

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1117 Session of
2007

INTRODUCED BY COSTA, FONTANA, WASHINGTON, TARTAGLIONE, BOSCOLA,
HUGHES, KITCHEN, STOUT AND C. WILLIAMS, OCTOBER 25, 2007

REFERRED TO BANKING AND INSURANCE, OCTOBER 25, 2007

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," providing for accessibility to
12 affordable health insurance coverage for previously uninsured
13 individuals and for small businesses; adding definitions; and
14 imposing duties on the Insurance Department.

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

17 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
18 as The Insurance Company Law of 1921, is amended by adding an
19 article to read:

20 ARTICLE XXV

21 ADULT HEALTH CARE

22 Section 2501. Short title of article.

23 This article shall be known and may be cited as the Cover All
24 Pennsylvanians Act.

1 Section 2502. Legislative findings and intent.

2 The General Assembly finds and declares as follows:

3 (1) Health care costs have been increasing twice as fast
4 as average wages in this Commonwealth and nearly 1,000,000
5 Pennsylvanians remain uninsured, yet the Commonwealth is
6 paying billions of dollars each year in avoidable health care
7 costs.

8 (2) The large number of uninsured workers in this
9 Commonwealth negatively impacts the Commonwealth's economy
10 and productivity as it is clear insured workers are
11 healthier, more productive and use fewer sick days. The
12 Commonwealth should play a role in making health care
13 coverage affordable for small businesses and uninsured
14 individuals.

15 (3) The health care crisis is of national concern, but
16 it is possible to create a solution in this Commonwealth that
17 reduces the cost of health care and improves the well-being
18 of Pennsylvania's residents by addressing the fundamental
19 issues of affordability, accessibility and quality.

20 (4) The Commonwealth has a clear interest in ensuring
21 that Pennsylvania families and small employers can afford
22 health insurance. In addition to the staggering human impact
23 of inadequate health care, the cost for covering the
24 uninsured Pennsylvanians increases the cost of health care
25 for all insured Pennsylvanians. The extra charge in insurance
26 premiums resulting from this amounts to over \$1,000,000,000
27 each year.

28 (5) Individual and small group health insurance rates
29 are volatile. In order to ensure that affordable individual
30 and small group health insurance is available, the

1 Commonwealth must do all of the following:

2 (i) Contain health care coverage premium increases
3 for small employers.

4 (ii) Spread the risks associated with providing
5 care.

6 (iii) Ensure that affordable health care coverage is
7 available to those who have lost their employer-based
8 coverage.

9 (iv) Ensure that a substantial portion of the
10 premiums for small employers is used to pay medical
11 claims.

12 (v) Require justification for premium increases.

13 Section 2503. Definitions

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

17 "Adult basic." The health investment insurance program
18 established under Chapter 13 of the act of June 26, 2001
19 (P.L.755, No.77), known as the Tobacco Settlement Act.

20 "Average annual wage." The total annual wages paid by an
21 employer divided by the number of the employer's employees.

22 "Basic benefit package." The minimum health benefit
23 insurance plan determined by the Insurance Commissioner under
24 section 2510.

25 "Behavioral health services." Mental health or substance
26 abuse issues.

27 "CAP contracts." The contracts entered into under section
28 2504.

29 "CAP Fund." The restricted account established under section
30 2505.

1 "Children's Health Insurance Program" or "CHIP." The
2 Children's Health Care Program established under Article XXIII.

3 "Commonwealth Attorneys Act." The act of October 15, 1980
4 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

5 "Commonwealth Documents Law." The act of July 31, 1968
6 (P.L.769, No.240), referred to as the Commonwealth Documents
7 Law.

8 "Commissioner." The Insurance Commissioner of this
9 Commonwealth.

10 "Commonwealth average annual wage." The average annual wage
11 in this Commonwealth for a calendar year determined by the
12 Department of Labor and Industry under section 404(e)(2) of the
13 act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1),
14 known as the Unemployment Compensation Law.

