

## AMENDMENTS TO HOUSE BILL NO. 1050

Sponsor: REPRESENTATIVE BOYLE

Printer's No. 1064

1 Amend Bill, page 1, lines 7 through 18; pages 2 through 7,  
2 lines 1 through 30; page 8, line 1; by striking out all of said  
3 lines on said pages and inserting

4 Section 1. Short title.

5 This act shall be known and may be cited as the Health  
6 Insurance Preventive Services Coverage 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 "Commissioner." The Insurance Commissioner of the  
12 Commonwealth.

13 "Cost sharing." The share of health care costs covered by an  
14 insurance policy that an enrollee pays out-of-pocket. The term  
15 includes deductibles, coinsurance, copayments and similar  
16 charges. The term does not include premium, a balance billed  
17 amount from an out-of-network provider or the cost of a  
18 noncovered service.

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

20 "Enrollee." A policyholder, subscriber, covered person or  
21 other individual who is entitled to receive health care services  
22 under a health insurance policy.

23 "Grandfathered health care plan." Individual or group health  
24 insurance coverage in which an individual was enrolled prior to  
25 the date of enactment of the Patient Protection and Affordable  
26 Care Act (Public Law 111-148, 124 Stat. 119), or as otherwise  
27 specified in 42 U.S.C. § 18011 (relating to preservation of  
28 right to maintain existing coverage).

29 "Health insurance policy." A policy, subscriber contract,  
30 certificate or plan issued by an insurer that provides medical  
31 or health care coverage. The term does not include any of the  
32 following:

- 33 (1) An accident only policy.
- 34 (2) A credit only policy.
- 35 (3) A long-term care or disability income policy.
- 36 (4) A specified disease policy.
- 37 (5) A Medicare supplement policy.

- 1 (6) A fixed indemnity policy.  
2 (7) A dental only policy.  
3 (8) A vision only policy.  
4 (9) A workers' compensation policy.  
5 (10) An automobile medical payment policy.  
6 (11) A policy under which benefits are provided by the  
7 Federal Government to active or former military personnel and  
8 their dependents.  
9 (12) A hospital indemnity policy.  
10 (13) Any other similar policy providing for limited  
11 benefits.

12 "Insurer." An entity that offers, issues or renews a health  
13 insurance policy that provides medical or health care coverage  
14 by a health care facility or licensed health care provider and  
15 that is governed under any of the following:

16 (1) The act of May 17, 1921 (P.L.682, No.284), known as  
17 The Insurance Company Law of 1921, including section 630 and  
18 Article XXIV of The Insurance Company Law of 1921.

19 (2) The act of December 29, 1972 (P.L.1701, No.364),  
20 known as the Health Maintenance Organization Act.

21 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
22 corporations).

23 (4) 40 Pa.C.S. Ch. 63 (relating to professional health  
24 services plan corporations).

25 "Out-of-network provider." A provider who does not contract  
26 with an insurer to provide health care services to an enrollee  
27 under a health insurance policy.

28 Section 3. Preventive services coverage.

29 (a) Requirements.--

30 (1) An insurer offering, issuing or renewing a health  
31 insurance policy other than a grandfathered health care plan  
32 shall, at a minimum, provide coverage and may not impose any  
33 cost-sharing requirements for preventive services identified  
34 in paragraph (2), subject to modification of the preventive  
35 services required to be covered with no cost-sharing  
36 requirement in accordance with subsection (b).

37 (2) Preventive services required to be covered under  
38 this subsection include all of the following:

39 (i) Evidence-based items or services that have in  
40 effect a rating of "A" or "B" in the current  
41 recommendations of the United States Preventive Services  
42 Task Force as of the date of publication of the notice  
43 under section 8.

44 (ii) Immunizations that have in effect a  
45 recommendation from the Advisory Committee on  
46 Immunization Practices of the Centers for Disease Control  
47 and Prevention with respect to the individual involved as  
48 of the date of publication of the notice under section 8.

49 (iii) With respect to infants, children and  
50 adolescents, evidence-informed preventive care and  
51 screenings provided for in the comprehensive guidelines

1 supported by the United States Health Resources and  
2 Services Administration as of the date of publication of  
3 the notice under section 8.

