
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1172 Session of
2015

INTRODUCED BY DeLUCA, KOTIK, READSHAW, MILLARD, CALTAGIRONE,
D. MILLER, THOMAS, RAVENSTAHL, DEASY, P. COSTA, KORTZ,
D. COSTA AND COHEN, MAY 12, 2015

REFERRED TO COMMITTEE ON INSURANCE, MAY 12, 2015

AN ACT

1 Providing for the additional regulation and oversight of
2 integrated delivery networks; and conferring powers and
3 imposing duties on the Insurance Department.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Access to
8 Integrated Delivery Networks Act.

9 Section 2. Legislative intent.

10 The General Assembly finds and declares as follows:

11 (1) Many subscribers to health insurance plans make
12 payments over long periods of time prior to becoming entitled
13 to benefits under the plans.

14 (2) Many subscribers develop relationships and come to
15 rely on the advice and expertise of their health care
16 providers participating in their health insurance plan.

17 (3) It is in the public interest that the reasonable
18 expectations of the subscribers as to coverage should be

fulfilled if possible.

(4) It is declared to be essential for the maintenance of the health of the residents of this Commonwealth that:

(i) subscribers to a health insurance plan be assured continued access to their health care providers when they are in the middle of a course of treatment;

(ii) vulnerable populations continue to have access to health care providers that are part of an integrated delivery network, regardless of whether the health insurance carrier has a contract with the integrated delivery network;

(iii) subscribers to a health insurance plan be assured access to emergency, specialized and unique health care services offered by an integrated delivery network;

(iv) subscribers be given sufficient time to find new providers upon losing access to an integrated delivery network; and

(v) to accomplish these essential purposes, termination or expiration without renewal of a contract between a health insurance carrier and integrated delivery network be subject to a transition period to be regulated by the department.

Section 3. Definitions.

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

"Affiliate." As defined under section 1401 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

1 "Commissioner." The Insurance Commissioner of the
2 Commonwealth.

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

4 "Existing patient." A patient that has established a
5 relationship with an individual health care provider and
6 received treatment from the health care provider in the year
7 immediately preceding the termination or expiration of the
8 contract.

9 "Health care provider." A person licensed or otherwise
10 authorized by the Commonwealth to provide health care services,
11 including, but not limited to, physician, coordinated care
12 organization, hospital, health care facility, dentist, nurse,
13 optometrist, podiatrist, physical therapist, psychologist,
14 chiropractor or pharmacist, and an officer, employee or agent of
15 the person acting in the course and scope of employment or
16 agency related to health care services.

17 "Health care service." The term includes:

18 (1) hospitalization; and

19 (2) care or treatment rendered by an individual who is
20 employed by a hospital or a physician practice owned by a
21 hospital.

22 "Health insurance carrier." An entity that offers or issues
23 a health insurance plan and is subject to any of the following:

24 (1) the act of May 17, 1921 (P.L.682, No.284), known as
25 The Insurance Company Law of 1921;

26 (2) the act of December 29, 1972 (P.L.1701, No.364),
27 known as the Health Maintenance Organization Act; or

28 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
29 corporations) or Ch. 63 (relating to professional health
30 services plan corporations).

1 "Health insurance plan." A policy, contract, certificate or
2 agreement offered or issued by a health insurance carrier to
3 provide, deliver, arrange for, pay for or reimburse the costs of
4 health care services. The term does not include the following
5 types of policies:

6 (1) Accident only.

7 (2) Limited benefit.

8 (3) Credit.

9 (4) Dental.

10 (5) Vision.

11 (6) Specified disease.

12 (7) Civilian Health and Medical Program of the Uniformed
13 Services (CHAMPUS) supplement.

14 (8) Long-term care or disability income.

15 (9) Workers' compensation.

16 (10) Automobile medical payment.

17 "Health system." A network of health care providers that by
18 ownership, contract or agreement is controlled by a common
19 entity and consists of:

20 (1) at least one hospital; and

21 (2) at least one other health care provider.