15 "Community Health Reinvestment Agreement." The agreement on
16 community health reinvestment entered into February 2, 2005, by
17 the Insurance Department and Capital Blue Cross, Highmark Inc.,
18 the Hospital Service Association of Northeastern Pennsylvania
19 and Independence Blue Cross and published in the Pennsylvania
20 Bulletin at 35 Pa.B. 4155 (relating to agreement on community
21 health reinvestment).

22 "Contractor." A person with whom the Insurance Department
23 has entered into a contract for the purposes of section 2504.

24 "Cover All Pennsylvanians" or "CAP." The health insurance
25 program established under this article.

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

27 "Eligible employee enrollee." An individual who is 19 years
28 of age or older, is an employee of an eligible small low-wage
29 employer participant and has enrolled in Cover All
30 Pennsylvanians.

1 "Eligible individual." An individual who meets the following
2 criteria:

3 (1) Is at least 19 years of age but no older than 64
4 years of age.

5 (2) Has been a resident of this Commonwealth at least 90
6 days prior to enrollment in Cover All Pennsylvanians.

7 (3) Is ineligible to receive continuous eligibility
8 coverage under Title XIX or XXI of the Social Security Act
9 (49 Stat. 620, 42 U.S.C. § 301 et seq.), except for benefits
10 authorized under a waiver granted by the United States
11 Department of Health and Human Services to implement Cover
12 All Pennsylvanians.

13 (4) Meets one of the following:

14 (i) Is currently enrolled in the health investment
15 insurance program established under Chapter 13 of the act
16 of June 26, 2001 (P.L.755, No.77), known as the Tobacco
17 Settlement Act, or is wait-listed for the program on the
18 effective date of this section.

19 (ii) Has a household income that is no greater than
20 200% of the Federal poverty level at the time of
21 application and has not been covered by any health
22 insurance plan or program for at least 90 days
23 immediately preceding the date of application, except
24 that the 90-day period shall not apply to an individual
25 who meets one of the following:

26 (A) Is eligible to receive benefits under the
27 act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897,
28 No.1), known as the Unemployment Compensation Law.

29 (B) Was covered under a health insurance plan or
30 program provided by an employer but at the time of

1 application is no longer covered because of a change
2 in the individual's employment status and is
3 ineligible to receive benefits under the Unemployment
4 Compensation Law.

5 (C) Lost coverage as a result of divorce or
6 separation from a covered individual, the death of a
7 covered individual or a change in employment status
8 of a covered individual.

9 (D) Is transferring from another government-
10 subsidized health insurance program, including as a
11 result of failure to meet income eligibility
12 requirements.

13 (iii) Has a household income that is greater than
14 200% of the Federal poverty level and has not been
15 covered by any health insurance plan or program during
16 the 180 days immediately preceding the date of
17 application, except that the 180-day period shall not
18 apply to an individual who meets one of the following:

19 (A) Is eligible to receive benefits under the
20 Unemployment Compensation Law.

21 (B) Was covered under a health insurance plan or
22 program provided by an employer but at the time of
23 application is no longer covered because of a change
24 in the individual's employment status and is
25 ineligible to receive benefits under the Unemployment
26 Compensation Law.

27 (C) Lost coverage as a result of divorce or
28 separation from a covered individual, the death of a
29 covered individual or a change in employment status
30 of a covered individual.

1 (D) Is transferring from another government-
2 subsidized health insurance program, including, as a
3 result of failure to meet income eligibility
4 requirements.

5 (5) If an individual meets the criteria set forth in
6 paragraphs (1), (2), (3) and (4), and is attending an
7 institution of higher education in this Commonwealth, the
8 individual shall be required to meet the domiciliary
9 requirements of 22 Pa. Code Ch. 507 (relating to finance and
10 administration) prior to enrollment in Cover All
11 Pennsylvanians.

12 "Eligible individual enrollee." An eligible individual who
13 is enrolled in Cover All Pennsylvanians. The term does not
14 include an eligible employee enrollee.

