

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1351 Session of  
2009

INTRODUCED BY D. EVANS, APRIL 28, 2009

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, APRIL 28,  
2009

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," further providing for  
4 lifetime limit, for payments to counties for services to  
5 children, for departmental administration of county child  
6 welfare services, for needs-based budgeting process, for  
7 review of county submissions and for limits on reimbursements  
8 to counties; further defining "exempt hospital"; further  
9 providing for administration; providing for managed care  
10 organization assessments; further providing for other  
11 prohibited acts, criminal penalties and civil remedies and  
12 for repayment from probate estates; providing for limit on  
13 claim reduction and for false claims; and providing for  
14 necessary action to qualify the Commonwealth for additional  
15 Medical Assistance funds under the American Recovery and  
16 Reinvestment Act of 2009 (Public Law 111-5, 123 Stat. 115).

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

19 Section 1. Section 441.4 of the act of June 13, 1967  
20 (P.L.31, No.21), known as the Public Welfare Code, added July 7,  
21 2005 (P.L.177, No.42), is amended to read:

22 Section 441.4. [Lifetime Limit] Reasonable Limits on  
23 Allowable Income Deductions for Medical Expenses When  
24 Determining Payment Toward the Cost of Long-Term Care  
25 Services.--(a) [Necessary medical or remedial care expenses

1 recognized under Federal or State law but not paid for by the  
2 medical assistance program are allowable income deductions when  
3 determining a recipient's payment toward the cost of long-term  
4 care services. An allowable income deduction for unpaid medical  
5 expenses incurred prior to the authorization of medical  
6 assistance eligibility and those medical expenses incurred for  
7 long-term care services after medical assistance is authorized  
8 shall be subject to a lifetime maximum of ten thousand dollars  
9 (\$10,000) unless application of the limit would result in undue  
10 hardship.] When determining a recipient's payment toward the  
11 cost of long-term care services, long-term care medical expenses  
12 incurred six months or more prior to application for medical  
13 assistance shall be disallowed as a deduction, and medical and  
14 remedial expenses that were incurred as a result of a transfer  
15 of assets penalty shall be limited to zero unless application of  
16 these limits would result in undue hardship.

17 (b) As used in this section, the term "undue hardship" shall  
18 mean that either:

19 (1) denial of medical assistance would deprive the  
20 individual of medical care and endanger the individual's health  
21 or life; or

22 (2) the individual or a financially dependent family member  
23 would be deprived of food, shelter or the necessities of life.

24 Section 2. Section 704.1 of the act, amended or added July  
25 9, 1976 (P.L.846, No.148) and August 5, 1991 (P.L.315, No.30),  
26 is amended to read:

27 Section 704.1. Payments to Counties for Services to  
28 Children.--(a) The department shall reimburse county  
29 institution districts or their successors for expenditures  
30 incurred by them in the performance of their obligation pursuant

1 to this act and the former act of December 6, 1972 (P.L.1464,  
2 No.333), known as the "Juvenile Act," in the following  
3 percentages:

4 (1) [Eighty percent of] For the cost of an adoption subsidy  
5 paid pursuant to subdivision (e) of Article VII of this act[.]:

6 (i) Eighty percent.

7 (ii) Beginning July 1, 2010, and ending before July 1, 2011,  
8 eighty-two percent.

9 (iii) Beginning July 1, 2011, and ending before July 1,  
10 2012, eighty-five percent.

11 (iv) Beginning July 1, 2012, and each year thereafter,  
12 ninety percent.

13 (2) No less than seventy-five percent and no more than  
14 ninety percent of the reasonable cost including staff costs of  
15 child welfare services[, informal adjustment services provided  
16 pursuant to section 8 of the act of December 6, 1972 (P.L.1464,  
17 No.333), known as the "Juvenile Act," and such services approved  
18 by the department, including but not limited to, foster home  
19 care, group home care, shelter care, community residential care,  
20 youth service bureaus, day treatment centers and service to  
21 children in their own home and any other alternative treatment  
22 programs approved by the department] which the department may  
23 approve and define by regulation.

24 (3) [Sixty percent of] For the reasonable administrative and  
25 staff costs approved by the department except for those staff  
26 costs [included in clause (2) of this section] documented as  
27 necessary for the provision of child welfare services[.]  
28 included in paragraphs (2), (6), (7) and (8):

29 (i) Sixty percent.

30 (ii) Beginning July 1, 2010, and ending before July 1, 2011,

1 fifty-eight percent.

2 (iii) Beginning July 1, 2011, and ending before July 1,  
3 2012, fifty-five percent.

4 (iv) Beginning July 1, 2012, and each year thereafter, fifty  
5 percent.

6 (4) Fifty percent of the actual cost of care and support of  
7 a child placed by a county child welfare agency or a child  
8 committed by a court pursuant to the former act of December 6,  
9 1972 (P.L.1464, No.333), known as the "Juvenile Act," to the  
10 legal custody of a public or private agency approved or operated  
11 by the department other than those services described in clause  
12 (2). The Auditor General shall ascertain the actual expense [for  
13 fiscal year 1974-1975 and each year thereafter by the Department  
14 of Public Welfare] each year by the department for each of the  
15 several counties and each city of the first class whose children  
16 [resident] reside within the county or city of the first class  
17 directly received the benefit of the Commonwealth's expenditure.  
18 The Auditor General shall also ascertain for each Commonwealth  
19 institution or facility rendering services to delinquent or  
20 deprived children the actual average daily cost of providing  
21 said services. The Auditor General shall certify to each county  
22 and city of the first class the allocated Commonwealth  
23 expenditures incurred on behalf of its children and notify the  
24 [Secretary of Public Welfare] secretary and each county and city  
25 of the first class of same.

26 (5) Fifty percent of the reasonable cost of medical and  
27 other examinations and treatment of a child ordered by the court  
28 pursuant to the former act of December 6, 1972 (P.L.1464,  
29 No.333), known as the "Juvenile Act," for which no other public  
30 or private payor is responsible, and the expenses of the

1 appointment of a guardian pendente lite, summons, warrants,  
2 notices, subpoenas, travel expenses of witnesses, transportation  
3 of the child, and other like expenses incurred in proceedings  
4 under the former act of December 6, 1972 (P.L.1464, No.333),  
5 known as the "Juvenile Act."

6 (6) [Effective July 1, 1991, the department shall reimburse  
7 county institution districts or their successors one] One  
8 hundred percent of the reasonable costs of providing adoption  
9 services.

10 (7) [Effective July 1, 1993, the department shall reimburse  
11 county institution districts or their successors eighty percent  
12 of the reasonable costs of providing foster home care, community  
13 residential care, supervised independent living and community-  
14 based alternative treatment programs.] For the reasonable cost  
15 of services for dependent and delinquent children, other than  
16 detention services, residing in their own homes and other  
17 alternative treatment approved by the department:

18 (i) Counseling services as follows:

19 (A) Eighty percent.

20 (B) Beginning July 1, 2010, and ending before July 1, 2011,  
21 eighty-one percent.

22 (C) Beginning July 1, 2011, and ending before July 1, 2012,  
23 eighty-three percent.

24 (D) Beginning July 1, 2012, and each year thereafter,  
25 eighty-five percent.

26 (ii) Day care services as follows:

27 (A) Eighty percent.

28 (B) Beginning July 1, 2010, and ending before July 1, 2011,  
29 eighty-one percent.

30 (C) Beginning July 1, 2011, and ending before July 1, 2012,

eighty-three percent.

(D) Beginning July 1, 2012, and each year thereafter,  
eighty-five percent.

(iii) Day treatment services as follows:

(A) Eighty percent.

(B) Beginning effective July 1, 2010, and ending before July  
1, 2011, eighty-one percent.

(C) Beginning July 1, 2011, and ending before July 1, 2012,  
eighty-three percent.

(D) Beginning July 1, 2012, and each year thereafter,  
eighty-five percent.

(iv) Life-skills services as follows:

(A) Eighty percent.

(B) Beginning July 1, 2010, and ending before July 1, 2011,  
eighty-one percent.

(C) Beginning July 1, 2011, and ending before July 1, 2012,  
eighty-three percent.

(D) Beginning July 1, 2012, and each year thereafter,  
eighty-five percent.

(v) Homemaker services as follows:

(A) Eighty percent.

(B) Beginning July 1, 2010, and ending before July 1, 2011,  
eighty-one percent.

(C) Beginning July 1, 2011, and ending before July 1, 2012,  
eighty-three percent.

(D) Beginning July 1, 2012, and each year thereafter,  
eighty-five percent.

(vi) Intake and referral services, eighty percent.

(vii) Protective services, eighty percent.

(viii) Service planning, eighty percent.

(8) [The department shall reimburse county institution districts or their successors for the reasonable costs of institutional services for dependent and delinquent children other than detention services for delinquents in accordance with the following schedule:

(i) Effective July 1, 1992, fifty-five percent.

(ii) Effective July 1, 1993, sixty percent.]

(i) For the reasonable costs of services for dependent and delinquent children, other than detention services, residing outside their homes:

(A) Foster home care as follows:

(I) Eighty percent.

(II) Beginning July 1, 2010, and ending before July 1, 2011, eighty-two percent.

(III) Beginning July 1, 2011, and ending before July 1, 2012, eighty-five percent.

(IV) Beginning July 1, 2012, and each year thereafter, ninety percent.

(B) Supervised independent living as follows:

(I) Eighty percent.

(II) Beginning July 1, 2010, and ending before July 1, 2011, eighty-one percent.

(III) Beginning July 1, 2011, and ending before July 1, 2012, eighty-three percent.

(IV) Beginning July 1, 2012, and each year thereafter, eighty-five percent.

(C) The first thirty days of an eligible child emergency shelter services, as defined in 55 Pa. Code § 3130.37 (relating to emergency and planned temporary placement services), as follows:

1     (I)   Ninety percent.