4 (iv) With respect to women, additional preventive  
5 care and screenings not described in subparagraph (i) as  
6 provided for in comprehensive guidelines supported by the  
7 United States Health Resources and Services  
8 Administration for purposes of this paragraph as of the  
9 date of publication of the notice under section 8.

10 (b) Modification of preventive services.--

11 (1) The department may add or exempt one or more  
12 preventive services from the preventive services required to  
13 be covered without cost-sharing under this section by  
14 transmitting notice of an addition or exemption to the  
15 Legislative Reference Bureau for publication in the next  
16 available issue of the Pennsylvania Bulletin and shall:

17 (i) Post notice on the publicly accessible Internet  
18 website of the department.

19 (ii) Electronically send notice to the chairperson  
20 and minority chairperson of the Banking and Insurance  
21 Committee of the Senate and the chairperson and minority  
22 chairperson of the Insurance Committee of the House of  
23 Representatives.

24 (2) The department may not add a service unless the  
25 service is:

26 (i) An evidence-based item or service that has in  
27 effect a rating of "A" or "B" by the United States  
28 Preventive Services Task Force.

29 (ii) A recommended immunization by the Advisory  
30 Committee on Immunization Practices of the Centers for  
31 Disease Control and Prevention.

32 (iii) Preventive care or screenings for women,  
33 infants, children or adolescents provided for in the  
34 comprehensive guidelines supported by the United States  
35 Health Resources and Services Administration.

36 (3) The department may exempt a service if the service  
37 is no longer:

38 (i) An evidence-based item or service that has in  
39 effect a rating of "A" or "B" by the United States  
40 Preventive Services Task Force.

41 (ii) A recommended immunization by the Advisory  
42 Committee on Immunization Practices of the Centers for  
43 Disease Control and Prevention.

44 (iii) Preventive care or screenings for women,  
45 infants, children or adolescents provided for in the  
46 comprehensive guidelines supported by the United States  
47 Health Resources and Services Administration.

48 (4) Prior to adding or exempting a service as provided  
49 in paragraph (1), the department shall:

50 (i) Make available for a 15-day public review and  
51 comment period the proposed addition or exemption by

1 posting an announcement on the publicly accessible  
2 Internet website of the department.

3 (ii) Consider all of the following:

4 (A) Each public comment received under  
5 subparagraph (i).

6 (B) The potential escalation of the cost of  
7 health care services.

8 (C) Changes in medical evidence or scientific  
9 advancement.

10 (D) The potential for discrimination against  
11 individuals by reason of health status or health  
12 status-related factors, race, religion, nationality  
13 or ethnic group, age, sex, occupation, place of  
14 residence or marital status.

15 (5) An addition or exemption under paragraph (1) shall  
16 apply as follows:

17 (i) For a health insurance policy for which either  
18 rates or forms are required to be filed with the  
19 department, to a policy for which a form or rate is first  
20 filed on or after the notice.

21 (ii) For a health insurance policy for which neither  
22 rates nor forms are required to be filed with the  
23 department, to a policy issued or renewed 180 days after  
24 the publication of the notice.

25 (iii) For an exemption of a service on the grounds  
26 of a potential danger to patients, at a time established  
27 by the commissioner sooner than the time provided in  
28 subparagraphs (i) and (ii).

29 (c) Construction regarding preventive services coverage.--  
30 Nothing in this section shall be construed to:

31 (1) Prohibit an insurer from providing coverage for  
32 preventive services in addition to those designated under  
33 this act.

34 (2) Prohibit an insurer from denying coverage for  
35 preventive services not designated under this act.

36 (3) Prevent an insurer from utilizing value-based  
37 insurance designs.

38 (4) Diminish any other law that limits cost sharing for  
39 a health care service.

40 Section 4. Construction.

41 (a) Actions of insurer.--Subject to subsection (b), nothing  
42 in this act shall:

43 (1) Require an insurer that has a network of providers  
44 to provide benefits for items or services described in  
45 section 3 that are delivered by an out-of-network provider.

46 (2) Preclude an insurer that has a network of providers  
47 from imposing cost-sharing requirements for items or services  
48 described in section 3 that are delivered by an out-of-  
49 network provider.