15 "Eligible small low-wage employer." An employer that meets
16 all of the following:

17 (1) Has at least two, but not more than 50 full-time
18 employees.

19 (2) Has not offered health care insurance through any
20 plan or program during the 180 days immediately preceding the
21 date of application for participation in Cover All
22 Pennsylvanians.

23 (3) Pays an average annual wage that is less than the
24 Commonwealth average annual wage.

25 (4) Will enroll in Cover All Pennsylvanians at least 75%
26 of all of its employees who work 20 hours or more per week.

27 "Eligible small low-wage employer participant." An eligible
28 small low-wage employer who is participating in Cover All
29 Pennsylvanians.

30 "Employee." Any individual from whose wages an employer is

1 required to withhold Federal income tax under the Internal
2 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

3 "Employer." The term shall include:

4 (1) Any of the following who or which employ one or more
5 employees to perform services for remuneration for any period
6 of time:

7 (i) An individual, partnership, association,
8 domestic or foreign corporation or other entity.

9 (ii) The legal representative, trustee in
10 bankruptcy, receiver or trustee of any individual,
11 partnership, association or corporation or other entity.

12 (iii) The legal representative of a deceased
13 individual.

14 (2) Individuals who are self-employed.

15 (3) The executive, legislative and judicial branches of
16 the Commonwealth and any of its political subdivisions.

17 "Enrollee." An eligible employee enrollee or an eligible
18 individual enrollee, as the context may require.

19 "Fiscal year." A period of 12 consecutive calendar months
20 commencing with July 1.

21 "Hospital plan corporation." A not-for-profit corporation
22 operating under the provisions of 40 Pa.C.S. Ch. 61 (relating to
23 hospital plan corporations).

24 "Institution of higher education." A public or private two-
25 year or four-year college, university or postbaccalaureate
26 program.

27 "Insurer." A company or health insurance entity licensed in
28 this Commonwealth to issue any individual or group health,
29 sickness or accident policy or subscriber contract or
30 certificate or plan that provides medical or health care

coverage by a health care facility or licensed health care provider that is offered or governed under this act or any of the following:

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

(2) The act of May 18, 1976 (P.L.123, No.54), known as the Individual Accident and Sickness Insurance Minimum Standards Act.

(3) 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

(4) Section 630.

(5) Article XXIV.

"Medical assistance." The program of medical assistance established under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Medical loss ratio." The ratio of incurred medical claim costs to earned premiums.

"Medicare." The Federal program established under Title XVIII of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.).

"Offeror." A hospital plan corporation, professional health service corporation or other insurer that submits a proposal in response to the Insurance Department's solicitation of bids or proposals issued under section 2504.

"PACE." The Pharmaceutical Assistance Contract for the Elderly established under the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

"Preexisting condition." A disease or physical condition for which medical advice, diagnosis, care or treatment has been

1 recommended or received prior to the effective date of coverage.

2 "Prescription drug." A controlled substance, other drug or
3 device for medication dispensed by order of a health care
4 provider with prescriptive authority under the laws of this
5 Commonwealth.

6 "Prevailing Wage Act." The act of August 15, 1961 (P.L.987,
7 No.442), known as the Pennsylvania Prevailing Wage Act.

8 "Professional health service plan corporation." A not-for-
9 profit corporation operating under the provisions of 40 Pa.C.S.
10 Ch. 63 (relating to professional health services plan
11 corporations).

12 "Public Welfare Code." The act of June 13, 1967 (P.L.31,
13 No.21), known as the Public Welfare Code.

14 "Regulatory Review Act." The act of June 25, 1982 (P.L.633,
15 No.181), known as the Regulatory Review Act.

16 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
17 known as the Tax Reform Code of 1971.

18 "Tobacco Settlement Act." The act of June 26, 2001 (P.L.755,
19 No.77), known as the Tobacco Settlement Act.