2     (II)   Beginning July 1, 2010, and ending before July 1, 2011,  
3 eighty-nine percent.

4     (III)   Beginning July 1, 2011, and ending before July 1,  
5 2012, eighty-seven percent.

6     (IV)   Beginning July 1, 2012, and each year thereafter,  
7 eighty-five percent.

8     (D)   Community-based alternative treatment programs as  
9 follows:

10    (I)   Eighty percent.

11    (II)   Beginning July 1, 2010, and ending before July 1, 2011,  
12 seventy-nine percent.

13    (III)   Beginning July 1, 2011, and ending before July 1,  
14 2012, seventy-seven percent.

15    (IV)   Beginning July 1, 2012, and each year thereafter,  
16 seventy-five percent.

17    (E)   Community residential care as follows:

18    (I)   Eighty percent.

19    (II)   Beginning July 1, 2010, and ending before July 1, 2011,  
20 seventy-nine percent.

21    (III)   Beginning July 1, 2011, and ending before July 1,  
22 2012, seventy-eight percent.

23    (IV)   Beginning July 1, 2012, and each year thereafter,  
24 seventy-seven percent.

25    (ii)   Beginning July 1, 2010, and each year thereafter, the  
26 department shall use a minimum occupancy rate of eighty-five  
27 percent for each facility in determining the reasonable cost of  
28 community-based alternative treatment programs and community  
29 residential care under this paragraph.

30    (9)   (i)   For the reasonable costs of institutional services



for dependent and delinquent children other than detention  
services for delinquents:

(A) Sixty percent.

(B) Beginning July 1, 2010, and ending before July 1, 2011,  
fifty-eight percent.

(C) Beginning July 1, 2011, and ending before July 1, 2012,  
fifty-five percent.

(D) Beginning July 1, 2012, and each year thereafter, fifty  
percent.

(ii) Beginning July 1, 2010, and each year thereafter, the  
department shall use a minimum occupancy rate of eighty-five  
percent for each facility in determining the reasonable cost of  
services under this paragraph.

(a.1) (1) The department shall limit reimbursement to  
county institution districts or their successors for the costs  
of services that are not directly attributable to a particular  
facility or agency site purchased from a private agency to:

(i) Beginning July 1, 2010, and ending before July 1, 2011,  
fifteen percent of the costs to operate the facility or agency  
site.

(ii) Beginning July 1, 2011, and ending before July 1, 2012,  
fourteen percent of the costs to operate the facility or agency  
site.

(iii) Beginning July 1, 2012, and each year thereafter,  
thirteen percent of the costs to operate the facility or agency  
site.

(2) The department shall limit reimbursement to county  
institution districts or their successors to three percent of  
the gross retained revenue or gross profit of the agency.

(3) The department shall promulgate regulations to limit

reimbursement to county institution districts or their  
successors for the costs of compensation for chief executive  
officers for services purchased from a private agency up to the  
combined salaries and benefits approved for these positions.  
Until the regulations become effective, the department shall  
determine maximum allowable costs of compensation for chief  
executive officers pursuant to this paragraph according to the  
regulations applicable to private agencies providing mental  
health and mental retardation services under county mental  
health and mental retardation agencies.

(4) The department shall not reimburse county institution  
districts or their successors for any services purchased from a  
private agency for which the department has not received  
sufficient information to determine compliance with this  
subsection.

(b) The department shall make additional grants to any  
county institution district or its successor to assist in  
establishing new services to children in accordance with a plan  
approved by the department for up to the first three years of  
operation of those services. [In order to provide necessary  
information to the General Assembly relative to the grants  
provided under this subsection, a report will be developed by  
the Legislative Budget and Finance Committee and provided to the  
members of the General Assembly no later than July 1, 1980,  
concerning all grants made and expenditures accomplished under  
the provisions of this subsection for the period up to and  
including December 31, 1979. This report shall include  
information on the amount of moneys that went to individual  
counties and a description of activities and services financed  
with these moneys including the number and types of clients

1 served under each of the grant programs and any other  
2 information necessary in order to fully inform the General  
3 Assembly on such programs. All officials of the Department of  
4 Public Welfare, grant recipient county organizations, and other  
5 agencies which receive State moneys under the provisions of this  
6 subsection shall cooperate with the committee and its staff in  
7 carrying out this reporting requirement, including making  
8 available all necessary fiscal and programmatic data.]

9 (c) No payment pursuant to [subsection (a)(2), (3) or (4) or  
10 of subsection (b)] this section shall be made for any period in  
11 which the county institution district or its successor fails to  
12 substantially comply with the regulations of the department  
13 promulgated pursuant to section 703 including but not limited to  
14 those regulations relating to minimum child welfare services,  
15 minimum standards of child welfare services and minimum  
16 standards of child welfare administration on [a] the merit  
17 basis.

18 (d) Amounts due from county institution districts or their  
19 successors for children committed to facilities operated by the  
20 department shall be paid by the counties to the Department of  
21 Revenue by orders to be drawn by the duly authorized agent of  
22 the Department of Revenue at each youth development center or  
23 forestry camp on the treasurers of such counties, who shall  
24 accept and pay the same to the Department of Revenue. Promptly  
25 after the last calendar day of each month the agent of the  
26 Department of Revenue shall mail accounts to the commissioners  
27 of such counties as may have become liable to the Commonwealth  
28 during the month under the provisions of this section. These  
29 accounts shall be duly sworn or affirmed to, and it shall be the  
30 duty of said commissioners, immediately upon receipt of such

1 accounts, to notify the treasurers of their respective counties  
2 of the amounts of said accounts, with instructions to pay  
3 promptly to the Department of Revenue the amounts of said orders  
4 when presented. It shall then be the duty of such county  
5 treasurers to make such payments as instructed by their  
6 respective county commissioners. In lieu of payments by the  
7 county to the Commonwealth, the department may deduct the amount  
8 due the Commonwealth from the reimbursement payments by the  
9 department to the county institution districts or their  
10 successors.

11 (e) If, after due notice to the parents or other persons  
12 legally obligated to care for and support the child, and after  
13 affording them an opportunity to be heard, the court finds that  
14 they are financially able to pay all or part of the costs and  
15 expenses stated in subsection (a), the court may order them to  
16 pay the same and prescribe the manner of payment. Unless  
17 otherwise ordered, payment shall be made to the clerk of the  
18 court for remittance to the person to whom compensation is due,  
19 or if the costs and expenses have been paid by the county, to  
20 the appropriate officer of the county.

21 (g) The department shall, within forty-five days of each  
22 calendar quarter, pay fifty percent of the department's share of  
23 the county institution district's or its successor's estimated  
24 expenditures for that quarter.

25 [(h) At the end of each of calendar years 1978 and 1979,  
26 every county shall compare the amount received in child welfare  
27 reimbursements for calendar year 1976 pursuant to section 704 of  
28 this act and section 36 of the act of December 6, 1972

29 (P.L.1464, No.333), known as the "Juvenile Act" with child  
30 welfare reimbursements received for each of calendar years 1978

1 and 1979 pursuant to this section. The resulting difference in  
2 reimbursements for child welfare services received between  
3 calendar year 1976 and each of calendar years 1978 and 1979  
4 shall then be compared with the amount the county paid in each  
5 of calendar years 1978 and 1979 for youth development center or  
6 forestry camp commitments pursuant to subsection (a)(4). If  
7 there is an increase in reimbursements for child welfare  
8 services and that increase is less in either or both of calendar  
9 years 1978 and 1979 than the amount expended by the county for  
10 its share of the cost of youth development center and forestry  
11 camp commitments, then any such county shall be entitled to  
12 receive additional block grants as provided in subsection (b)  
13 equal to the amount of such difference.]

14 Section 3. Section 708 of the act, amended July 9, 1976  
15 (P.L.846, No.148), is amended to read:

16 Section 708. Departmental Administration of County Child  
17 Welfare Services.--[On and after January 1, 1968, the] The  
18 department shall provide, maintain, administer, manage and  
19 operate a program of child welfare services in a county  
20 institution district or its successor when the department  
21 determines, after hearing, that such county institution district  
22 or its successor is not complying with the regulations  
23 prescribing minimum child welfare services or minimum standards  
24 of performance of child welfare services or minimum standards of  
25 child welfare personnel administration on a merit basis, and  
26 that, as a result, the needs of children and youth are not being  
27 adequately served.

28 When, in pursuance of this section, the department takes  
29 charge of, and directs the operation of the child welfare  
30 services of a county institution district or its successor, the

1 county shall be charged and shall pay the cost of such services,  
2 including reasonable expenditures incident to the administration  
3 thereof incurred by the department. The amount so charged and to  
4 be paid by the county shall be reduced by the amount of the  
5 payments that would have been made pursuant to section 704.1 if  
6 the county institution district or its successor had maintained  
7 a child welfare program in compliance with the regulations of  
8 the department.

9 The amount due the Commonwealth may be deducted from any  
10 Commonwealth funds otherwise payable to the county. All sums  
11 collected from the county under this section, in whatever manner  
12 such collections are made, shall be paid into the State treasury  
13 and shall be credited to the current appropriation to the  
14 department for child welfare.

15 The department shall relinquish the administration of the  
16 child welfare program of the county institution district or its  
17 successor when the department is assured that the regulations of  
18 the department will be complied with thereafter and that the  
19 needs of children and youth will be adequately served.

20 Section 4. Sections 709.1, 709.2 and 709.3 of the act, added  
21 August 5, 1991 (P.L.315, No.30), are amended to read:

22 Section 709.1. Needs-Based Budgeting Process.--(a) Prior to  
23 [September 15, 1991, and] August 15 each year [thereafter],  
24 counties shall submit to the department a needs-based budget in  
25 a form prescribed by the department containing their annual  
26 client and budget estimates and a description of proposed  
27 changes in their annual plan for the fiscal year beginning the  
28 following July 1. Each county submission under this subsection  
29 shall provide sufficient information regarding the private  
30 agencies from which the county purchases services for the

1 department to determine compliance with section 704.1(a.1).

