of May  
10 17, 1921 (P.L.682, No.284), known as The Insurance Company Law  
11 of 1921.

12 "Community health reinvestment amount." The annual amount of  
13 the financial obligation of a plan under this act to fund  
14 permitted community health reinvestment activities.

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

16 "Fiscal year." A 12-month period beginning July 1 and ending  
17 June 30.

18 "Health premiums." Pennsylvania direct written health  
19 premiums reported by a hospital plan corporation or a  
20 professional health services plan corporation and its health  
21 subsidiaries and affiliates in their annual statements on  
22 Schedule T, Pennsylvania line, columns 3 and 6, of each plan's  
23 annual statement in proportion to any respective ownership  
24 interest. The term does not include administrative service  
25 business income or Medicare and Medicaid program premiums.

26 "Health subsidiaries and affiliates." All Pennsylvania  
27 domiciled entities of plans writing health insurance coverage.

28 "Plan." A hospital plan corporation as defined in and  
29 subject to 40 Pa.C.S. Ch. 61 (relating to hospital plan  
30 corporations) or a professional health services plan corporation

1 subject to 40 Pa.C.S. Ch. 63 (relating to professional health  
2 services plan corporations) authorized by the Insurance  
3 Commissioner to transact the business of insurance in this  
4 Commonwealth.

5 "Taxes." State tax imposed on health premiums and State  
6 income tax reported to the Department of Revenue by a plan and  
7 its health subsidiaries and affiliates in proportion to a  
8 respective ownership interest. The term does not include  
9 payments made under section 4(b) or (c).

10 Section 3. Community health reinvestment obligation.

11 (a) Application.--On or before January 15, 2011, a plan  
12 shall submit to the department an application, on a form  
13 prescribed by the department for that purpose, setting forth the  
14 plan's proposed expenditure, distribution or other utilization  
15 of its community health reinvestment amount for the balance of  
16 the fiscal year ending June 30, 2011. On or before April 1,  
17 2011, and on or before April 1 of each calendar year thereafter,  
18 a plan shall submit to the department an application setting  
19 forth the plan's proposed expenditure, distribution or other  
20 utilization of its community health reinvestment amount for the  
21 following fiscal year. A plan's application submitted under this  
22 subsection shall be subject to approval by the department.

23 (b) Calculations.--A plan's health reinvestment amount shall  
24 be calculated as follows:

25 (1) For the period beginning January 1, 2011, and ending  
26 June 30, 2011, the difference between:

27 (i) 2.4% of health premiums collected in the first  
28 two quarters of calendar year 2010; and

29 (ii) taxes incurred during those quarters.

30 (2) For fiscal years beginning July 1, 2011, the

1 difference between:

2 (i) 2.4% of health premiums collected in the  
3 preceding fiscal year; and

4 (ii) taxes incurred during that fiscal year.

5 (c) Reconciliations and adjustments.--The following shall  
6 apply:

7 (1) By October 1, 2012, and by October 1 each year  
8 thereafter, a plan shall submit to the department a  
9 reconciliation of the community portion of its community  
10 health reinvestment amount as provided in its application for  
11 the prior fiscal year against actual expenditures made for  
12 that prior fiscal year. Subject to department approval, the  
13 amount of any deficiency between the amount of expenditures  
14 projected in the application and the amount actually expended  
15 shall be remitted to the department to be used as set forth  
16 in section 4(b). This amount shall be in addition to the  
17 money required to be paid to the department under section  
18 4(b).

19 (2) Beginning with the fiscal year beginning July 1,  
20 2011, and for each fiscal year thereafter, the total  
21 community health reinvestment amount of a plan shall not  
22 exceed 110% of the total community health reinvestment amount  
23 for the plan in the immediately preceding fiscal year.

24 (3) In the event that a plan's total community health  
25 reinvestment amount decreases from one fiscal year to the  
26 next in excess of 5%, the percentage used to determine the  
27 State-directed portion for the plan under section 4(b) shall  
28 be adjusted for that year such that the State-directed  
29 portion for the plan shall decrease by no more than 5% of the  
30 amount of the State-directed portion for the plan from the

1 prior fiscal year.

2 (4) In no event shall the adjusted percentage used to  
3 determine the State-directed portion for the plan exceed 100%  
4 of the plan's total community health reinvestment amount in  
5 the subject fiscal year.

6 (5) The reconciliations required under paragraph (1)  
7 shall be based on statements audited and certified by an  
8 independent certified public accountant.