20 "Unemployment Compensation Law." The act of December 5, 1936
21 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
22 Compensation Law.

23 "Wages." All remuneration, including the cash value of
24 mediums of payment other than cash, paid by an employer to all
25 employees for services performed in this Commonwealth, including
26 amounts withheld from the employees' pay by the employer. The
27 term shall not include remuneration excluded from wages under
28 the provisions of the definitions of "wages" under section 4(x)
29 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897,
30 No.1), known as the Unemployment Compensation Law, other than

1 the provisions of the definition of "wages" under section
2 4(x)(1) or (6).

3 Section 2504. Cover All Pennsylvanians health insurance
4 program.

5 (a) Establishment.--The Cover All Pennsylvanians health
6 insurance program is hereby established within the department.

7 (b) Purpose.--The purpose of CAP is to assist certain small
8 business employers to cover their uninsured employees and to
9 provide access to affordable health insurance coverage for
10 uninsured adult Pennsylvanians.

11 (c) Administration.--The department shall administer CAP
12 under section 2506.

13 Section 2505. CAP Fund.

14 (a) Establishment.--There is hereby established a restricted
15 account in the General Fund to be known as the CAP Fund.

16 (b) Sources.--The following are the sources of money for the
17 CAP Fund:

18 (1) Appropriations to the fund.

19 (2) Money received from the Federal Government or other
20 sources.

21 (3) Money required to be deposited pursuant to other
22 provisions of this article or any other law of the
23 Commonwealth.

24 (4) Upon implementation of CAP:

25 (i) Money appropriated for adult basic under section
26 306(b)(1)(vi) of the Tobacco Settlement Act.

27 (ii) Money required to be dedicated to adult basic
28 or any alternative program to benefit persons of low
29 income under the Community Health Reinvestment Agreement
30 within the respective service areas for each party to

1 that agreement. The money required to be dedicated under
2 this subparagraph shall be used only to defray the cost
3 of the subsidies approved under subsection (d)(6).

4 (5) Returns on money in the fund.

5 (c) Use of funds.--Upon approval of the Governor, money in
6 the fund is hereby appropriated to the fund to be used
7 exclusively for the implementation and administration of CAP.

8 (d) Rates, premiums, discounts and subsidies.--Rates,
9 premiums, discounts and subsidies for CAP shall be determined in
10 accordance with this subsection as follows:

11 (1) Rates for CAP shall be approved annually by the
12 department and may vary by region and contractor. Rates shall
13 be based on actuarially sound and adequate review.

14 (2) Premiums for CAP:

15 (i) Shall be established annually by the
16 commissioner.

17 (ii) May vary by region and contractor.

18 (3) Premiums to be paid by eligible small low-wage
19 employer participants and enrollees under this subsection
20 shall be increased by a factor no higher than the average of
21 the change in the medical care component of the Consumer
22 Price Index and the change in average wage for this
23 Commonwealth as determined by the Department of Labor and
24 Industry.

25 (4) Except as provided in paragraph (7), the premium for
26 eligible employee enrollees shall be discounted from the
27 amount established under paragraph (2) in an amount
28 determined annually by the commissioner. The premium discount
29 shall not exceed 30%. The following apply:

30 (i) An eligible small low-wage employer participant:

1 (A) Shall pay at least 65% of the discounted
2 premium for each employee enrolled.

3 (B) May pay more than 65% of the discounted
4 premium for each employee.

5 (ii) An eligible employee enrollee not receiving a
6 subsidy under paragraph (6) shall pay the balance of the
7 discounted premium.

8 (iii) An eligible small low-wage employer
9 participant shall sponsor a program that allows health
10 insurance premiums paid by its employees to be made on a
11 pretax basis and shall inform its employees of the
12 availability of the program. The program shall include
13 the following payments:

14 (A) That portion of the discounted premium less
15 applicable subsidies to be paid by its eligible
16 employee enrollees.

17 (B) CAP premiums paid for dependents of the
18 employees.

19 (C) Premiums paid by employees for CHIP.