2 (b) Representatives of the department shall meet with  
3 representatives of each of the counties to discuss the needs-  
4 based budgets and proposed changes in annual plans and shall  
5 make a thorough review of county submissions. County submissions  
6 shall clearly distinguish funding supported by section 704.1(a)  
7 from grants authorized by section 704.1(b). On the basis of the  
8 discussions and review, the department shall make its  
9 determination of each of the counties total costs and  
10 reimbursable costs and the amount allowed each of the counties  
11 in accordance with section 704.1(a).

12 (c) The total of the amounts allowed for each county  
13 pursuant to section 704.1(a) as determined by the department  
14 shall be the aggregate child welfare needs-based budget. The  
15 determination of the aggregate child welfare needs-based budget  
16 and the child welfare needs of each county along with supporting  
17 documentation shall be submitted to the Governor by [November  
18 15, 1991, and] November 1 each year [thereafter].

19 (d) Contemporaneously with the submission of the General  
20 Fund budget, the Governor shall submit the aggregate child  
21 welfare needs-based budget and the child welfare needs of each  
22 county along with supporting documentation to the Majority  
23 Chairman and the Minority Chairman of the Appropriations  
24 Committee of the Senate and the Majority Chairman and the  
25 Minority Chairman of the Appropriations Committee of the House  
26 of Representatives. The department may modify the calculation of  
27 the aggregate child welfare needs-based budget any time prior to  
28 May 1 of each year, provided that such revision is based on  
29 receipt of actual data or adopted regulatory changes which, when  
30 compared to previously calculated projected data or regulation,

1 requires the revision.

2 Section 709.2. Review of County Submissions.--(a) The  
3 department shall promulgate guidelines for reviewing and  
4 determining county submitted needs-based budgets. [The  
5 guidelines for the 1992-1993 fiscal year shall be published as a  
6 bulletin. Guidelines for approving 1993-1994 fiscal year needs-  
7 based budgets shall be adopted by regulation no later than July  
8 1, 1992, but shall not be adopted as emergency regulations  
9 pursuant to section 6(b) of the act of June 25, 1982 (P.L.633,  
10 No.181), known as the "Regulatory Review Act."]

11 (b) The department determination shall consider whether the  
12 county's budget is reasonable in relation to past costs,  
13 projected cost increases, number of children in the county and  
14 the number of children served, service level trends, the  
15 county's prior actual and projected outcomes for the delivery of  
16 services and projections of other sources of revenue. The needs-  
17 based budget shall not include funding for any services  
18 purchased from private agencies for which the department has not  
19 received information sufficient to determine compliance with  
20 section 704.1(a.1).

21 (c) To the extent that county staffing patterns are less  
22 than that required to meet department staffing regulations, the  
23 department determinations shall permit a requesting county to  
24 hire sufficient staff to meet the minimum staffing regulations.  
25 A determination may disallow expenditures for additional staff  
26 if the functions for which the staff is to be hired already  
27 meets the minimum required by department regulations.

28 (d) No determination by the department may be based on  
29 payment standards that have not been adopted as of the time of  
30 the review in accordance with the "Regulatory Review Act."



1 Section 709.3. Limits on Reimbursements to Counties.--(a)  
2 Reimbursement for child welfare services made pursuant to  
3 section 704.1 shall not exceed the funds appropriated each  
4 fiscal year.

5 (b) The allocation for each county pursuant to section  
6 704.1(a) shall be calculated by multiplying the sum of the  
7 Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.)  
8 Title IV-B funds and State funds appropriated to reimburse  
9 counties pursuant to section 704.1(a) by a fraction, the  
10 numerator of which is the amount determined for that county's  
11 child welfare needs-based budget and the denominator is the  
12 aggregate child welfare needs-based budget.

13 (b.1) The department shall divide each county's total  
14 allocation under section 704.1(a) into separate allocations for  
15 each of four major service categories. The four major service  
16 categories and the activities and services that comprise them  
17 shall include:

18 (1) In-home and intake services, which shall include child  
19 protective services for child abuse, child protective services  
20 in general, counseling and intervention service, day care  
21 service, day treatment service, homemaker and caretaker service,  
22 information and referral service, life skills education, service  
23 planning, adoption service and adoption assistance.

24 (2) (i) Community-based placement services, which shall  
25 include foster family service.

26 (ii) Community residential service, including group home  
27 service.

28 (iii) Supervised independent living services.

29 (iv) Emergency shelter service.

30 (3) Institutional placement services, which shall include

residential service, juvenile detention service and secure residential service.

(4) Administration services required to manage a county children and youth social service agency and to ensure the provision of services and the performance of functions required by law, which shall include planning, budgeting, accounting, recordkeeping, staff development, the operation of a volunteer program and the proportionate costs of planning, research, coordination and evaluation activities performed by a youth service system, a county planning office or other human service planning body.

(b.2) Except as provided in subsection (b.3), the department shall not reimburse a county for costs in a particular major service category in excess of the following amounts:

(1) For counties of the first or second class, three percent more than the allocation for the major service category.

(2) For all other counties, ten percent or one million dollars (\$1,000,000), whichever is less, more than the allocation for the major service category.

(b.3) At any time before the expiration of a fiscal year, a county may submit to the department a written request to transfer funds within its total allocation from one major service category to another for that fiscal year. The department may, in its discretion, approve the request in whole or in part and reimburse the county accordingly.

(b.4) Except as provided in subsection (b.5), the department shall not reimburse a county for costs of any services provided to a child placed in a residential facility outside this Commonwealth.

(b.5) A county may submit to the department a written

request for reimbursement for services provided to a child placed in a residential facility outside this Commonwealth without the department's prior consent. The department may, in its discretion, approve the request in whole or in part and reimburse the county accordingly.

(c) If the sum of the amounts appropriated for reimbursement under section 704.1(a) during the fiscal year is not at least equivalent to the aggregate child welfare needs-based budget for that fiscal year:

(1) Each county shall be provided a proportionate share allocation of that appropriation calculated by multiplying the sum of the amounts appropriated for reimbursement under section 704.1(a) by a fraction, the numerator of which is the amount determined for that county's child welfare needs-based budget and the denominator is the aggregate child welfare needs-based budget.

(2) Notwithstanding subsection (a), a county shall be allowed reimbursement beyond its proportionate share allocation for that fiscal year for expenditures made in accordance with an approved plan and needs-based budget, but not above that amount determined to be its needs-based budget.

(d) For the purpose of this section, an appropriation shall be considered equivalent to the aggregate child welfare needs if it is equivalent to the result obtained by calculating the aggregate child welfare needs minus the county share of Youth Development Center costs and minus the Social Security Act Title IV-B funding[, provided, however, an appropriation shall be deemed equivalent if it is equal to eighty-two percent of the result in 1991-1992, ninety percent of the result in 1992-1993 and ninety-five percent of the result in 1993-1994].

(e) The department shall, by regulation, define allowable costs for authorized child welfare services, provided that no regulation relating to allowable costs shall be adopted as an emergency regulation pursuant to section 6(b) of the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

Section 5. The definition of "exempt hospital" in section 801-E of the act, added July 4, 2008 (P.L.557, No.44), is amended to read:

Section 801-E. Definitions.

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

\* \* \*

"Exempt hospital." A hospital that the Secretary of Public Welfare has determined meets one of the following:

(1) Is excluded under 42 CFR 412.23(a), (b), (d), (e) and (f) (relating to excluded hospitals: classifications) as of March 20, 2008, from reimbursement of certain Federal funds under the prospective payment system described by 42 CFR Pt. 412 (relating to prospective payment systems for inpatient hospital services).

(2) Is a Federal veterans' affairs hospital.

(3) Is part of an institution with State-related status as that term is defined in 22 Pa. Code § 31.2 (relating to definitions) and provides over 100,000 days of care to medical assistance patients annually.

(4) Provides care, including inpatient hospital services, to all patients free of charge.

\* \* \*

Section 6. Section 804-E of the act, added July 4, 2008  
(P.L.557, No.44), is amended to read:

Section 804-E. Administration.

(a) Remittance.--Upon collection of the funds generated by the assessment authorized under this article, the municipality shall remit a portion of the funds to the Commonwealth for the purposes set forth under section 802-E, except that the municipality may retain funds in an amount necessary to reimburse it for its reasonable costs in the administration and collection of the assessment and to fund a portion of its costs of operating public health clinics as set forth in an agreement to be entered into between the municipality and the Commonwealth acting through the secretary.

(b) Establishment.--There is established a restricted account in the General Fund for the receipt and deposit of funds under subsection (a). Funds in the account are hereby appropriated to the department for purposes of making supplemental or increased medical assistance payments for emergency department services to general acute care hospitals within the municipality and to maintain or increase other medical assistance payments to hospitals within the municipality, as specified in the Commonwealth's approved Title XIX State Plan.

Section 7. The act is amended by adding an article to read:

ARTICLE VIII-G

MANAGED CARE ORGANIZATION ASSESSMENTS

Section 801-G. Definitions.

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

1 "Assessment percentage." The rate assessed pursuant to this  
2 article on every managed care organization.

3 "Assessment period." The time period identified in the  
4 contract or by notice from the Department of Public Welfare.

5 "Assessment proceeds." The State revenue collected from the  
6 assessment provided for in this article, any Federal funds  
7 received by the Commonwealth as a direct result of the  
8 assessment, and any penalties and interest received under  
9 section 810-G.

10 "Comprehensive risk contract." A contract as defined in 42  
11 CFR § 438.2 (relating to definitions).

12 "Contract." The agreement between a Medicaid managed care  
13 organization and the Department of Public Welfare.

