

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 305 Session of  
1989

INTRODUCED BY RYBAK, VROON, FOX, CAWLEY, KUKOVICH, LASHINGER,  
SCHULER, KOSINSKI, YANDRISEVITS, MILLER, McHALE, PRESSMANN,  
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COLAFELLA, HALUSKA, SEMMEL, KENNEY, BELARDI, OLASZ, CIVERA,  
TRICH, ACOSTA AND LAUGHLIN, FEBRUARY 7, 1989

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 7, 1989

## AN ACT

1 Establishing the Catastrophic Illness in Children Relief Fund  
2 and the Catastrophic Illness in Children Relief Fund  
3 Commission; prescribing the membership and powers of the  
4 commission; providing certain insurance surcharges; and  
5 making an appropriation.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Legislative findings and declaration.

9 The General Assembly finds and declares that:

10 (1) Although the majority of Americans are covered by  
11 some form of health insurance, families nevertheless lack  
12 protection against the high cost of chronic or single  
13 episodes of serious illness that may destroy their resources.  
14 An illness resulting in this potentially devastating  
15 financial consequence is referred to as a catastrophic  
16 illness.

1           (2) Catastrophic illnesses often threaten to push some  
2 families into bankruptcy and others toward seeking inferior  
3 medical care or postponing prompt treatment and present a  
4 major problem for this nation's health care system in that  
5 catastrophic illnesses account for over 20% of this nation's  
6 health expenditures.

7           (3) The impact of catastrophic illnesses on the family  
8 is especially acute in that children have the highest average  
9 medical costs among the population as a whole.

10          (4) It is the public policy of this Commonwealth that  
11 each child of this Commonwealth should have access to quality  
12 health care and adequate protection against the  
13 extraordinarily high costs of health care services which are  
14 determined to be catastrophic and which severely impact upon  
15 a child and his family.

16          (5) To this end, it is incumbent upon the Commonwealth  
17 to provide assistance to children and their families whose  
18 medical expenses extend beyond the families' available  
19 resources.

## 20 Section 2. Definitions.

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

24          "Catastrophic illness." Any illness or condition the  
25 necessary medical expenses of which are not covered by any other  
26 State, Federal or other governmental program or any insurance  
27 contract and which exceed 30% of the income of a family whose  
28 income is \$100,000 or less per year or 40% of the income of a  
29 family whose income is over \$100,000 per year.

30          "Child." A person under 18 years of age.

1 "Commission." The Catastrophic Illness in Children Relief  
2 Fund Commission.

3 "Family." A child and the child's parent, parents or legal  
4 guardian, as the case may be, who is legally responsible for the  
5 child's medical expenses.

6 "Fund." The Catastrophic Illness in Children Relief Fund.

7 "Income." All income, from whatever source derived, actually  
8 received by a family.

9 "Resident." A person legally domiciled within this  
10 Commonwealth for a period of six months immediately preceding  
11 the onset of the illness or accident. Mere seasonal or temporary  
12 residence within this Commonwealth, of whatever duration, does  
13 not constitute domicile. Absence from this Commonwealth for a  
14 period of 12 months or more is prima facie evidence of  
15 abandonment of domicile. The burden of establishing legal  
16 domicile within this Commonwealth is upon the parent or legal  
17 guardian of a child.

18 Section 3. Catastrophic Illness in Children Relief Fund.

19 (a) Fund established.--The Catastrophic Illness in Children  
20 Relief Fund is established as a nonlapsing, revolving fund. The  
21 fund shall be administered by the commission and shall be  
22 credited with moneys received pursuant to section 8.

23 (b) Custodian of fund.--The State Treasurer is the custodian  
24 of the fund, and all disbursements from the fund shall be made  
25 by the State Treasurer upon vouchers signed by the chairman of  
26 the commission. The moneys in the fund shall be invested and  
27 reinvested by the State Treasurer as are other trust funds in  
28 the custody of the State Treasurer in the manner provided by  
29 law. Interest received on the moneys in the fund shall be  
30 credited to the fund.