20 (5) The premiums for eligible individual enrollees not
21 receiving subsidies under paragraph (6) shall be at the full
22 premium level.

23 (6) Subject to paragraph (7), an enrollee whose
24 household income is at or below 300% of the Federal poverty
25 level may apply to the department for a premium subsidy as
26 follows:

27 (i) The department shall review and approve
28 applications for subsidies under this paragraph.

29 (ii) Except to the extent that changes may be
30 necessary to meet Federal requirements or to encourage

eligible small low-wage employer participation or enrollment by eligible individuals, subsidies for the 2007-2008 Fiscal Year are preliminarily estimated to result in the following premium amount based on household income:

(A) For an enrollee whose household income is not greater than 150% of the Federal poverty level, a monthly premium of \$0.

(B) For an enrollee whose household income is greater than 150% but not greater than 200% of the Federal poverty level, a monthly premium of \$40.

(C) For an enrollee whose household income is greater than 200% but not greater than 300% of the Federal poverty level, a monthly premium of \$60.

(iii) For fiscal years beginning after June 30, 2008, the commissioner may establish different subsidy amounts and shall forward notice of the new premium amounts to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(iv) An enrollee who receives a subsidy under this paragraph must do all of the following:

(A) Verify household income and household composition with the department every six months.

(B) Notify the department in writing within 30 days of a change in household income or composition.

(7) The following apply:

(i) An enrollee who is paid the prevailing wage while working on a public work project as required by the Prevailing Wage Act and who is otherwise entitled to a subsidy under paragraph (6), shall be subject to a

1 reduction of the subsidy on a dollar-for-dollar basis for
2 every dollar paid to the enrollee as part of the
3 prevailing wage requirement which is allocable for use in
4 the purchase of health care benefits.

5 (ii) A small low-wage employer participant that has
6 a contract to perform work on a public work project
7 subject to the Prevailing Wage Act shall not be entitled
8 to the premium discount provided under paragraph (4)
9 during the term of the contract.

10 (8) The department shall freeze enrollment and establish
11 waiting lists to assure that the Commonwealth's costs to
12 implement and administer CAP do not exceed funds made
13 available for CAP.

14 (9) Notwithstanding any other provision of law,
15 employer-based coverage may, in the commissioner's sole
16 discretion, be purchased in place of enrollment in CAP or may
17 be purchased in conjunction with any portion of CAP provided
18 outside the scope of CAP contracts by the Commonwealth paying
19 the employee's share of the premium to the employer if it is
20 more cost effective for the Commonwealth to purchase health
21 care coverage from an enrollee's employer-based program than
22 to pay the Commonwealth's share of a subsidized premium. This
23 paragraph shall apply to any employer-based program, whether
24 individual or family, such that if the Commonwealth's share
25 of the enrollee plus its share for any spouse under CAP or
26 children under CHIP is greater than the enrollee's premium
27 share for family coverage under the employer-based program,
28 the Commonwealth may choose to pay the latter alone or in
29 combination with providing any benefit the Commonwealth does
30 not provide through its CAP contracts.

1 Section 2506. Duties of department.

2 The department shall have the following duties:

3 (1) Administer CAP on a Statewide basis.

4 (2) Solicit bids or proposals and award contracts for
5 the basic benefit package through a competitive procurement
6 in accordance with 62 Pa.C.S. (relating to procurement) and
7 section 2507. The department may award contracts on a
8 multiple award basis as described in 62 Pa.C.S. § 517
9 (relating to multiple awards).

10 (3) Impose reasonable cost-sharing arrangements and
11 encourage appropriate use by contractors of cost-effective
12 health care providers who will provide quality health care by
13 establishing and adjusting copayments to be incorporated into
14 CAP by contractors. The department shall forward changes to
15 copayments to the Legislative Reference Bureau for
16 publication in the Pennsylvania Bulletin. Changes shall be
17 implemented by contractors as soon as practicable following
18 publication, but in no event more than 120 days following
19 publication.