14 "County Medicaid managed care organization." A county, or an  
15 entity organized and controlled directly or indirectly by a  
16 county or a city of the first class, that is a party to a  
17 Medicaid managed care contract with the Department of Public  
18 Welfare.

19 "Department of Health." The Department of Health of the  
20 Commonwealth.

21 "Insurance Department." The Insurance Department of the  
22 Commonwealth.

23 "Managed care organization." A Medicaid managed care  
24 organization or a managed care service entity.

25 "Managed care revenue." Except for premiums paid by the  
26 Medicare program, any of the following:

27 (1) Payments made to a Medicaid managed care  
28 organization pursuant to its contract.

29 (2) Managed care product portion of the premiums  
30 required to be reported on an annual statement filed under

1 any of the following:

2 (i) Section 320 of the act of May 17, 1921 (P.L.682,  
3 No.284), known as The Insurance Company Law of 1921.

4 (ii) Section 630 of the Insurance Company Law of  
5 1921 and 31 Pa. Code § 152.21 (relating to financial  
6 statements and examinations).

7 (iii) Section 2452 of The Insurance Company Law of  
8 1921.

9 (iv) Section 11 of the act of December 29, 1972  
10 (P.L.1701, No.364), known as the Health Maintenance  
11 Organization Act, and 31 Pa. Code § 301.81 (relating to  
12 financial reports).

13 (v) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
14 corporations).

15 (vi) 40 Pa.C.S. Ch. 63 (relating to professional  
16 health service plan corporations).

17 "Managed care service entity."

18 (1) An entity that in return for a premium or other  
19 similar charge does any of the following:

20 (i) Uses a gatekeeper to manage the utilization of  
21 services under comprehensive risk contracts.

22 (ii) Integrates the financing and delivery of  
23 services under comprehensive risk contracts to enrollees  
24 by arrangements with health care providers selected to  
25 participate on the basis of specific standards.

26 (iii) Provides financial incentives for enrollees of  
27 comprehensive risk contracts to use participating health  
28 care providers in accordance with procedures established  
29 by the entity.

30 (2) The term includes entities operating under any of

1 the following:

2 (i) (A) The act of May 17, 1921 (P.L.682, No.284),  
3 known as The Insurance Company Law of 1921.

4 (B) Section 630 of The Insurance Company Law of  
5 1921.

6 (C) Article XXIV of The Insurance Company Law of  
7 1921.

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

11 (iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
12 corporations) or Ch. 63 (relating to professional health  
13 services plan corporations).

14 "Medicaid." The program established under Title XIX of the  
15 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.).

16 "Medicaid managed care organization (MAMCO)." A Medicaid  
17 managed care organization as defined in section 1903(m) (1) (A) of  
18 the Social Security Act (49 Stat. 620, 42 U.S.C.  
19 § 1396b(m) (1) (A)) that is a party to a contract. The term shall  
20 include a county Medicaid managed care organization and a  
21 permitted assignee of a contract but shall not include an  
22 assignor of a contract.

23 "Program." The Medical Assistance Program.

24 "Social Security Act." The Social Security Act (49 Stat.  
25 620, 42 U.S.C. § 301 et seq.).

26 Section 802-G. Authorization.

27 To the extent that Federal law limits the department's  
28 ability to assess MAMCOs under Article VIII-F, the department  
29 shall implement an assessment on the managed care revenue of  
30 each managed care organization providing managed care services



in this Commonwealth, subject to the conditions and requirements specified in this article.

Section 803-G. Implementation.

The assessment shall be implemented on an annual basis, through periodic submissions not to exceed five times per year by managed care organizations, as a health care-related fee as defined in section 1903(w)(3)(B) of the Social Security Act, or any amendments thereto, and may be imposed and is required to be paid only to the extent that the revenues generated from the assessment qualify as the State share of program expenditures eligible for Federal financial participation.

Section 804-G. Assessment percentage.

The assessment percentage shall be the lesser of 2% or the maximum percentage established by 42 CFR 433.68(f)(3)(i) (relating to permissible health care-related taxes) or any subsequent maximum established by Federal law.

Section 805-G. Calculation and payment.

Using the assessment percentage established under section 804-G, each managed care organization shall calculate the assessment amount for each assessment period on a report form and in a manner specified by the department and shall submit the completed report form and total amount owed to the department on a due date specified by the department. Each managed care organization shall report managed care revenue for purposes of the assessment calculation as specified by the department.

Section 806-G. Use of assessment proceeds.

No managed care organization shall be guaranteed a repayment of its assessment in derogation of 42 CFR 433.68(f) (relating to permissible health care-related taxes) provided, however, in each fiscal year in which an assessment is implemented, the

1 department shall use the assessment proceeds to maintain  
2 actuarially sound rates for the MAMCOs and to fund other medical  
3 assistance expenditures to the extent permissible under Federal  
4 and State law or regulation and without creating a guarantee to  
5 hold harmless, as those terms are used in 42 CFR 433.68(f).

6 Section 807-G. Records.

7 Upon written request by the department, a managed care  
8 organization shall furnish to the department such records as the  
9 department may specify in order to determine the amount of  
10 assessment due from the managed care organization or to verify  
11 that the managed care organization has calculated and paid the  
12 correct amount due. The requested records shall be provided to  
13 the department within 30 days from the date of the managed care  
14 organization's receipt of the written request unless required at  
15 an earlier date for purposes of the department's compliance with  
16 a request from a Federal or another state agency.

17 Section 808-G. Payment of assessment.

18 In the event that the department determines that a managed  
19 care organization has failed to pay an assessment or that it has  
20 underpaid an assessment, the department shall provide written  
21 notification to the managed care organization within 180 days of  
22 the original due date of the amount due, including interest, and  
23 the date on which the amount due must be paid, which shall not  
24 be less than 30 days from the date of the notice. In the event  
25 that the department determines that a managed care organization  
26 has overpaid an assessment the department shall notify the  
27 managed care organization in writing of the overpayment, and  
28 within 30 days of the date of the notice of the overpayment, the  
29 managed care organization shall advise the department to either  
30 authorize a refund of the amount of the overpayment or offset

1 the amount of the overpayment against any amount that may be  
2 owed to the department by the managed care organization.  
3 Section 809-G. Appeal rights.

4 A managed care organization that is aggrieved by a  
5 determination of the department relating to the assessment may  
6 file a request for review of the decision of the department by  
7 the Bureau of Hearings and Appeals within the department, which  
8 shall have exclusive primary jurisdiction in such matters. The  
9 procedures and requirements of 2 Pa.C.S. Ch. 5 Subch. A  
10 (relating to practice and procedure of Commonwealth agencies)  
11 shall apply to requests for review filed under this section  
12 except that, in any such request for review, a managed care  
13 organization may not challenge the assessment percentage  
14 established pursuant to section 804-G.

15 Section 810-G. Enforcement.

16 (a) Penalties.--In addition to any other remedy provided by  
17 law, the department may enforce this article by imposing one or  
18 more of the following remedies:

19 (1) When a managed care organization fails to pay an  
20 assessment or penalty in the amount or on the date required  
21 by this article, the department may add interest at the rate  
22 provided in section 806 of the act of April 9, 1929 (P.L.343,  
23 No.176), known as The Fiscal Code, to the unpaid amount of  
24 the assessment or penalty from the date prescribed for its  
25 payment until the date it is paid.

26 (2) When a managed care organization fails to submit a  
27 report form concerning the calculation of the assessment or  
28 to furnish records to the department as required by this  
29 article, the department may impose a penalty against the  
30 managed care organization in the amount of \$1,000 per day for

1 each day the report form or required records are not  
2 submitted or furnished to the department. If the \$1,000 per  
3 day penalty is imposed, it shall commence on the first day  
4 after the date for which a report form or records are due.

5 (3) When a MAMCO fails to pay all or part of an  
6 assessment or penalty within 30 days of the date that payment  
7 is due, the department may deduct the unpaid assessment or  
8 penalty and any interest owed from any capitation payments  
9 due to the MAMCO from the department until the full amount is  
10 recovered. Any deduction shall be made only after written  
11 notice to the MAMCO.

12 (4) Upon written request by a managed care organization  
13 to the secretary, the secretary may waive all or part of the  
14 interest or penalties assessed against a managed care  
15 organization under this article for good cause as shown by  
16 the managed care organization.

17 (b) Action.--The Department of Health or the Insurance  
18 Department, or both, is authorized to take action under this  
19 subsection. When a managed care service entity fails to pay all  
20 or part of an assessment or penalty within 30 days of the date  
21 that payment is due, the department shall notify the Department  
22 of Health and the Insurance Department of the amounts that have  
23 not been paid. The Department of Health or the Insurance  
24 Department, or both, may take action against the managed care  
25 service entity for a violation of this act including imposing  
26 penalties in the amount of \$1,000 per day for each day that the  
27 outstanding amount remains unpaid. If the \$1,000 per day penalty  
28 is imposed, it shall commence on the 31st day after payment was  
29 due.

30 (c) Appeal.--A managed care organization, other than a

1 MAMCO, may pursue appeal rights in accordance with applicable  
2 laws regarding enforcement actions taken under subsection (b).  
3 Section 811-G. Time periods.

4 The assessment authorized in this article shall not be  
5 imposed or paid prior to January 1, 2010, or in the absence of  
6 Federal financial participation as described in section 803-G.  
7 The assessment shall cease June 30, 2013, or earlier if required  
8 by law.

9 Section 812-G. Tax exemption provisions superseded.

10 The provisions of the following acts shall not apply to the  
11 assessment imposed by this article:

12 (1) Section 2462 of the act of May 17, 1921 (P.L.682,  
13 No.284), known as The Insurance Company Law of 1921.

14 (2) Section 13 of the act of December 29, 1972  
15 (P.L.1701, No.364), known as the Health Maintenance  
16 Organization Act.

17 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
18 corporations).