22 "Hospital." An entity that is:

23 (1) licensed as a hospital under the act of July 19,
24 1979 (P.L.130, No.48), known as the Health Care Facilities
25 Act; and

26 (2) either of the following:

27 (i) claiming tax-exempt status under the act of
28 November 26, 1997 (P.L.508, No.55), known as the
29 Institutions of Purely Public Charity Act; or

30 (ii) has received funds under the act of February 9,

1 1999 (P.L.1, No.1), known as the Capital Facilities Debt
2 Enabling Act.

3 "Integrated delivery network." A health system that is
4 closely affiliated with a specific health insurance carrier, and
5 owns or controls at least one hospital located in a city of the
6 second class.

7 "Specialized health services." Health care services that the
8 Department of Health has determined are not available from
9 another health care provider in the local community.

10 "Unique health care facility." A health care provider that
11 offers unique services as determined by the Department of Health
12 and published on an annual list of unique health care
13 facilities.

14 "Vulnerable populations." Individuals who are 65 years of
15 age or older, or individuals that are enrolled in or eligible
16 for one of the following:

17 (1) Medicare.

18 (2) Medicare Advantage.

19 (3) Medigap.

20 (4) Medicaid.

21 (5) The Children's Health Insurance Program.

22 Section 4. Access to integrated delivery networks.

23 In the event that an integrated delivery network terminates
24 or otherwise allows its contract with a health insurance carrier
25 to expire without renewal, the department may develop a
26 transition plan that shall govern the future relationship
27 between the integrated delivery network and the health insurance
28 carrier. The transition plan shall apply to all successors and
29 subsequent acquisitions of the parties and shall continue for a
30 reasonable period of time of not more than five years from the

1 date it was first implemented. A department-imposed transition
2 plan shall include the following patient access protections:

3 (1) All health care services provided in an emergency or
4 trauma setting at an integrated delivery network shall
5 continue to be performed on an in-network basis and
6 reimbursed at in-network rates. Emergency and trauma settings
7 include all facility and provider services related to the
8 emergency or trauma episode of care, including any care
9 provided during a related hospital admission through the
10 patient's discharge.

11 (2) Any subscriber of a health insurance plan who is a
12 member of a vulnerable population may continue to access
13 health care services at an integrated delivery network on an
14 in-network basis and at in-network rates.

15 (3) Any subscriber of a health insurance plan may
16 continue to receive oncology services and specialized health
17 services at an integrated delivery network, on an in-network
18 basis and at in-network rates, if the subscriber's treating
19 physician deems those services necessary. This paragraph
20 shall apply to all treatments related to oncology and
21 specialized health services, including, but not limited to,
22 mental health, endocrinology, orthopedics and cardiology.

23 (4) Integrated delivery networks shall negotiate in good
24 faith with health insurance carriers to provide in-network
25 access to the integrated delivery network's unique health
26 care facilities. If the parties are unable to reach an
27 agreement on unique health care facilities, the department
28 may force the parties to reach an agreement through binding
29 arbitration. Any final agreement reached through binding
30 arbitration shall be for a reasonable period of time, but may

1 in no case exceed the life of the transition plan.

2 (5) Any subscriber of a health insurance plan who is an
3 existing patient of a health care provider that is part of an
4 integrated delivery network shall have a one-year safety net.
5 Subscribers with a safety net may continue to have access to
6 their health care providers at the integrated delivery
7 network, on an in-network basis at in-network rates, for a
8 period of one year following the termination or expiration of
9 the contract.

10 (6) Any subscriber of a health insurance plan that is in
11 the midst of a course of treatment at an integrated delivery
12 network may continue to receive health care services, on an
13 in-network basis at in-network rates, for as long as the
14 patient and the patient's physician deem it necessary. The
15 continuing course of treatment shall apply to all health care
16 services reasonably related to that treatment, including, but
17 not limited to, testing and follow-up care.