20 (4) Ensure that the eligibility of small low-wage
21 employer participants and enrollees receiving subsidies is
22 determined every six months.

23 (5) In consultation with other appropriate Commonwealth
24 agencies, conduct monitoring and oversight of contracts
25 entered into with contractors.

26 (6) In consultation with other appropriate Commonwealth
27 agencies, monitor, review and evaluate the adequacy,
28 accessibility and availability of services delivered to
29 enrollees.

30 (7) In consultation with other appropriate Commonwealth

1 agencies, establish and coordinate the development,
2 implementation and supervision of an outreach plan to ensure
3 that those who may be eligible are aware of CAP. The plan
4 shall include provisions for:

5 (i) Reaching special populations, including nonwhite
6 and non-English-speaking individuals and individuals with
7 disabilities.

8 (ii) Reaching different geographic areas, including
9 rural and inner-city areas.

10 (iii) Assuring that special efforts are coordinated
11 within the overall outreach activities throughout this
12 Commonwealth.

13 (8) At the request of an individual enrollee, facilitate
14 the payment on a pretax basis of premiums:

15 (i) for CAP and dependents covered under CAP; or

16 (ii) if applicable, for CHIP.

17 (9) To establish penalties for persons who enroll in
18 CAP, drop enrollment and subsequently reenroll for the
19 purpose of avoiding the ongoing payment of premiums.

20 Section 2507. Submitting proposals and awarding contracts.

21 (a) Submission.--

22 (1) Each professional health service plan corporation
23 and hospital plan corporation and their subsidiaries and
24 affiliates doing business in this Commonwealth shall submit a
25 bid or proposal to the department to carry out the purposes
26 of this article in the geographic area serviced by the
27 corporation. All other insurers may submit a bid or proposal
28 to the department to carry out the purposes of this article.

29 (2) The department shall review and score the bids or
30 proposals on the basis of all of the requirements for CAP.

1 The department may include other criteria in the solicitation
2 and in the scoring and selection of the bids or proposals
3 that the department, in the exercise of its duties under
4 section 2506 deems necessary. The department shall do all of
5 the following:

6 (i) Select, to the greatest extent practicable,
7 offerors that contract with health care providers to
8 provide health care services on a cost-effective basis.
9 The department shall select offerors that use appropriate
10 cost-management methods, including the chronic care
11 model, which will enable CAP to provide coverage to the
12 maximum number of enrollees.

13 (ii) Select, to the greatest extent practicable,
14 only offerors that comply with all procedures relating to
15 coordination of benefits as required by the department
16 and the Department of Public Welfare.

17 (3) Contracts may be for an initial term of up to five
18 years, with options to extend for five one-year periods.

19 (b) Rates and charges.--

20 (1) The medical loss ratio for a contract shall be no
21 less than 85%.

22 (2) No enrollee shall be charged a fee by any person as
23 a requirement for enrolling in CAP.

24 (c) Participation by eligible small low-wage employers.--

25 (1) An eligible small low-wage employer seeking to
26 participate in the CAP program must do all of the following:

27 (i) Select and contact a contractor that services
28 its geographic area from a list of CAP contractors posted
29 on the department's CAP Internet website or otherwise
30 obtained from the department upon request.

1 (ii) Adequately inform employees of the opportunity
2 to enroll in CAP and the process for enrollment required
3 by the contractor.

4 (iii) Comply with all other relevant provisions of
5 this article.

6 (2) Eligible employee enrollees must do all of the
7 following:

8 (i) Comply with the application and other enrollment
9 requirements of the contractor.

10 (ii) Pay the required premium.

11 Section 2508. Termination of employment.

12 An eligible employee enrollee who is terminated from
13 employment shall be eligible to continue participating in CAP if
14 the eligible employee enrollee continues to meet the
15 requirements of an eligible individual enrollee and pays any
16 increased premium required.