19 (4) 40 Pa.C.S. Ch. 63 (relating to professional health  
20 services plan corporations).

21 Section 8. Section 1408 of the act, amended June 16, 1994  
22 (P.L.319, No.49), is amended to read:

23 Section 1408. Other Prohibited Acts, Criminal Penalties and  
24 Civil Remedies.--(a) It shall be unlawful for any person to:

25 (1) knowingly or intentionally make or cause to be made a  
26 false statement or misrepresentation or to wilfully fail to  
27 disclose a material fact regarding eligibility, including, but  
28 not limited to, facts regarding income, resources or potential  
29 third-party liability, for either themselves or any other  
30 individual, either prior to or at the time of or subsequent to

1 the application for any medical assistance benefits or payments;

2 (2) having knowledge of the occurrence of any event  
3 affecting his initial or continued right to any such benefit or  
4 payment or the initial or continued right to any such benefit or  
5 payment of any other individual in whose behalf he has applied  
6 for or is receiving such benefit or payment, conceal or fail to  
7 disclose such event with an intent fraudulently to secure such  
8 benefit or payment either in a greater amount or quantity than  
9 is due or when no such benefit or payment is authorized;

10 (3) having made application to receive any such benefit or  
11 payment for the use and benefit of himself or another and having  
12 received it, knowingly or intentionally converts such benefit or  
13 any part thereof to a use other than for the use and benefit of  
14 himself or such other person; or

15 (4) knowingly or intentionally visit more than three  
16 practitioners or providers, who specialize in the same field, in  
17 the course of one month for the purpose of obtaining excessive  
18 services or benefits beyond what is reasonably needed (as  
19 determined by medical professionals engaged by the department)  
20 for the treatment of a diagnosed condition of the recipient.

21 (5) borrow or use a medical assistance identification card  
22 for which he is not entitled or otherwise gain or attempt to  
23 gain medical services covered under the medical assistance  
24 program if he has not been determined eligible for the program.

25 (b) (1) Any person violating subsection (a)(1), (2) or (3)  
26 commits the grade of crime determined from the following  
27 schedule:

Amount of Benefit	Degree of Crime
\$3,000 or more	Felony of the third degree
\$1,500 to \$2,999	Misdemeanor of the first

1 degree  
2 \$1,000 to \$1,499 Misdemeanor of the second  
3 degree  
4 \$999 and under or an Misdemeanor of the third  
5 attempt to commit any act degree  
6 prohibited in subsection(a)  
7 (1), (2) or (3)

8 (1.1) Pursuant to 42 Pa.C.S. § 1515(a)(7) (relating to  
9 jurisdiction and venue), jurisdiction over cases graded a  
10 misdemeanor of the third degree under this section shall be  
11 vested in district justices.

12 (1.2) Any person committing a crime enumerated in subsection  
13 (a)(1), (2), (3), (4) or (5) shall be ordered to pay restitution  
14 of any medical assistance benefits or payments made on behalf of  
15 either themselves or another individual. A restitution order  
16 under this subsection may be paid in a lump sum or by monthly  
17 installments or according to such other schedule as is deemed  
18 just by the sentencing court. Notwithstanding the provisions of  
19 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to  
20 person or property) to the contrary, the period of time during  
21 which the offender is ordered to make restitution may exceed the  
22 maximum term of imprisonment to which the offender could have  
23 been sentenced for the crime of which he was convicted if the  
24 sentencing court determines such period to be reasonable and in  
25 the interest of justice.

26 (1.3) There shall be a five-year statute of limitations on  
27 all crimes enumerated in subsection (a).

28 (2) A person who commits a violation of subsection (a)(4) or  
29 (5) is guilty of a misdemeanor of the first degree for each  
30 violation thereof with a maximum penalty thereof of ten thousand

1 dollars (\$10,000) and five years imprisonment.

2 (c) (1) Anyone who is convicted of a violation of  
3 subsection (a)(1), (2), (3), (4) or (5) shall, upon notification  
4 by the department, forfeit any and all rights to medical  
5 assistance benefits for any period of incarceration.

6 (2) [If the department determines that a recipient misuses  
7 or overutilizes medical assistance benefits, the] (i) The  
8 department is authorized to restrict a recipient to a designated  
9 provider [of his choice] for each medical specialty or type of  
10 provider covered under the medical assistance program[.] if the  
11 department determines that the recipient is receiving excessive  
12 or unnecessary medical assistance benefits, including treatment,  
13 diagnostic services, drugs, medical supplies or other services  
14 based on one or more of the following:

15 (A) Evidence of abusive, duplicative or wasteful utilization  
16 or patterns that could cause harm or irreparable damage to the  
17 recipient.

18 (B) A history of prior misutilization with a current pattern  
19 of aberrant utilization.

20 (C) Utilization patterns inconsistent with peers or current  
21 medical practices.

22 (D) Evidence of drug-seeking behavior.

23 (E) Evidence that a restriction will effectively manage the  
24 recipient's utilization of medical assistance benefits and care.

25 (ii) Before imposing a restriction or taking an action under  
26 paragraph (2), the department shall provide a recipient with at  
27 least ten days' advance written notice and the opportunity for  
28 an administrative hearing.

29 (iii) The period of a restriction imposed under this  
30 subsection shall be determined by the department but shall not



1 exceed five years.

2 (iv) If the department determines that a recipient who is or  
3 has been subject to a restriction is receiving excessive or  
4 unnecessary medical assistance benefits based upon new evidence  
5 that one of the conditions in subparagraph (i) applies, the  
6 department may extend the period of restriction or impose a new  
7 restriction for a period of up to five years subject to  
8 subparagraph (ii).

9 (v) Subject to such Federal approval as may be necessary, if  
10 the department imposes a restriction on a recipient or extends  
11 the period of a recipient's restriction under paragraph (2), the  
12 department may also take one or more of the following actions:

13 (A) The department may terminate the recipient's rights to  
14 any and all medical assistance benefits for a period of up to  
15 one year.

16 (B) The department may institute a civil suit against the  
17 recipient for the amount of the excessive or unnecessary medical  
18 assistance benefits obtained by the recipient, plus legal  
19 interest from the date the benefits were obtained.

20 (C) The department may administratively impose a monetary  
21 penalty against the recipient in an amount up to one thousand  
22 dollars (\$1,000).

23 (D) The department may require that, as a condition of  
24 continued eligibility for medical assistance, the recipient  
25 participate in a drug therapy management, disease management or  
26 case management program during the period of the restriction or  
27 such lesser period as may be determined appropriate by the  
28 department.

29 (vi) A restriction imposed under this subsection does not  
30 apply to emergency services furnished to a recipient.

1 (3) If the department determines that a general assistance  
2 eligible person who is also a medical assistance recipient has  
3 violated the provisions of subsection (a)(3), (4) or (5), the  
4 department shall have the authority to terminate such  
5 recipient's rights to any and all medical assistance benefits  
6 for a period up to one year.

7 (4) If the department determines that a person has violated  
8 the provisions of subsection (a)(1), (3), (4) or (5), the  
9 department shall have the authority to institute a civil suit  
10 against such person for the amount of the benefits obtained by  
11 the person in violation of subsection (a)(1), (3), (4) or (5),  
12 plus legal interest from the date the violation or violations  
13 occurred.

14 (5) The department shall also have the authority to  
15 administratively impose a one thousand dollar (\$1,000) penalty  
16 against a person for each violation of subsection (a).

17 (6) (i) If it is found that a recipient or a member of his  
18 family or household, who would have been ineligible for medical  
19 assistance, possessed unreported real or personal property in  
20 excess of the amount permitted by law, the amount collectible  
21 shall be limited to an amount equal to the market value of such  
22 unreported property or the amount of medical assistance granted  
23 during the period it was held up to the date the unreported  
24 excess real or personal property is identified, whichever is  
25 less. Repayment of the overpayment shall be sought from the  
26 recipient, the person receiving or holding such property, the  
27 recipient's estate and/or survivors benefiting from receiving  
28 such property. Proof of date of acquisition of such property  
29 must be provided by the recipient or person acting on his  
30 behalf.

1       (ii) Where a person receiving medical assistance for which  
2 he would have been ineligible due to possession of such  
3 unreported property and proof of date of acquisition of such  
4 property is not provided, it shall be deemed that such real or  
5 personal property was held by the recipient the entire time he  
6 was on medical assistance and repayment shall be for all medical  
7 assistance paid for the recipient or the value of such excess  
8 property, whichever is less. Repayment shall be sought from the  
9 recipient, the person acting on the recipient's behalf, the  
10 person receiving or holding such property, the recipient's  
11 estate and/or survivors benefiting from receiving such property.

12       (d) The department is authorized to institute a civil suit  
13 to enforce any of the rights established by this section.

14       Section 9. Section 1412 of the act, amended June 30, 1995  
15 (P.L.129, No.20), is amended to read:

16       Section 1412. Repayment from [Probate] Estates.--(a)  
17 Notwithstanding any other provision of this act or any other  
18 law, the department shall establish and implement an estate  
19 recovery program to recover medical assistance paid with respect  
20 to individuals who were fifty-five years of age or older at the  
21 time that assistance was received. Under this program, the  
22 department shall recover from the [probate] estate of an  
23 individual the amount of medical assistance paid for [all  
24 nursing facility services, home- and community-based services  
25 and related hospital and prescription drug services. With the  
26 approval of the Governor, the department may expand the estate  
27 recovery program by regulation to include medical assistance for  
28 services other than those listed in this section and to recover  
29 against other real and personal property in which an individual  
30 had any legal title or interest at the time of death. The

department's claim shall have the priority of a debt due the Commonwealth.] all services provided to the individual. For purposes of this section, an individual's estate shall include all of the following:

(1) All real and personal property and other assets subject to inclusion within the deceased individual's estate under 20 Pa.C.S. (relating to decedents, estates and fiduciaries).