1 Section 4. Catastrophic Illness in Children Relief Fund

2 Commission.

3 (a) Commission established.--There is hereby created an  
4 independent administrative commission which shall be known as  
5 the Catastrophic Illness in Children Relief Fund Commission. The  
6 commission shall consist of the Secretary of Health, the  
7 Secretary of Public Welfare, the Insurance Commissioner and the  
8 State Treasurer, who shall be members ex officio, and five  
9 public members who are residents of this Commonwealth, appointed  
10 by the Governor with the advice and consent of a majority of the  
11 members elected to the Senate for terms of five years, one of  
12 whom is appointed upon the recommendation of the President pro  
13 tempore of the Senate and is a provider of health care services  
14 to children in this Commonwealth and one of whom is appointed  
15 upon the recommendation of the Speaker of the House of  
16 Representatives and is a provider of health care services to  
17 children in this Commonwealth. The five public members first  
18 appointed by the Governor shall serve for terms of one, two,  
19 three, four and five years, respectively. Each member shall hold  
20 office for the term of his appointment and until his successor  
21 has been appointed and qualified. A member of the commission is  
22 eligible for reappointment. Each ex officio member of the  
23 commission may designate an officer employee of his department  
24 to represent him at meetings of the commission, and each  
25 designee may lawfully vote and otherwise act on behalf of the  
26 member for whom he constitutes the designee. Any designation  
27 shall be in writing, delivered to the commission, and filed with  
28 the office of the Secretary of the Commonwealth and shall  
29 continue in effect until revoked or amended in the same manner  
30 as provided for designation.

1 (b) Removal.--Each member of the commission may be removed  
2 from office by the Governor, for cause, after a public hearing  
3 and may be suspended by the Governor pending the completion of  
4 the hearing. Each member of the commission, before entering upon  
5 his duties, shall take and subscribe an oath to perform the  
6 duties of his office faithfully, impartially and justly to the  
7 best of his ability. A record of the oaths shall be filed in the  
8 office of the Secretary of the Commonwealth.

9 (c) Vacancies.--Any vacancies in the membership of the  
10 commission occurring other than by the expiration of a term  
11 shall be filled in the same manner as the original appointment,  
12 but for the unexpired term only.

13 (d) Chairman and officers.--The Secretary of Health shall be  
14 chairman and chief executive officer of the commission. The  
15 members shall elect a secretary and a treasurer who need not be  
16 members of the commission, and the same person may be elected to  
17 serve both as secretary and treasurer.

18 (e) Quorum.--The powers of the commission are vested in the  
19 members thereof in office from time to time, and six members of  
20 the commission shall constitute a quorum at any meeting of the  
21 commission. Action may be taken and motions and resolutions  
22 adopted by the commission at any meeting by the affirmative vote  
23 of at least six members of the commission. A vacancy in the  
24 membership of the commission shall not impair the right of a  
25 quorum to exercise all the powers and perform all the duties of  
26 the commission.

27 (f) Expenses.--The members of the commission shall serve  
28 without compensation, but the commission shall reimburse its  
29 members for the reasonable expenses incurred in the performance  
30 of their duties based upon the moneys available in the fund.

1 (g) Appointment.--The commission shall be appointed within  
2 three months after the effective date of this act and shall  
3 organize as soon as may be practicable after the appointment of  
4 its members.

5 Section 5. Powers and duties of commission.

6 The commission shall have, but not be limited to, the  
7 following powers and duties:

8 (1) To establish, in cooperation with the Department of  
9 Health, a program for the purposes of this act, administer  
10 the fund and authorize the payment or reimbursement of the  
11 medical expenses of children with catastrophic illnesses.

12 (2) To establish procedures for enrollment in the  
13 program, determine the eligibility for the payment or  
14 reimbursement of medical expenses for each child, process  
15 claim disputes and establish procedures to provide that, in  
16 the case of an illness or condition for which the family,  
17 after receiving assistance pursuant to this act, recovers  
18 damages for the child's medical expenses pursuant to a  
19 settlement or judgment in a legal action, the family shall  
20 reimburse the fund for the amount of assistance received, or  
21 that portion thereof covered by the amount of the damages  
22 less the expense of recovery.