17 Section 2509. Enrollment by eligible individuals.

18 An eligible individual seeking to purchase insurance through
19 CAP must do all of the following:

20 (1) Select and contact a contractor that services the
21 eligible individual's geographic area from a list of CAP
22 contractors posted on the department's CAP Internet website
23 or otherwise obtained from the department upon request.

24 (2) Comply with the application and other enrollment
25 requirements of the contractor.

26 (3) Pay the required premium directly to the contractor.

27 (4) Comply with other relevant provisions of this
28 article.

29 Section 2510. Basic benefit package.

30 (a) Coverage.--The basic benefit package to be offered under

CAP shall be of the scope and duration as the department determines and shall provide for all of the following which may be limited or unlimited as the department may determine:

(1) Preliminary and annual health assessments.

(2) Emergency care.

(3) Inpatient and outpatient care.

(4) Prescription drugs, medical supplies and equipment.

(5) Emergency dental care.

(6) Maternity care.

(7) Skilled nursing.

(8) Home health and hospice care.

(9) Chronic disease management.

(10) Preventive and wellness care.

(11) Inpatient and outpatient behavioral health services.

(b) Commonwealth.--The Commonwealth may elect to provide any benefit independently and outside the scope of CAP contracts.

(c) Preexisting conditions.--Enrollment in CAP shall not be prohibited based upon a preexisting condition, nor shall a CAP benefit plan exclude a diagnosis or treatment for a condition based upon its preexistence.

Section 2511. Data matching.

(a) Monthly updates.--All entities providing health insurance or health care coverage within this Commonwealth shall, not less frequently than once every month, provide the names, identifying information and any additional information on coverage and benefits as the department may specify for individuals for whom the entities provide insurance or coverage.

(b) Determination.--The department shall use the information obtained in subsection (a) to determine whether any portion of

1 an enrollee's premium is being paid from any other source and to
2 determine whether another entity has primary liability for any
3 health care claims paid under a program administered by the
4 department. If a determination is made that an enrollee's
5 premium is being paid from another source, the department shall
6 not make any additional payments to the insurer for the
7 enrollee.

8 (c) Excess payments.--If any payment has been made to an
9 insurer by the department for an enrollee for whom any portion
10 of the premium paid by the department is being paid from another
11 source, the insurer shall reimburse the department the amount of
12 any excess payment or payments.

13 (d) Reimbursement.--The department may seek reimbursement
14 from an entity that provides health insurance or health care
15 coverage that is primary to the coverage provided under any
16 program administered by the department.

17 (e) Filing of claims by department.--To the maximum extent
18 permitted by law, and notwithstanding any policy or plan
19 provision to the contrary, a claim by the department for
20 reimbursement under subsection (c) or (d) shall be deemed timely
21 filed if it is filed with the insurer or entity within three
22 years following the date of payment.

23 (f) Agreements with insurers.--The department is authorized
24 to enter into agreements with entities providing health
25 insurance and health care coverage for the purpose of carrying
26 out the provisions of this section. The agreements shall provide
27 for the electronic exchange of data between the parties at a
28 mutually agreed upon frequency, but no less than once every two
29 months, and may also allow for payment of a fee by the
30 department to the entity providing health insurance or health

1 care coverage.

2 (g) Determination by department.--The department shall
3 determine that no other health care coverage is available to the
4 enrollee through an alimony agreement or an employment-related
5 or other group basis. If health care coverage is available, the
6 department shall reevaluate the enrollee's eligibility under
7 this article.

8 (h) Penalty.--The commissioner may impose a penalty of up to
9 \$1,000 per violation upon any entity that fails to comply with
10 the obligations imposed by this article. All funds collected
11 under this subsection shall be deposited into the CAP Fund.

12 (i) Coordination with Department of Public Welfare.--The
13 department shall coordinate with the Department of Public
14 Welfare in the implementation of this article and may designate
15 the Department of Public Welfare to perform duties as are
16 appropriate under this article.