(2) Any other real and personal property and other assets in which the deceased individual had any legal title or interest at the time of death, to the extent of such interest, including such assets conveyed to a survivor, heir, or assign, of the deceased individual through joint tenancy, tenancy by the entirety, tenancy in common, survivorship, life estate, living trust or other arrangement.

(a.1) Liability for debt shall be as follows:

(1) If property subject to the department's claim is transferred without the department's claim being satisfied, then the executor or administrator transferring such property, if there is one, shall become liable to pay the department's claim.

(2) If property subject to the department's claim is transferred to the extent that the transfer is made without valuable and adequate consideration in money or something worth money at the time of the transfer and without the department's claim being satisfied, then the executor or administrator transferring such property, if there is one, and the person receiving such property shall become liable to pay the department's claim.

(3) If property subject to the department's claim is held by a person, including a cotenant, remainderman, or trustee, then the person holding such property is liable to pay the

1 department's claim.

2 (b) The executor or administrator of the estate of a  
3 decedent who attained fifty-five years of age shall ascertain  
4 whether the decedent received medical assistance during the five  
5 years preceding death and, if so, shall give notice to the  
6 department to secure from the department a statement of the  
7 department's claim for medical assistance consistent with 20  
8 Pa.C.S. § 3392(3) and (6) (relating to classification and order  
9 of payment). The department must submit its claim to the  
10 executor or administrator within forty-five days of receipt of  
11 notice or the claim shall be forfeited.

12 (c) This section shall apply notwithstanding the provisions  
13 of section 447.

14 (d) The department may administratively assess liability  
15 under this section. Any final order of the department  
16 determining liability under this section:

17 (1) Shall be a lien on the real and personal property of the  
18 individual in the manner provided by section 1401 of the act of  
19 April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

20 (2) May be entered by the department in the manner provided  
21 by section 1404 of "The Fiscal Code."

22 (3) Shall continue and retain priority in the manner  
23 provided in section 1404.1 of "The Fiscal Code."

24 Section 10. The act is amended by adding a section to read:  
25 Section 1417. Limit on claim reduction.

26 In any action, claim, or settlement where the department is  
27 required to reduce its claim, on account of attorney fees  
28 incurred by a recipient in obtaining a recovery of cash or  
29 medical assistance for the department, the reduction shall not  
30 exceed twenty-five percent of the department's recovery.

1 Section 11. The act is amended by adding an article to read:

2 ARTICLE XIV-A

3 FALSE CLAIMS

4 Section 1401-A. Definitions.

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

8 "Attorney General." The Attorney General of the  
9 Commonwealth.

10 "Claim." Any request or demand for money, property or  
11 services made to any employee, officer or agent of the  
12 Commonwealth, or to any contractor, grantee or other recipient,  
13 whether under contract or not, if any portion of the money,  
14 property or services requested or demanded, came from or was  
15 provided by the Medical Assistance Program, or if the Medical  
16 Assistance Program will reimburse such contractor, grantee or  
17 other recipient for any portion of the money or property which  
18 is requested or demanded.

19 "Commonwealth." The Commonwealth of Pennsylvania and any  
20 department, board, bureau, division, commission, committee,  
21 public benefit corporation, public authority, council, office or  
22 other government entity performing a governmental or proprietary  
23 function for the Commonwealth.

24 "Executive-level State employee." As defined in 65 Pa.C.S. §  
25 1102 (relating to definitions).

26 "Knowing" and "knowingly." Whenever a person, with respect  
27 to information, does any of the following:

28 (1) Has actual knowledge of the information.

29 (2) Acts in deliberate ignorance of the truth or falsity  
30 of the information.

1       (3) Acts in reckless disregard of the truth or falsity  
2       of the information.

3       Proof of specific intent to defraud is not required.

4       "Medical assistance program." As defined in section 1401.

5       "Qui tam plaintiff." A person who initiates an action  
6       pursuant to section 1403-A(b).

7       Section 1402-A. Acts subjecting persons to liability for treble  
8       damages, costs and civil penalties and exceptions.

9       (a) Liability.--Any person who commits any of the following  
10       acts shall be liable to the Commonwealth for three times the  
11       amount of damages which the Commonwealth sustains because of the  
12       act of that person. A person who commits any of the following  
13       acts shall also be liable to the Commonwealth for the costs of a  
14       civil action brought to recover any of those penalties or  
15       damages and shall be liable to the Commonwealth for a civil  
16       penalty of not less than \$5,000 and not more than \$10,000 for  
17       each violation:

18       (1) Knowingly presents or causes to be presented to any  
19       employee, officer or agent of the Commonwealth or to any  
20       contractor, grantee or other recipient of Commonwealth funds,  
21       a false or fraudulent claim for payment or approval.

22       (2) Knowingly makes, uses or causes to be made or used,  
23       a false record or statement to get a false or fraudulent  
24       claim paid or approved.

25       (3) Conspires to defraud the Commonwealth by getting a  
26       false or fraudulent claim allowed or paid or conspires to  
27       defraud the Commonwealth by knowingly making, using or  
28       causing to be made or used, a false record or statement to  
29       conceal, avoid or decrease an obligation to pay or transmit  
30       money or property to the Commonwealth with respect to the

1 Medical Assistance Program.

2 (4) Has possession, custody or control of public  
3 property or money used or to be used by the Commonwealth with  
4 respect to the Medical Assistance Program and knowingly  
5 delivers or causes to be delivered less property than the  
6 amount for which the person receives a certificate or  
7 receipt.

8 (5) Is authorized to make or deliver a document  
9 certifying receipt of property used or to be used by the  
10 Commonwealth with respect to the Medical Assistance Program  
11 and, intending to defraud the Commonwealth, makes or delivers  
12 the receipt without completely knowing that the information  
13 on the receipt is true.

14 (6) Knowingly buys or receives as a pledge of an  
15 obligation or debt, public property from an officer or  
16 employee of the Commonwealth who lawfully may not sell or  
17 pledge the property.

18 (7) Knowingly makes, uses or causes to be made or used,  
19 a false record or statement to conceal, avoid or decrease an  
20 obligation to pay or transmit money or property to the  
21 Commonwealth with respect to the Medical Assistance Program.

22 (8) Is a beneficiary of an inadvertent submission of a  
23 false or fraudulent claim to any employee, officer or agent  
24 of the Commonwealth or to any contractor, grantee or other  
25 recipient of funds under the Medical Assistance Program,  
26 subsequently discovers the falsity of the claim and fails to  
27 disclose the claim to the Commonwealth within a reasonable  
28 time after discovery of the claim.

29 (9) Having a duty to make disclosure of a fact, event or  
30 occurrence, knowingly fails to disclose such fact, event or



occurrence in order to conceal, avoid or decrease an  
obligation to pay or transmit money or property to the  
Commonwealth with respect to the Medical Assistance Program.

(b) Damages limitation.--The court may limit the damages  
assessed under subsection (a) to not less than two times the  
amount of damages which the Commonwealth sustains because of the  
act of the person described in that subsection if the court  
finds all of the following:

(1) The person committing the violation furnished  
officials of the Commonwealth who are responsible for  
investigating false claims violations with all information  
known to that person about the violation within 30 days after  
the date on which the person first obtained the information.

(2) The person fully cooperated with any investigation  
by the Commonwealth of the violation.

(3) At the time the person furnished the Commonwealth  
with information about the violation, no criminal  
prosecution, civil action or administrative action has  
commenced with respect to the violation, and the person did  
not have actual knowledge of the existence of an  
investigation into the violation.

(c) Exclusion.--This section does not apply to claims,  
records or statements made pursuant to the act of March 4, 1971  
(P.L.6, No.2), known as the Tax Reform Code of 1971.

(d) Right-to-Know Law exemption.--Any information furnished  
pursuant to subsection (b) shall be exempt from public access  
under the act of February 14, 2008 (P.L.6, No.3), known as the  
Right-to-Know Law.

Section 1403-A. Civil actions for false claims.

(a) Responsibilities of the Attorney General.--The Attorney

1 General diligently shall investigate a violation under section  
2 1402-A. If the Attorney General finds that a person has violated  
3 or is violating section 1402-A, the Attorney General may bring a  
4 civil action under this section against that person on behalf of  
5 the Commonwealth. No action may be filed pursuant to this  
6 subsection against the Commonwealth or any officer or employee  
7 thereof acting in his official capacity. Sections 204(c), 301(6)  
8 and 303 of the act of October 15, 1980 (P.L.950, No.164), known  
9 as the Commonwealth Attorneys Act, shall apply to civil actions  
10 that may be brought by the Attorney General under this  
11 subsection.

12 (b) Actions by private persons.--

13 (1) A person may bring a civil action for a violation of  
14 section 1402-A for the person and for the Commonwealth. The  
15 action shall be brought in the name of the Commonwealth. Once  
16 filed, the action may be dismissed only if the court gives  
17 written consent to the dismissal, taking into account the  
18 best interests of the parties involved and the public  
19 purposes behind this chapter.

20 (2) The complaint and written disclosure of  
21 substantially all material evidence and information the  
22 person possesses shall be served on the Commonwealth by  
23 serving it on the Attorney General pursuant to applicable  
24 rules of the Pennsylvania Rules of Civil Procedure. The  
25 complaint shall be filed in camera and shall remain under  
26 seal for at least 60 days and shall not be served on the  
27 defendant until the court so orders. The Commonwealth may  
28 elect to intervene and proceed with the action within 60 days  
29 after it receives both the complaint and the material  
30 evidence and information.

1       (3) The Commonwealth may, for good cause shown, move the  
2 court for extensions of the time during which the complaint  
3 remains under seal under paragraph (2). Any such motions may  
4 be supported by affidavits or other submissions in camera.  
5 The defendant shall not be required to respond to any  
6 complaint filed under this section until 30 days after the  
7 complaint is unsealed and served upon the defendant pursuant  
8 to the Pennsylvania Rules of Civil Procedure.