9 Section 4. Expenditure of community health reinvestment amount.

10 (a) Account established.--There is established in the State  
11 Treasury a restricted receipt account in the Tobacco Settlement  
12 Fund to be known as the Community Health Reinvestment Restricted  
13 Account. Interest earned on the money in the account shall  
14 remain in the account. The money in the account, including all  
15 interest earned, is appropriated to the department on a  
16 continuing basis to be used in accordance with the provisions of  
17 this section.

18 (b) State-directed portion.--Ninety-five percent of a plan's  
19 community health reinvestment amount shall be paid to the  
20 department and deposited into the Community Health Reinvestment  
21 Account to be used for State-directed community health  
22 reinvestment activity, including the adult basic program.  
23 Payments due under this act for the period January 1, 2011,  
24 through June 30, 2011, shall be made on January 30, 2011, and  
25 April 1, 2011. Payments due for fiscal years beginning July 1,  
26 2011, shall be made quarterly on each July 1, October 1, January  
27 1 and April 1. If the amount deposited into the Community Health  
28 Reinvestment Account under this subsection is not expended,  
29 distributed or utilized in the fiscal year in which the deposit  
30 is made, the amount shall be expended, distributed or utilized

1 in succeeding fiscal years.

2 (c) Community portion.--Five percent of a plan's community  
3 health reinvestment amount shall be expended, distributed or  
4 utilized solely for the community health reinvestment activity  
5 described in the application submitted by the plan under section  
6 3 and approved by the department. The percentage under this  
7 subsection may be expended, distributed or utilized in the  
8 plan's service area or elsewhere in this Commonwealth, at the  
9 plan's discretion.

10 Section 5. Examinations.

11 A plan shall make available to the department information as  
12 the department may reasonably require to verify the calculation,  
13 expenditure, distribution or use of the plan's community health  
14 reinvestment amount. Information provided to the department  
15 shall be a public record.

16 Section 6. Regulations.

17 (a) Promulgation of regulations.--The department may  
18 promulgate regulations necessary to implement this act.

19 (b) Penalties and remedies.--Upon a determination by the  
20 commissioner that this act has been violated, the commissioner  
21 may pursue one or more of the following courses of action:

22 (1) Issue an order requiring the person in violation to  
23 cease and desist from engaging in the violation.

24 (2) Suspend or revoke or refuse to issue or renew the  
25 certificate or license of the person in violation.

26 (3) Impose a civil penalty of not more than \$5,000 for  
27 each violation.

28 (4) Impose any other penalty or remedy deemed  
29 appropriate by the commissioner, including restitution.

30 (c) Other remedies.--The enforcement remedies imposed under

1 this section are in addition to any other remedies or penalties  
2 that may be imposed by other applicable statutes, including the  
3 act of July 22, 1974 (P.L.589, No.205), known as the Unfair  
4 Insurance Practices Act. Violations of this act are deemed and  
5 defined to be an unfair method of competition and an unfair or  
6 deceptive act or practice pursuant to the Unfair Insurance  
7 Practices Act.

8 Section 7. Interest.

9 Interest shall be assessed against late payments under  
10 section 806 of the act of April 9, 1929 (P.L.343, No.176), known  
11 as The Fiscal Code.

12 Section 8. Special provisions relating to CHR agreement.

13 The following shall apply:

14 (1) If the remaining payments due or to become due to  
15 the department under the CHR agreement are not paid by  
16 December 31, 2010, because they are invalidated by a court of  
17 competent jurisdiction or for any other reason, the payments  
18 shall be made on January 1, 2011, to the department by the  
19 plans that were parties to the CHR agreement.

20 (2) If an order of a court of competent jurisdiction  
21 invalidates one or more of the payments made to the  
22 department under the CHR agreement and requires the  
23 department to return any of the payments, the plans that were  
24 parties to the CHR agreement shall remit the amount of the  
25 invalidated payments to the department within ten days  
26 following receipt by the plans of the returned payments. A  
27 plan may waive the requirement that the department return an  
28 invalidated payment to the plan and, in that event, shall not  
29 be required to remit the payment to the department.

30 Section 19. Expiration.

1       This act shall expire at the end of the fiscal year in which  
2 the American Health Benefit Exchange under the Patient  
3 Protection and Affordable Care Act (Public Law 111-148) has  
4 commenced operation in this Commonwealth.

5 Section 20.   Effective date.

6       This act shall take effect January 1, 2011, or immediately,  
7 whichever is later.