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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 420 Session of  
1995

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INTRODUCED BY E. Z. TAYLOR, VANCE, CLYMER, VAN HORNE, GEORGE, HUTCHINSON, FLEAGLE, MARSICO, MELIO, KENNEY, SCHULER, DEMPSEY, BEBKO-JONES, DENT, MERRY, TRUE, HENNESSEY, EGOLF, SANTONI, DeLUCA, BELFANTI, NAILOR, LEH, L. I. COHEN, BAKER, ITKIN, MAITLAND, D. W. SNYDER, ROONEY, WAUGH, SAYLOR, SATHER, CLARK, GORDNER, BROWN, COY, FICHTER, PLATTS, HERMAN, S. H. SMITH, TRELLO, STETLER, YOUNGBLOOD, STEIL, STABACK, SCHRODER, DRUCE, MILLER, CARONE, SURRA, NICKOL, MUNDY, CIVERA, BATTISTO, SEMMEL, WASHINGTON, FLICK, GIGLIOTTI, CONTI, PITTS, CALTAGIRONE, KUKOVICH, FAIRCHILD, J. TAYLOR, FARMER, RAYMOND, BUNT, RUBLEY, MICHLOVIC, STURLA, WOGAN, JOSEPHS, OLASZ, STEELMAN, BROWNE, BARD, TIGUE, REINARD AND KING, JANUARY 31, 1995

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REFERRED TO COMMITTEE ON INSURANCE, JANUARY 31, 1995

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AN ACT

1 Establishing portability of health insurance coverage in this  
2 Commonwealth.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Health  
7 Insurance Portability Act.

8 Section 2. Legislative findings and intent.

9 (a) Findings.--The General Assembly finds that the lack of  
10 portability of health insurance coverage causes problems for  
11 persons who have a disease or physical condition which would be  
12 excluded from coverage under current preexisting condition

1 clauses in health insurance policies today. Additionally, the  
2 practice of medical underwriting causes the cost of health  
3 insurance for people with preexisting conditions to be  
4 unaffordable. For these reasons, employed persons experience  
5 "job lock," where they are unable to change their employment for  
6 fear of losing their health insurance coverage. Likewise, the  
7 unhealthy uninsured are locked out of the system because it is  
8 too expensive for them to access.

9 (b) Intent.--It is the intent of the General Assembly and  
10 the purpose of this act to provide portability of health  
11 insurance coverage for all Pennsylvanians by abolishing the  
12 currently accepted practices of preexisting condition exclusions  
13 and medical underwriting for health coverage, which practices  
14 create substantial hardship and unfairness and adversely affect  
15 the ability of the residents of this Commonwealth to access  
16 affordable insurance coverage.

17 Section 3. Definitions.

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

21 "Continuous coverage." The maintenance of continuous,  
22 uninterrupted prior coverage by an eligible insured or  
23 dependent. An eligible insured or dependent is considered to  
24 have maintained continuous coverage if the individual requests  
25 enrollment in a health benefit plan within 180 days of  
26 termination of the prior coverage.

27 "Health insurance agreement." An accident and health  
28 insurance policy, contract or insurance certificate issued by an  
29 insurer.

30 "Insurer." An insurance company, association or reciprocal,

1 nonprofit hospital plan corporation or nonprofit professional  
2 health service plan; or a health maintenance organization (HMO)  
3 organized and regulated under the act of December 29, 1972  
4 (P.L.1701, No.364), known as the Health Maintenance Organization  
5 Act. The term also includes a risk-assuming preferred provider  
6 organization or exclusive provider organization organized and  
7 regulated under the act of May 17, 1921 (P.L.682, No.284), known  
8 as The Insurance Company Law of 1921, a preferred provider with  
9 a health management gatekeeper role for primary care physicians  
10 or any other entity engaged in the health insurance business.

11 "Medical underwriting." The use of demographic and other  
12 relevant characteristics by the insurer when determining premium  
13 rates, including, but not limited to, age, health status, claims  
14 experience and duration of coverage since date of issue.

15 "Preexisting condition." A physical or mental condition  
16 which existed prior to the issuance of a health insurance  
17 policy. Expenses resulting from such a condition currently are  
18 not covered by the health insurance policy.

19 "Reinsurance." Insurance purchased by an insurance company  
20 to help maintain solvency when it becomes necessary to insure an  
21 unprofitable risk. Reinsurance financially assists small  
22 insurers to compete effectively with larger ones by helping to  
23 pay claims for these unprofitable high risks.

24 "Risk." The individual or individuals being insured on the  
25 policy. The individual or individuals have the possibility of  
26 incurring a financial loss which may be reimbursable as a  
27 covered loss under the provisions of the policy.

28 "Surcharge." An additional amount added to the premium for  
29 those insureds who are considered to be high risk.

30 Section 4. Denial of coverage.

1 Except as otherwise provided in this act, a person shall not  
2 be denied health insurance coverage. Further, an individual must  
3 be accepted at all times throughout the year for any hospital or  
4 medical coverage offered by an insurer to individuals.

5 Section 5. Prohibitions.

6 (a) Prohibition of medical underwriting.--A health insurer  
7 shall not impose medical underwriting restrictions, including  
8 any preexisting condition limitations, on any eligible  
9 individual or group who can demonstrate that continuous health  
10 benefit coverage was in effect for the existing condition.

11 (b) Exclusion.--Insurers are prohibited from excluding an  
12 individual from coverage due to a preexisting condition. If a  
13 high-risk individual has had no health insurance coverage for  
14 six months prior to issuance of a new policy by an insurer, the  
15 insurer may surcharge the individual an additional premium for  
16 the first six months of the policy issued. The total premium may  
17 not be more than 150% of the lowest premium which would be  
18 charged to the individual without regard to the nature of the  
19 individual's condition.

20 Section 6. Continuation of coverage.

21 (a) Requirements.--Except as otherwise provided in this  
22 section, a person shall be entitled to and be provided  
23 continuous coverage and benefits under a health insurance  
24 agreement without regard to a preexisting condition exclusion  
25 period or a waiting period if:

26 (1) The person was covered under a prior health  
27 insurance agreement for at least six months.

28 (2) The insurer receives the application of the person  
29 for coverage governed by this provision within six months of  
30 the date of termination of coverage under a prior group

1 health contract.

2 (b) Guaranteed renewable.--A person shall not be denied  
3 renewal of the policy due to a health condition or any claim  
4 payments made by the insurer during the policy period, as long  
5 as the person makes timely payment of premiums. The insurer may  
6 not reduce benefits because of a change in the physical or  
7 mental condition of the insured.

8 (c) Replacement contracts.--This section shall also apply to  
9 groups who obtain replacement contracts.

10 (d) Deductible or copayment provisions.--Nothing in this  
11 section shall be construed to prevent the insurer from applying  
12 deductible or copayment provisions in a policy.

13 Section 7. Reinsurance.

14 An insurer may reinsure as long as this does not increase the  
15 premiums of employers or individuals.

16 Section 8. Termination.

17 An insurer may terminate health insurance coverage if the  
18 insurer withdraws from the health insurance market or becomes  
19 financially insolvent.

20 Section 9. Effective date.

21 This act shall take effect immediately.