

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1112 Session of 2009

INTRODUCED BY D. WHITE, BAKER, TARTAGLIONE, RAFFERTY, ERICKSON,
MUSTO, FERLO, BRUBAKER, M. WHITE, DINNIMAN, WASHINGTON, EARLL
AND COSTA, OCTOBER 6, 2009

REFERRED TO BANKING AND INSURANCE, OCTOBER 6, 2009

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," providing for the regulation of
12 health insurance practices concerning parity and
13 nondiscrimination.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
17 as The Insurance Company Law of 1921, is amended by adding an
18 article to read:

19 ARTICLE VI-B

20 HEALTH INSURANCE COVERAGE PARITY

21 AND NONDISCRIMINATION

22 Section 601-B. Short title of article.

23 This article shall be known and may be cited as the Health

1 Insurance Coverage Parity and Nondiscrimination Act.

2 Section 602-B. Purpose.

3 It is necessary to maintain the Commonwealth's sovereignty
4 over the regulation of health insurance in this Commonwealth by
5 implementing the requirements of the Paul Wellstone and Pete
6 Domenici Mental Health Parity and Addiction Equity Act of 2008
7 (Public Law 110-343, 122 Stat. 3881), the Genetic Information
8 Nondiscrimination Act of 2008 (Public Law 110-233, 122 Stat.
9 881) and Michelle's Law (Public Law 110-381, 122 Stat. 4081),
10 collectively contained in the Public Health Service Act (58
11 Stat. 682, 42 U.S.C. § 201 et seq.). The provisions of this
12 article are intended to meet these requirements while retaining
13 the Commonwealth's authority to regulate health insurance in
14 this Commonwealth, consistent with sections 2722 and 2761 of the
15 Public Health Service Act.

16 Section 603-B. Definitions.

17 (a) General rule.--The following words and phrases when used
18 in this article shall have the meanings given to them in this
19 section unless the context clearly indicates otherwise:

20 "Commissioner." The Insurance Commissioner of the
21 Commonwealth.

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

23 "Federal acts." The Federal laws known as the Paul Wellstone
24 and Pete Domenici Mental Health Parity and Addiction Equity Act
25 of 2008 (Public Law 110-343, 122 Stat. 3881), the Genetic
26 Information Nondiscrimination Act of 2008 (Public Law 110-233,
27 122 Stat. 881) and Michelle's Law (Public Law 110-381, 122 Stat.
28 4081), collectively contained in the Public Health Service Act
29 (58 Stat. 682, 42 U.S.C. § 201 et seq.).

30 "Fraternal benefit society." An entity holding a current

certificate of authority under Article XXIV.

"Health maintenance organization." An entity holding a current certificate of authority under the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

"Hospital plan corporation." An entity holding a current certificate of authority organized and operated under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations).

"Insurer." A foreign or domestic insurance company, association or exchange, health maintenance organization, hospital plan corporation, professional health services plan corporation, fraternal benefit society or risk-assuming preferred provider organization. The term shall not include a group health plan as defined in section 2791 of the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 300gg-91).

"Preferred provider organization." An entity holding a current certificate of authority under section 630.

"Professional health services plan corporation." An entity holding a current certificate of authority under 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations). This term shall not include dental service corporations or optometric service corporations, as those terms are defined under 40 Pa.C.S. § 6302(a) (relating to definitions).

(b) Federal law.--The words, terms and definitions found in the Federal acts, including those in section 2791 of the Public Health Service Act (58 Stat. 682, 42 U.S.C. 300gg-91), are adopted for purposes of implementing this article, except as noted in this subsection. The term "health insurance issuer" under section 2791(b)(2) of the Public Health Service Act shall have the meaning provided under "insurer" in subsection (a).

1 Section 604-B. Adoption of Federal acts.

2 Insurers shall comply with the Federal acts, as contained in
3 sections 2701, 2702, 2705, 2707, 2721, 2753 and 2754 of the
4 Public Health Service Act (58 Stat. 682, 42 U.S.C. §§ 300gg,
5 300gg-1, 300gg-5, 300gg-7, 300gg-21, 300gg-53 and 300gg-54).

6 Section 605-B. Penalties.

7 (a) General rule.--Upon satisfactory evidence of a violation
8 of this article by any insurer or other person, the commissioner
9 may, in the commissioner's discretion, pursue any one of the
10 following courses of action:

11 (1) Suspend, revoke or refuse to renew the license of
12 the offending person.

13 (2) Enter a cease and desist order.

14 (3) Impose a civil penalty of not more than \$5,000 for
15 each action in violation of this article.

16 (4) Impose a civil penalty of not more than \$10,000 for
17 each action in willful violation of this article.

18 (b) Limitation.--Penalties imposed against a person under
19 this article and under section 5 of the act of June 25, 1997
20 (P.L.295, No.29), known as the Pennsylvania Health Care
21 Insurance Portability Act, shall not exceed \$500,000 in the
22 aggregate during a single calendar year.

23 Section 606-B. Regulations.

24 The department may promulgate such regulations as may be
25 necessary or appropriate to carry out this article.

26 Section 2. All acts and parts of acts are repealed insofar
27 as they are inconsistent with the addition of Article VI-B of
28 the act.

29 Section 3. This act shall take effect immediately.