9       (4) Before the expiration of the 60-day period or any  
10 extensions obtained under paragraph (3), the Commonwealth  
11 shall:

12           (i) proceed with the action, in which case the  
13 action shall be conducted by the Commonwealth; or

14           (ii) notify the court that it declines to take over  
15 the action, in which case the person bringing the action  
16 shall have the right to conduct the action.

17       (5) When a person brings a valid action under this  
18 subsection, no person other than the Commonwealth may  
19 intervene or bring a related action based on the facts  
20 underlying the pending action.

21       (6) No action may be filed pursuant to this subsection  
22 against the Commonwealth or any officer or employee thereof  
23 acting in his official capacity.

24       (c) Rights of the parties to qui tam actions.--

25           (1) If the Commonwealth proceeds with the action, it  
26 shall have the primary responsibility for prosecuting the  
27 action and shall not be bound by an act of the qui tam  
28 plaintiff. The qui tam plaintiff shall have the right to  
29 continue as a party to the action, subject to the limitations  
30 set forth in paragraph (2).

1       (2) (i) The Commonwealth may seek to dismiss the action  
2       for good cause notwithstanding the objections of the qui  
3       tam plaintiff if the qui tam plaintiff has been notified  
4       by the Commonwealth of the filing of the motion and the  
5       court has provided the qui tam plaintiff with an  
6       opportunity to oppose the motion and present evidence at  
7       a hearing.

8       (ii) The Commonwealth may settle the action with the  
9       defendant notwithstanding the objections of the qui tam  
10       plaintiff if the court determines, after a hearing, that  
11       the proposed settlement is fair, adequate and reasonable  
12       under all of the circumstances. Upon a showing of good  
13       cause, such hearing may be held in camera.

14       (iii) Upon a showing by the Commonwealth that the  
15       qui tam plaintiff's unrestricted participation during the  
16       course of the litigation would interfere with or unduly  
17       delay the Commonwealth's prosecution of the case or would  
18       be repetitious, irrelevant or for purposes of harassment,  
19       the court may, in its discretion, impose limitations on  
20       the person's participation, such as:

21               (A) limiting the number of witnesses the person  
22               may call;

23               (B) limiting the length of the testimony of such  
24               witnesses;

25               (C) limiting the qui tam plaintiff's cross-  
26               examination of witnesses; or

27               (D) otherwise limiting the participation by the  
28               qui tam plaintiff in the litigation.

29       (iv) Upon a showing by the defendant that the qui  
30       tam plaintiff's unrestricted participation during the

1 course of the litigation would be for purposes of  
2 harassment or would cause the defendant undue burden or  
3 unnecessary expense, the court may limit the  
4 participation by the qui tam plaintiff in the litigation  
5 in the same manner set forth in subparagraph (iii).

6 (3) If the Commonwealth elects not to proceed with the  
7 action, the qui tam plaintiff shall have the right to conduct  
8 the action. If the Commonwealth so requests, it shall be  
9 served with copies of all pleadings filed in the action and  
10 shall be supplied with copies of all deposition transcripts  
11 at the Commonwealth's expense. When a qui tam plaintiff  
12 proceeds with the action, the court, without limiting the  
13 status and rights of the qui tam plaintiff, may permit the  
14 Commonwealth to intervene at a later date upon a showing of  
15 good cause.

16 (4) Whether or not the Commonwealth proceeds with the  
17 action, upon a showing by the Commonwealth that certain  
18 actions of discovery by the qui tam plaintiff would interfere  
19 with the Commonwealth's investigation or prosecution of a  
20 criminal or civil matter arising out of the same facts, the  
21 court may stay such discovery for a period of not more than  
22 60 days. Such a showing shall be conducted in camera. The  
23 court may extend the 60-day period upon a further showing in  
24 camera that the Commonwealth has pursued the criminal or  
25 civil investigation or proceedings with reasonable diligence  
26 and any proposed discovery in the civil action will interfere  
27 with the ongoing criminal or civil investigations or  
28 proceedings.

29 (5) Notwithstanding subsection (b), the Commonwealth may  
30 elect to pursue its claim through any alternate remedy

1 available to the Commonwealth, including any administrative  
2 proceeding to determine a civil money penalty. If any such  
3 alternate remedy is pursued in another proceeding, the qui  
4 tam plaintiff shall have the same rights in such proceeding  
5 as the person would have had if the action had continued  
6 under this section. Any finding of fact or conclusion of law  
7 made in the other proceeding that has become final shall be  
8 conclusive on all parties to an action under this section.  
9 For purposes of the preceding sentence, a finding or  
10 conclusion is final if it has been finally determined on  
11 appeal to the appropriate court of the Commonwealth, if all  
12 time for filing such an appeal with respect to the finding or  
13 conclusion has expired or if the finding or conclusion is not  
14 subject to judicial review.

15 (d) Award to qui tam plaintiff.--

16 (1) (i) If the Commonwealth proceeds with an action  
17 brought by a qui tam plaintiff under subsection (b), the  
18 qui tam plaintiff shall, subject to subparagraph (ii),  
19 receive at least 15% but not more than 25% of the  
20 proceeds of the action or settlement of the claim,  
21 depending upon the extent to which either the qui tam  
22 plaintiff or his counsel, or both, substantially  
23 contributed to the prosecution of the action.

24 (ii) Where the action is one which the court finds  
25 to be based primarily on disclosures of specific  
26 information, other than information provided by the qui  
27 tam plaintiff, relating to allegations or transactions in  
28 a criminal, civil or administrative hearing or in a  
29 legislative or administrative report, hearing, audit or  
30 investigation or from the news media, the court may award

1 such sums as it considers appropriate but in no case more  
2 than 10% of the proceeds, taking into account the  
3 significance of the information and the role of the qui  
4 tam plaintiff in advancing the case to litigation.

5 (iii) Any payment to a qui tam plaintiff under  
6 subparagraph (i) or (ii) shall be made from the proceeds.

7 (iv) The qui tam plaintiff shall also receive an  
8 amount for reasonable expenses which the court finds to  
9 have been necessarily incurred, plus reasonable attorney  
10 fees and costs. All such expenses, fees and costs shall  
11 be awarded against the defendant.

12 (2) If the Commonwealth does not proceed with an action  
13 under this section, the qui tam plaintiff shall receive an  
14 amount which the court decides is reasonable for collecting  
15 the civil penalty and damages. The amount shall not be less  
16 than 25% and not more than 30% of the proceeds of the action  
17 or settlement and shall be paid out of the proceeds. The qui  
18 tam plaintiff shall also receive an amount for reasonable  
19 expenses which the court finds to have been necessarily  
20 incurred, plus reasonable attorney fees and costs. All such  
21 expenses, fees and costs shall be awarded against the  
22 defendant.

23 (3) Whether or not the Commonwealth proceeds with the  
24 action, if the court finds that the qui tam plaintiff planned  
25 and initiated the violation of section 1402-A upon which the  
26 action was brought, then the court may, to the extent the  
27 court considers appropriate, reduce the share of the proceeds  
28 of the action which the qui tam plaintiff would otherwise  
29 receive under paragraph (1) or (2), taking into account the  
30 role of the qui tam plaintiff in advancing the case to

1 litigation and any relevant circumstances pertaining to the  
2 violation. If the qui tam plaintiff is convicted of criminal  
3 conduct arising from his role in the violation of section  
4 1402-A, that person shall be dismissed from the civil action  
5 and shall not receive any share of the proceeds of the  
6 action. Such dismissal shall not prejudice the right of the  
7 Commonwealth to continue the action.

8 (4) If the Commonwealth does not proceed with the action  
9 and the qui tam plaintiff conducts the action, the court may  
10 award to the defendant its reasonable attorney fees and  
11 expenses if the defendant prevails in the action and the  
12 court finds that the claim of the qui tam plaintiff was  
13 clearly frivolous, clearly vexatious or brought primarily for  
14 purposes of harassment.

15 (e) Certain actions barred.--

16 (1) No court shall have jurisdiction over an action  
17 brought under subsection (b) against a member of the General  
18 Assembly, a member of the judiciary or an executive-level  
19 State employee if the action is based on evidence or  
20 information known to the Commonwealth when the action was  
21 brought.

22 (2) In no event may a person bring an action under  
23 subsection (b) which is based upon allegations or  
24 transactions which are the subject of a civil suit or an  
25 administrative civil money penalty proceeding in which the  
26 Commonwealth is already a party.

27 (3) (i) Upon timely motion of the Attorney General, a  
28 court shall dismiss an action brought under subsection  
29 (b) if the allegations relating to the essential elements  
30 of the action are based exclusively on the public



1 disclosure of allegations or transactions in a criminal,  
2 civil or administrative hearing, in a legislative or  
3 administrative report, audit or investigation or from the  
4 news media.

5 (ii) For purposes of this paragraph:

6 (A) The term "public disclosure" includes only  
7 disclosures made on the public record or that have  
8 otherwise been disseminated broadly to the general  
9 public.

10 (B) The qui tam plaintiff does not create a  
11 public disclosure by obtaining information from the  
12 act of February 14, 2008 (P.L.6, No.3), known as the  
13 Right-to-Know Law, or from information exchanges with  
14 law enforcement and other Commonwealth employees if  
15 such information would not otherwise be considered  
16 publicly disclosed.

17 (C) An action is "based exclusively on a public  
18 disclosure" only if the qui tam plaintiff derived his  
19 knowledge of all essential elements of liability of  
20 the action alleged in his complaint from the public  
21 disclosure.

22 (f) Commonwealth not liable for certain expenses.--The  
23 Commonwealth is not liable for expenses which a person incurs in  
24 bringing an action under subsection (b).

