
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2455

Session of
1998

INTRODUCED BY VEON, LaGROTTA, DeLUCA, GEORGE, LUCYK, KENNEY,
BELARDI, DeWEESE, RAMOS, COLAFELLA, JAMES, ROONEY, SATHER,
COY, BELFANTI, MANDERINO, WALKO, FAIRCHILD, TRAVAGLIO,
KIRKLAND, STURLA, OLIVER, BOSCOLA, TANGRETTI, TIGUE,
SCRIMENTI, C. WILLIAMS, JOSEPHS, READSHAW, TRELLO, GIGLIOTTI,
CURRY, CORPORA, MELIO, ITKIN, CORRIGAN, LAUGHLIN, STABACK,
TRICH, YOUNGBLOOD AND STEELMAN, MARCH 23, 1998

REFERRED TO COMMITTEE ON INSURANCE, MARCH 23, 1998

AN ACT

1 Prohibiting certain provisions in contracts between managed care
2 entities and participating practitioners; establishing a
3 standard of care for coverage determinations; and providing
4 for a cause of action.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Managed Care
9 Entity Liability Act.

10 Section 2. Definitions.

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

14 "Commissioner." The Insurance Commissioner of the
15 Commonwealth.

16 "Enrollee." Any policy holder, subscriber, covered person or

1 other individual, including dependents, who is entitled to
2 receive health care coverage under a managed care entity's
3 insurance policy or contract issued in this Commonwealth.

4 "Health care practitioner." An individual who is licensed,
5 certified or otherwise authorized to provide health care
6 services under the laws of this Commonwealth, including, but not
7 limited to, a physician, a dentist, a podiatrist, an
8 optometrist, a psychologist, a physical therapist, a certified
9 nurse practitioner, a registered nurse, a nurse midwife, a
10 physician's assistant or a chiropractor.

11 "Managed care entity." A comprehensive health care plan that
12 integrates the financing and delivery of health care services,
13 including behavioral health, to enrollees through a network,
14 with participating providers selected to participate on the
15 basis of specific standards, and that provides financial
16 incentives for enrollees to use the network providers in
17 accordance with the plan's procedures. A managed care entity
18 includes health care plans provided through a policy or contract
19 authorized under any of the following:

20 (1) Section 630 act of May 17, 1921 (P.L.682, No.284),
21 known as The Insurance Company Law of 1921.

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

24 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
25 corporations).

26 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
27 services plan corporations).

28 (5) A fraternal benefit society charter.

29 (6) A contract with the Department of Public Welfare to
30 provide medical assistance benefits on a capitated basis.

1 "Participating practitioner." A health care practitioner who
2 has entered into an agreement with a managed care entity to
3 provide health care services to an enrollee in a health care
4 plan provided by a managed care entity.

5 Section 3. Indemnification provisions prohibited.

6 (a) General rule.--A contract or other agreement between a
7 managed care entity and a participating practitioner shall not
8 contain any provision that requires the participating
9 practitioner to indemnify the managed care entity or hold the
10 managed care entity harmless against a claim or action made or
11 filed against the managed care entity by an enrollee.

12 (b) Provision void.--A provision in a contract or other
13 agreement that is contrary to subsection (a) or otherwise
14 purports to shield a managed care entity from liability shall be
15 void and unenforceable.

16 (c) Waiver prohibited.--The prohibition contained in
17 subsection (a) may not be waived.

18 Section 4. Standard of care in coverage decisions.

19 In making a determination regarding coverage for a particular
20 service or treatment, a managed care entity shall exercise
21 ordinary care to protect an enrollee who with reasonable
22 certainty may be harmed by the failure to do so.

23 Section 5. Cause of action.

24 A civil action may be brought by an enrollee to recover
25 damages in any case where a managed care entity fails to
26 exercise the standard of care provided for in section 4. The
27 court may award a prevailing plaintiff reasonable attorney fees
28 and reasonable court costs.

29 Section 6. Rules and regulations.

30 The commissioner may adopt rules and regulations to

- 1 administer and enforce this act.
- 2 Section 7. Effective date.
- 3 This act shall take effect immediately.