17 Section 2512. Information to be provided by insurers.

18 (a) Plain language explanation.--Each hospital plan
19 corporation and professional health services corporation shall
20 provide an individual in this Commonwealth who has applied for
21 insurance through its special care product with written
22 information in plain language about the existence of CAP, the
23 benefits it covers and the cost to the individual to purchase so
24 that the individual applying for insurance through special care
25 can compare the costs and benefits of it and CAP.

26 (b) Written materials.--Each hospital plan corporation and a
27 professional health services corporation shall develop written
28 materials which comply with subsection (a) and submit them to
29 the department for review and approval.

30 (c) Approval by department.--Only materials approved by the

department under subsection (b) may be provided to applicants
for a special care product offered in this Commonwealth.

Section 2513. Regulations.

The department may promulgate regulations for the
implementation and administration of this article.

Section 2514. Federal waivers.

In cooperation with the department, the Department of Public
Welfare shall apply for applicable waivers from the Federal
Government and shall seek approval to amend the State plan as
necessary to carry out the provisions of this article. If the
Department of Public Welfare receives approval of a waiver or
approval of a State plan amendment as required by this section,
it shall notify the department and shall transmit notice of the
waiver or State plan amendment approvals to the Legislative
Reference Bureau for publication as a notice in the Pennsylvania
Bulletin. The department is authorized to change the benefits
and the premium and copayment amounts payable under section
2505(d) in order for CAP to meet Federal requirements.

Section 2515. Federal funds.

Notwithstanding any other provision of law, the Department of
Public Welfare, in cooperation with the department, shall take
any action necessary to do all of the following:

(1) Ensure the receipt of Federal financial
participation under Title XIX of the Social Security Act (49
Stat. 620, 42 U.S.C. § 1396 et seq.) for coverage and for
services provided under this article.

(2) Qualify for available Federal financial
participation under Title XIX of the Social Security Act.

Section 2516. Entitlements and claims.

Nothing in this article shall constitute an entitlement

derived from the Commonwealth or a claim on any funds of the Commonwealth.

Section 2517. Option to limit or not to proceed.

Notwithstanding any other provision of this article, in the event that Federal waiver requirements limit CAP to the extent that only a portion of those individuals otherwise eligible may be covered, the Commonwealth may limit CAP to that portion or, at its option, determine not to proceed with the CAP program.

Section 2518. Regulations.

(a) Regulations promulgated under this article.--Except as otherwise provided in this article, the promulgation of regulations under this article by Commonwealth agencies given the authority to promulgate regulations shall, until three years from the effective date of this section, be exempt from the following:

(1) Section 205 of the Commonwealth Documents Law.

(2) The Commonwealth Attorneys Act.

(3) The Regulatory Review Act.

(b) Other regulations.--If, in the determination of the head of a Commonwealth agency given authority to promulgate regulations under this article, rulemaking is needed for purposes of the safety of patients in this Commonwealth, the Commonwealth agency may promulgate a final-omitted regulation under the Regulatory Review Act.

Section 2519. Enforcement.

(a) Determination of violation.--Upon a determination that a person licensed by the department has violated any provision of this article, the department may, subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of

Commonwealth agency action) do any of the following:

(1) Issue an order requiring the person to cease and desist from engaging in the violation.

(2) Suspend or revoke or refuse to issue or renew the certificate or license of the offending party or parties.

(3) Impose an administrative penalty of up to \$5,000 for each violation.

(4) Seek restitution.

(5) Impose any other penalty or pursue and other remedy deemed appropriate by the commissioner.

(b) Other remedies.--The enforcement remedies imposed under this section are in addition to any other remedies or penalties which be imposed by any other applicable statute, including the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act. A violation by any person of this article is deemed an unfair method of competition and an unfair or deceptive act or practice under the Unfair Insurance Practices Act.

(c) No private cause of action.--Nothing in this article shall be construed as to create or imply a private cause of action for violation of this article.

Section 2520. Severability.

The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application.

Section 2. This act shall take effect in 60 days.