25 (g) Private action for retaliation action.--Any employee who  
26 is discharged, demoted, suspended, threatened, harassed or in  
27 any other manner discriminated against in the terms and  
28 conditions of employment by his or her employer because of  
29 lawful acts done by the employee on behalf of the employee or  
30 others in furtherance of an action under this section, including

investigation for, initiation of, testimony for or assistance in  
an action filed or to be filed under this section, shall be  
entitled to all relief necessary to make the employee whole.  
Such relief shall include reinstatement with the same seniority  
status such employee would have had but for the discrimination,  
two times the amount of back pay, interest on the back pay and  
compensation for any special damages sustained as a result of  
the discrimination, including litigation costs and reasonable  
attorney fees. An employee may bring an action in the  
appropriate court of common pleas of this Commonwealth for the  
relief provided in this subsection.

(h) Civil investigative demand.--

(1) (i) The Attorney General shall have the authority  
to issue civil investigative demands pursuant to  
paragraph (2).

(ii) Nothing contained in this subsection shall be  
construed to limit the regulatory or investigative  
authority of any department or agency of the Commonwealth  
whose functions might relate to persons, enterprises or  
matters falling within the scope of this chapter.

(2) (i) Whenever the Attorney General has reason to  
believe that any person or enterprise may be in  
possession, custody or control of any documentary  
material relevant to an investigation under this chapter,  
the Attorney General may issue in writing, and cause to  
be served upon such person or enterprise, a civil  
investigative demand requiring the production of such  
material for examination.

(ii) Each such demand shall do all of the following:

(A) State the nature of the conduct constituting

1 the alleged violation which is under investigation,  
2 the provision of law applicable thereto and the  
3 connection between the documentary material demanded  
4 and the conduct under investigation.

5 (B) Describe the class or classes of documentary  
6 material to be produced thereunder with such  
7 definiteness and certainty as to permit such material  
8 to be fairly identified.

9 (C) State that the demand is returnable  
10 forthwith or prescribe a return date which will  
11 provide a reasonable period of time within which the  
12 material so demanded may be assembled and made  
13 available for inspection and copying or reproduction.

14 (D) Identify an investigator to whom such  
15 material shall be made available.

16 (E) Contain the following statement printed  
17 conspicuously at the top of the demand: "You have the  
18 right to seek the assistance of any attorney and he  
19 may represent you in all phases of the investigation  
20 of which this civil investigative demand is a part."

21 (iii) No such demand shall:

22 (A) contain any requirement which would be held  
23 to be unreasonable if contained in a subpoena duces  
24 tecum issued by any court in connection with a grand  
25 jury investigation of such alleged violation; or

26 (B) require the production of any documentary  
27 evidence which would be privileged from disclosure if  
28 demanding by a subpoena duces tecum issued by any  
29 court in connection with a grand jury investigation  
30 of such alleged violation.

1           (iv) Service of any such demand or any petition  
2           filed under this paragraph shall be made in the manner  
3           prescribed by the Pennsylvania Rules of Civil Procedure  
4           for service of writs and complaints.

5           (v) A verified return by the individual serving any  
6           such demand or petition setting forth the manner of such  
7           service shall be prima facie proof of such service. In  
8           the case of service by registered or certified mail, such  
9           return shall be accompanied by the return post office  
10           receipt of delivery of such demand.

11           (vi) (A) Any party upon whom any demand issued  
12           under this subsection has been duly served shall make  
13           such material available for inspection and copying or  
14           reproduction to the investigator designated therein  
15           at the principal place of business of such party, or  
16           at such other place as such investigator and such  
17           party thereafter may agree or as the court may direct  
18           pursuant to this paragraph, on the return date  
19           specified in such demand. Such party may upon  
20           agreement of the investigator substitute copies of  
21           all or any part of such material for the originals  
22           thereof.

23           (B) The investigator to whom any documentary  
24           material is so delivered shall take physical  
25           possession thereof and shall be responsible for the  
26           use made thereof and for its return under this  
27           paragraph. The investigator may cause the preparation  
28           of such copies of such documentary material as may be  
29           required for official use. While in the possession of  
30           the investigator, no material so produced shall be

1 available for examination, without the consent of the  
2 party who produced such material, by any individual  
3 other than the Attorney General or the investigator.  
4 Under such reasonable terms and conditions as the  
5 Attorney General shall prescribe, documentary  
6 material while in the possession of the investigator  
7 shall be available for examination by the party who  
8 produced such material or any duly authorized  
9 representatives of such party.

10 (C) Upon completion of the investigation for  
11 which any documentary material was produced under  
12 this paragraph and any case or proceeding arising  
13 from such investigation, the investigator shall  
14 return to the party who produced such material all  
15 such material other than copies thereof made under  
16 this paragraph which have not passed into the control  
17 of any court or grand jury through introduction into  
18 the record of such case or proceeding.

19 (D) When any documentary material has been  
20 produced by any party under this paragraph for use in  
21 any investigation, and no case or proceeding arising  
22 therefrom has been instituted within a reasonable  
23 time after completion of the examination and analysis  
24 of all evidence assembled in the course of such  
25 investigation, such party shall be entitled, upon  
26 written demand made upon the Attorney General, to the  
27 return of all documentary material, other than copies  
28 thereof made under this paragraph, so produced by  
29 such party.

30 (vii) Whenever any person or enterprise fails to

1 comply with any civil investigative demand duly served  
2 upon him under this paragraph or whenever satisfactory  
3 copying or reproduction of any such material cannot be  
4 done and such party refuses to surrender such material,  
5 the Attorney General may file, in the court of common  
6 pleas for any county in which such party resides or  
7 transacts business, and serve upon such party a petition  
8 for an order of such court for the enforcement of this  
9 paragraph, except that if such person transacts business  
10 in more than one county such petition shall be filed in  
11 the county in which party maintains the party's principal  
12 place of business.

13 (viii) Within 20 days after the service of any such  
14 demand upon any person or enterprise, or at any time  
15 before the return date specified in the demand, whichever  
16 period is shorter, such party may file, in the court of  
17 common pleas of the county within which such party  
18 resides or transacts business, and serve upon the  
19 Attorney General a petition for an order of such court  
20 modifying or setting aside such demand. The time allowed  
21 for compliance with the demand in whole or in part as  
22 deemed proper and ordered by the court shall not run  
23 during the pendency of such petition in the court. Such  
24 petition shall specify each ground upon which the  
25 petitioner relies in seeking such relief and may be based  
26 upon any failure of such demand to comply with the  
27 provisions of this paragraph or upon any constitutional  
28 or other legal right or privilege of such party.

29 (ix) At any time during which the Attorney General  
30 is in custody or control of any documentary material

1 delivered by any party in compliance with any such  
2 demand, such party may file, in the court of common pleas  
3 of the county within which such documentary material was  
4 delivered, and serve upon the Attorney General a petition  
5 for an order of such court requiring the performance of  
6 any duty imposed by this paragraph.

7 (x) Whenever any petition is filed in any court of  
8 common pleas under this paragraph, such court shall have  
9 jurisdiction to hear and determine the matter so  
10 presented, and, after a hearing at which all parties are  
11 represented, to enter such order or orders as may be  
12 required to carry into effect the provisions of this  
13 paragraph.

14 (3) Whenever any individual refuses, on the basis of his  
15 privilege against self-incrimination, to comply with a civil  
16 investigative demand issued under paragraph (2), the Attorney  
17 General may invoke the provisions of 42 Pa.C.S. § 5947  
18 (relating to immunity of witnesses).

19 (i) Exclusive jurisdiction.--Commonwealth Court shall have  
20 exclusive jurisdiction for all claims arising under this act.  
21 Section 1404-A. False claims procedure.

22 (a) Statute of limitations.--A civil action under section  
23 1403-A may not be brought more than ten years after the date on  
24 which the violation of section 1402-A was committed.

25 (b) Burden of proof.--In any action brought under section  
26 1403-A, the Commonwealth or the qui tam plaintiff shall be  
27 required to prove all essential elements of the cause of action,  
28 including damages, by a preponderance of the evidence.

29 (c) Estoppel.--Notwithstanding any other provision of law, a  
30 final judgment rendered in favor of the Commonwealth in a

criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under section 1403-A(a) or (b).

Section 1405-A. Remedies under other laws, severability of provisions and liberality of legislative construction; adoption of legislative history.

(a) Remedies under other laws.--The provisions of this act are not exclusive and the remedies provided for in this act shall be in addition to any other remedies provided for in any other law or available under common law.

(b) Liberality of legislative construction and adoption of legislative history.--This chapter shall be liberally construed and applied to promote the public interest. This chapter also adopts the congressional intent behind the Federal False Claims Act (Public Law 97-258, 31 U.S.C. §§ 3729-3733), including the legislative history underlying the 1986 amendments to the Federal False Claims Act.

Section 1406-A. Regulations.

(a) General rule.--The Attorney General shall have the power and authority to promulgate rules and regulations which may be necessary to carry out the purposes set forth in this article.

(b) Guidelines.--In order to facilitate the speedy implementation of this article, the Attorney General shall have the power and authority to promulgate, adopt and use guidelines which shall be published in the Pennsylvania Bulletin. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the



Commonwealth Documents Law, sections 204(b) and 301(10) of the  
act of October 15, 1980 (P.L.950, No.164), known as the  
Commonwealth Attorneys Act, or the act of June 25, 1982  
(P.L.633, No.181), known as the Regulatory Review Act. The  
guidelines shall be effective for a period of not more than two  
years from the effective date of this article. After the  
expiration of the two-year period, the guidelines, with such  
changes as the Attorney General deems appropriate, shall be  
promulgated as regulations according to law.

Section 12. Notwithstanding anything in this act, the Department of Public Welfare may take any necessary action to qualify the Commonwealth for additional Medical Assistance funds under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5, 123 Stat. 115).

Section 13. This act shall take effect as follows:

(1) The addition of Article XIV-A shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.