50 (b) Coverage and cost-sharing.--If an insurer does not have  
51 in its network a provider who can provide an item or service

1 described in section 3, the insurer shall cover the item or  
2 service when performed by an out-of-network provider and may not  
3 impose cost-sharing with respect to the item or service.

4 (c) Reasonable medical management techniques.--Nothing in  
5 this act shall prevent an insurer from using reasonable medical  
6 management techniques to determine the frequency, method,  
7 treatment or setting for an item or service described in section  
8 3 to the extent not specified in the relevant recommendation or  
9 guideline. To the extent not specified in a recommendation or  
10 guideline, an insurer may rely on the relevant clinical evidence  
11 base and established reasonable medical management techniques to  
12 determine the frequency, method, treatment or setting for  
13 coverage of a recommended preventive health service.

14 Section 5. Regulations.

15 The department may promulgate regulations as may be necessary  
16 and appropriate to carry out the provisions of this act.

17 Section 6. Enforcement.

18 (a) Penalties.--Upon satisfactory evidence of the violation  
19 of any section of this act by an insurer or any other person,  
20 one or more of the following penalties may be imposed at the  
21 commissioner's discretion:

22 (1) Suspension or revocation of the license of the  
23 offending insurer or other person.

24 (2) Refusal, for a period not to exceed one year, to  
25 issue a new license to the offending insurer or other person.

26 (3) A fine of not more than \$5,000 for each violation of  
27 this act.

28 (4) A fine of not more than \$10,000 for each willful  
29 violation of this act.

30 (b) Limitations.--

31 (1) Fines imposed against an individual insurer under  
32 this act may not exceed \$500,000 in the aggregate during a  
33 single calendar year.

34 (2) Fines imposed against any other person under this  
35 act may not exceed \$100,000 in the aggregate during a single  
36 calendar year.

37 (c) Additional remedies.--The enforcement remedies imposed  
38 under this subsection are in addition to any other remedies or  
39 penalties that may be imposed under any other applicable law of  
40 this Commonwealth, including:

41 (1) The act of July 22, 1974 (P.L.589, No.205), known as  
42 the Unfair Insurance Practices Act. Violations of this act  
43 shall be deemed to be an unfair method of competition and an  
44 unfair or deceptive act or practice under the Unfair  
45 Insurance Practices Act.

46 (2) The act of December 18, 1996 (P.L.1066, No.159),  
47 known as the Accident and Health Filing Reform Act.

48 (3) The act of June 25, 1997 (P.L.295, No.29), known as  
49 the Pennsylvania Health Care Insurance Portability Act.

50 (d) Administrative procedure.--The administrative provisions  
51 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A

1 (relating to practice and procedure of Commonwealth agencies). A  
2 party against whom penalties are assessed in an administrative  
3 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.  
4 Ch. 7 Subch. A (relating to judicial review of Commonwealth  
5 agency action).

6 Section 7. Repeals.

7 All acts and parts of acts are repealed insofar as they are  
8 inconsistent with this act.

9 Section 8. Notice.

10 The commissioner shall transmit notice to the Legislative  
11 Reference Bureau for publication in the next available issue of  
12 the Pennsylvania Bulletin if any of the following occur:

13 (1) The Congress of the United States repeals, in whole  
14 or in part, 42 U.S.C. § 300gg-13 (relating to coverage of  
15 preventive health services).

16 (2) A court of the United States with competent  
17 jurisdiction abrogates, vacates or invalidates, in whole or  
18 in part, 42 U.S.C. § 300gg-13.

19 (3) The executive branch of the United States refuses to  
20 enforce, or repeals a regulation implementing, in whole or in  
21 part, 42 U.S.C. § 300gg-13.

22 Section 9. Implementation.

23 The implementation of this act shall be limited to the  
24 provisions necessary to achieve a substitute coverage  
25 requirement for the portion or portions of 42 U.S.C. § 300gg-13  
26 (relating to coverage of preventive health services) that are  
27 impacted by the occurrence of any of the events described in  
28 section 8.

29 Section 10. Effective date.

30 This act shall take effect as follows:

31 (1) The following shall take effect immediately:

32 (i) Section 8.

33 (ii) Section 9.

34 (iii) This section.

35 (2) The remainder of this act shall take effect upon  
36 publication of the notice in section 8.