

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 276 Session of 2013

INTRODUCED BY BAKER, PICKETT, SAYLOR, MICOZZIE, GINGRICH, KAUFFMAN, MACKENZIE, EMRICK, STERN, AUMENT, TRUITT, M. K. KELLER, CUTLER, HESS, C. HARRIS, HICKERNELL, GROVE, SWANGER, LAWRENCE, DENLINGER, MILNE, BROOKS, BENNINGHOFF, MURT AND GABLER, JANUARY 23, 2013

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 23, 2013

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 foreign health
 12 insurance.

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

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

18 ARTICLE XXVI

19 FOREIGN HEALTH INSURANCE

20 Section 2601. Definitions.

21 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Commissioner." The Insurance Commissioner of the
4 Commonwealth.

5 "Covered person." An individual who is entitled to health
6 care services provided, arranged for, paid for or reimbursed
7 under a health benefits plan.

8 "Domestic health insurer." An insurer licensed to sell,
9 offer or provide health benefits plans in this Commonwealth.

10 "Foreign health insurer." An insurer licensed to sell, offer
11 or provide health benefits plans in any other state.

12 "Hazardous financial condition." A condition in which a
13 foreign health insurer is unlikely to be able to meet
14 obligations to policyholders with respect to known claims or to
15 any other obligations in the normal course of business, based on
16 its present or reasonably anticipated financial status.

17 "Health benefits plan." An arrangement for the delivery of
18 health care, on an individual or group basis, in which a health
19 carrier undertakes to provide, arrange for, pay for or reimburse
20 any of the costs of health care services for a covered person
21 that is offered in accordance with the laws of any state. The
22 term does not include any of the following:

23 (1) Short-term travel, accident only, limited or
24 specified disease or individual conversion policies or
25 contracts.

26 (2) Policies or contracts designed for issuance to
27 persons eligible for coverage under Title XVIII of the Social
28 Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.).

29 (3) Any other coverage, similar to that listed under
30 paragraph (1) or (2), under Federal or State governmental

1 plans.
2 "Provider" or "health care provider." Any hospital,
3 physician, or other person authorized by statute, licensed or
4 certified to furnish health care services.

5 "Resident." An individual whose primary residence is in this
6 Commonwealth and who is present in this Commonwealth for at
7 least six months of the calendar year.

8 Section 2602. Out-of-State carriers' provision of coverage.

9 Notwithstanding any other law or regulation, a foreign health
10 insurer may sell, offer and provide a health benefits plan to
11 residents in this Commonwealth if that insurer does all of the
12 following:

13 (1) Offers the health benefit plan in its domiciliary
14 state and is in compliance with all applicable laws,
15 regulations and requirements of its domiciliary state.

16 (2) Obtains a certificate of authority to do business as
17 a foreign health insurer in this Commonwealth.

18 (3) Complies with all laws and regulations of this
19 Commonwealth enacted for the benefit of health insurance
20 consumers.

21 (4) Is not required to offer the health benefits
22 mandated by the laws or regulations of this Commonwealth, or
23 comply with any law regarding rate regulation.

24 Section 2603. Certificate of authority.

25 (a) Application.--A foreign health insurer may apply for a
26 certificate that authorizes the foreign health insurer to do
27 business as a foreign health insurer in this Commonwealth using
28 a form prescribed by the commissioner. Upon application, the
29 commissioner shall issue a certificate to the foreign health
30 insurer unless the commissioner determines that the foreign

1 health insurer meets any of the following:

2 (1) Will not provide a health benefits plan in
3 compliance with the provisions of this article.

4 (2) Is in a hazardous financial condition, as determined
5 by an examination by the commissioner conducted in accordance
6 with the Financial Analysis Handbook of the National
7 Association of Insurance Commissioners.

8 (3) Has not adopted procedures to ensure compliance with
9 all applicable laws governing the confidentiality of its
10 records with respect to providers and covered persons.

11 (b) Validity.--A certificate of authority issued under this
12 section shall be valid for three years from the date of issuance
13 by the commissioner. The commissioner shall, by regulation,
14 establish all of the following:

15 (1) Procedures for a foreign health insurer to renew a
16 certificate of authority under this article.

17 (2) Certificate of authority application and renewal
18 fees, the amount of which shall be no greater than is
19 reasonably necessary to enable the commissioner to carry out
20 the provisions of this article.

21 Section 2604. Required disclosures.

22 Each health benefits plan and each application for a health
23 benefits plan provided by a foreign health insurer to a resident
24 shall disclose all of the following in plain language:

25 (1) The differences between the benefits of the health
26 benefits plan issued by the foreign health insurer and a
27 health benefits plan issued under the laws of this
28 Commonwealth.

29 (2) The differences that relate to mandated health
30 benefits, underwriting standards, premium rating, preexisting

1 conditions, renewability, portability and cancellation.

2 (3) That the health benefits plan is primarily governed
3 by the laws of the foreign health insurer's domicile and
4 therefore all of the rating laws applicable to individual or
5 group accident and health insurance filed in this
6 Commonwealth do not apply to the health benefits plan, which
7 may result in increases to the insurance premium at the time
8 of renewal that would not be permissible with a health
9 benefits plan governed by the laws of this Commonwealth.

10 (4) That any purchase of health insurance should be
11 considered carefully since future medical conditions may make
12 it impossible to qualify for another health benefits plan.

13 (5) That although the health benefits plan may provide
14 more affordable health coverage, the following apply:

15 (i) The health benefits plan may also provide fewer
16 health benefits than those normally included as State-
17 mandated health insurance policies issued by domestic
18 health insurers.

19 (ii) The insured's insurance agent should be
20 consulted to determine which State-mandated health
21 benefits are excluded under the policy.

22 Section 2605. Powers and duties of the commissioner.

23 (a) Powers.--The commissioner may do all of the following:

24 (1) After notice and opportunity to be heard, deny,
25 revoke or suspend a certificate of authority issued to a
26 foreign health insurer for any violation of this article. The
27 commissioner shall provide for an appropriate and timely
28 right of appeal for a foreign health insurer whose
29 certificate of authority is denied, revoked or suspended.

30 (2) Conduct market conduct and solvency examinations of

1 an existing or prospective foreign health insurer. The market
2 conduct and solvency examinations shall be conducted in the
3 same manner and under the same terms and conditions as an
4 examination of an insurer located in this State.

5 (b) Duties.--

6 (1) The commissioner shall establish procedures for the
7 review of claims and grievances filed by a health care
8 provider or a covered individual, marketing materials
9 proposed by a foreign health insurer to market a health
10 benefit plan to residents or employers in this State and the
11 application and health benefit plan of a prospective foreign
12 health insurer.

13 (2) The commissioner shall adopt rules to administer
14 this article. The rules shall not do any of the following:

15 (i) Require the foreign health insurer to modify
16 coverage or benefit requirements or restrict underwriting
17 requirements or premium ratings in a manner that
18 conflicts with the laws or regulations of a foreign
19 health insurer's domiciliary state.

20 (ii) Provide for an expansion of the commissioner's
21 authority over foreign health insurers in a way that
22 conflicts with this article.

23 Section 2. This act shall take effect in 60 days.