23 (3) To establish the amount of reimbursement for the  
24 medical expenses of each eligible child using a formula based  
25 on a family's ability to pay for medical expenses which takes  
26 into account family size, family income and available assets  
27 and family medical expenses and to adjust the financial  
28 eligibility criteria established in the definition of  
29 "catastrophic illness" in section 2, based upon the moneys  
30 available in the fund.

1           (4) To disseminate information on the fund and the  
2 program to the public.

3           (5) To adopt bylaws for the regulation of its affairs  
4 and the conduct of its business, adopt an official seal and  
5 alter the same at pleasure, maintain an office at the place  
6 within this Commonwealth as it may designate, and sue and be  
7 sued in its own name.

8           (6) To employ professional and clerical assistance  
9 necessary to perform its duties, and as may be within the  
10 limits of funds appropriated or otherwise made available to  
11 it for its purposes.

12          (7) To maintain confidential records on each child who  
13 applies for assistance under the fund.

14          (8) To do all other acts and things necessary or  
15 convenient to carry out the purposes of this act.

16          (9) To adopt rules and regulations in the manner  
17 provided in the act of July 31, 1968 (P.L.769, No.240),  
18 referred to as the Commonwealth Documents Law, necessary to  
19 effectuate the purposes of this act.

20 Section 6. Enrollment in program.

21 A child who is a resident of this Commonwealth shall be  
22 eligible, through his parent or legal guardian, to enroll in the  
23 program established pursuant to section 5(1).

24 Section 7. Eligibility.

25 Whenever a child has a catastrophic illness and is enrolled  
26 in the program, the child, through his parent or legal guardian,  
27 shall be eligible for financial assistance from moneys in the  
28 fund, subject to the rules and regulations established by the  
29 commission and the availability of moneys in the fund. The  
30 financial assistance shall include, but not be limited to,

1 payments or reimbursements for the cost of medical treatment,  
2 hospital care, drugs, nursing care, rehabilitative services and  
3 physician services.

#### 4 Section 8. Funding.

5 For the purpose of providing the moneys necessary to  
6 establish and meet the purposes of the fund, the commission  
7 shall establish a \$1 annual surcharge per person upon all  
8 individual and group health insurance policies written in this  
9 Commonwealth. The \$1 surcharge also shall be applied to every  
10 enrollee in a health maintenance organization authorized to  
11 operate in this Commonwealth. The surcharge shall be collected  
12 by the commission and paid over to the State Treasurer for  
13 deposit in the fund annually as provided by the commission. The  
14 surcharge is a separate charge to the insured or enrollee in  
15 addition to the premium to be paid and shall be reflected as  
16 such in the policy or evidence of coverage, and commissions  
17 shall not be payable thereon. The insurer or health maintenance  
18 organization is prohibited from absorbing the surcharge as an  
19 inducement for insurance or enrollment or for any other reason.  
20 In the case of self-insured groups of ten or more persons, an  
21 annual contribution of \$1 per person shall be required, and  
22 shall be collected by the commission and paid over to the State  
23 Treasurer for deposit in the fund.

#### 24 Section 9. Rules for collection of surcharge.

25 The State Treasurer shall adopt rules and regulations in the  
26 manner provided in the act of July 31, 1968 (P.L.769, No.240),  
27 referred to as the Commonwealth Documents Law, establishing  
28 procedures for the collection of the surcharge and contribution.

#### 29 Section 10. Reports.

30 The commission shall report annually to the Governor, the



1 Health and Welfare Committee of the House of Representatives and  
2 the Public Health and Welfare Committee of the Senate on the  
3 status of the program. The report shall include information  
4 about the number of participants in the program, average  
5 expenditures per participant, the nature and type of  
6 catastrophic illnesses for which the fund provided financial  
7 assistance, and the average income and expenditures of families  
8 who received financial assistance under the program. The  
9 commission also may make recommendations for changes in the law  
10 and regulations governing the fund.

11 Section 11. Appropriation.

12 The sum of \$300,000 is hereby appropriated to the  
13 Catastrophic Illness in Children Relief Fund Commission for  
14 administrative and other costs in establishing the program  
15 provided for by this act.

16 Section 12. Effective date.

17 This act shall take effect in 60 days.