AN ACT

Providing for direct primary care, medical service agreements and insurance, for medical service agreement requirements, for use of health savings accounts or flexible spending accounts and for use of other health care practitioners.

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

Section 1. Short title.

This act shall be known and may be cited as the Medical Service Agreement Act.

Section 2. Definitions.

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

"Department." The Insurance Department of the Commonwealth.

"Direct fee." A fee charged by a physician to a patient or a patient's designee for primary medical care services provided by, or to be provided by, the physician to the patient. The term includes a fee in any form, including any of the following:

(1) A monthly retainer.
(2) A membership fee.
(3) A subscription fee.
(4) A fee paid under a medical service agreement.
(5) A fee for a service, visit or episode of care.
"Direct primary care." A primary medical care service provided by a physician to a patient in return for payment in accordance with a direct fee.
"Health care practitioner." An individual who is authorized to practice some component of the healing arts by a license, permit, certificate or registration issued by a Commonwealth licensing agency or board.
"Medical service agreement." A signed written agreement under which a physician agrees to provide direct primary care services for a patient for a period of time in exchange for a direct fee and which is entered into by the physician and any of the following:
(1) The patient.
(2) The patient's legal representative, guardian or employer on behalf of the patient.
(3) The legal representative of the patient's employer or guardian on behalf of the patient.
"Physician." A person licensed to practice medicine in this Commonwealth. The term includes medical doctors and doctors of osteopathy.
"Primary medical care service." A routine or general health care service of the type provided at the time a patient seeks preventive care or first seeks health care services for a specific health concern and is a patient's main source for regular health care services. The term includes health care services provided for any of the following purposes:
(1) Promoting and maintaining mental and physical health and wellness.
(2) Preventing disease.
(3) Screening, diagnosing and treating acute or chronic conditions caused by disease, injury or illness.
(4) Providing patient counseling and education.
(5) Providing a broad spectrum of preventive and curative health care over a period of time.

Section 3. Direct primary care, medical service agreements and insurance.

(a) Direct primary care.--A physician providing direct primary care based on a medical service agreement shall not be considered an insurer or health maintenance organization under the laws of this Commonwealth, and the physician shall not be subject to regulation by the department for direct primary care.

(b) Medical service agreements.--A medical service agreement shall not be considered health or accident insurance or coverage under 40 Pa.C.S. (relating to insurance) and shall not be subject to regulation by the department.

(c) Physicians.--A physician shall not be required to obtain a certificate of authority under 40 Pa.C.S. to market, sell or offer a medical service agreement or provide direct primary care.

Section 4. Medical service agreement requirements.
In order to be considered a medical service agreement under this act, the medical service agreement shall:

(1) be in writing;
(2) be signed by the patient or patient's legal representative or guardian;
(3) be signed by the physician;
allow either party to terminate the medical service agreement upon written notice to the other party;

(5) describe the specific health care services that are included in the medical service agreement;

(6) specify the fee for the medical service agreement;

(7) specify the period of time under the medical service agreement; and

(8) include the following statement:

This agreement does not provide comprehensive health insurance coverage. This agreement only provides for the health care services specifically described.

Section 5. Use of health savings accounts or flexible spending accounts.

If a patient enters into a medical service agreement under this act, fees under the medical service agreement may be paid or reimbursed by a health savings account or flexible spending account, subject to any Federal or State law regarding qualified expenditures or reimbursement from health savings accounts or flexible spending accounts, if the patient has:

(1) established a health savings account in compliance with section 223 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 223); or

(2) a flexible spending account or health reimbursement agreement.

Section 6. Use of other health care practitioners.

Nothing in this act shall be construed as prohibiting, limiting or otherwise restricting a physician in a collaborative practice from utilizing other health care practitioners in the practice to provide primary care services if the services provided are within the scope of practice of the health care
practitioner and the patient is made aware of the use of other health care practitioners.

Section 7. Effective date.

This act shall take effect in 60 days.