18 Section 5. Powers of the department.

19 (a) General rule.--The department shall ensure compliance
20 with this act and shall investigate potential violations of this
21 act based upon information received from health insurance
22 carriers, integrated delivery networks, health care providers,
23 subscribers and other sources.

24 (b) Binding arbitration.--If an integrated delivery network
25 and a health insurance carrier are unable to reach an agreement
26 under section 4(4), the department may establish a binding
27 arbitration process to force an agreement.

28 (c) Nonrate terms and conditions.--If a dispute arises over
29 the terms and conditions unrelated to reimbursement rates, the
30 department, after a hearing, may impose nonrate terms and

conditions necessary to ensure that patient access protections are implemented.

(d) Rates.--In-network rates for health care services provided under section 4, except those rates that have been submitted to separate binding arbitration process, shall revert to the last rates or fee schedule mutually agreed upon by the integrated delivery network and the health insurance carrier. The new rates and fee schedule shall include the applicable medical market basket index increase, to be applied on January 1 of each calendar year after the commencement of the transition plan.

(e) Examinations and investigations.--The department may examine and investigate the affairs of each health insurance carrier and integrated delivery network that is subject to this act to determine whether a transition plan is necessary or whether there has been a violation of this act. The department may retain actuaries, attorneys, certified public accountants and other professionals and specialists as may be necessary, in the judgment of the department, to develop a transition plan or conduct an investigation or examination. The fees, costs and expenses relating to professionals and specialists retained under this section shall be charged to and paid by the affected integrated delivery network and other parties as directed by the department.

(f) Regulations.--The department shall promulgate such regulations as may be necessary to carry out the provisions of this act.

Section 6. Enforcement.

(a) Notice.--Upon evidence of a violation of this act or a department-imposed transition plan, the department shall notify

1 the person of the alleged violation. The notice shall specify
2 the nature of the alleged violation and fix a time and place, at
3 least 10 days after the notification, when a hearing on the
4 matter shall be held.

5 (b) Hearing.--The department shall conduct the hearing on
6 the violation in accordance with 2 Pa.C.S. Ch. 5 Subch. A
7 (relating to practice and procedure of Commonwealth agencies).

8 (c) Penalties.--After the hearing or upon failure of the
9 person to appear at the hearing, if a violation is found, the
10 commissioner may, in addition to any penalty which may be
11 imposed by a court, do any combination of the following which is
12 deemed appropriate:

13 (1) Deny, suspend, revoke or refuse to renew the license
14 of a health insurance carrier or a health insurance carrier
15 that is part of an integrated delivery network.

16 (2) Impose a civil penalty of up to \$1,000 for each day
17 there is a violation of this act or a department-imposed
18 transition plan.

19 (3) Impose an order to cease and desist.

20 (4) Assess restitution for consumers.

21 (5) Report violations of this act to the Department of
22 Health, with a recommendation to deny, suspend, revoke or
23 refuse to renew any license that the Department of Health has
24 issued to the integrated delivery network.

25 (6) Refer violations of this act to the Office of
26 Attorney General, with a recommendation that the violating
27 party be stripped of its tax-exempt designations.

28 (7) Enforce other violations of the act of May 17, 1921
29 (P.L.682, No.284), known as The Insurance Company Law of
30 1921, or the act of May 17, 1921 (P.L.789, No.285), known as

1 The Insurance Department Act of 1921, as applicable.

2 (8) Impose any other conditions the commissioner deems
3 appropriate.

4 (d) Application of Unfair Insurance Practices Act.--A
5 violation of this act shall also be a violation of the act of
6 July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance
7 Practices Act.

8 Section 7. Retroactivity.

9 The provisions of this act shall apply to all contract
10 terminations or expirations occurring on or after December 31,
11 2014.

12 Section 8. Expiration.

13 This act shall expire on December 31, 2019.

14 Section 9. Effective date.

15 This act shall take effect immediately.