
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2876 Session of
2020

INTRODUCED BY GROVE, SEPTEMBER 23, 2020

REFERRED TO COMMITTEE ON HEALTH, SEPTEMBER 23, 2020

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," in general powers and
4 duties of the Department of Human Services, further providing
5 for State participation in cooperative Federal programs; in
6 public assistance, further providing for income for the
7 community spouse, for medical assistance payments for
8 institutional care, for medical assistance payments for home
9 health care, for other medical assistance payments and for
10 medical assistance benefit packages and coverage, copayments,
11 premiums and rates; providing for the Office of Independent
12 Medical Assistance Director; and making an editorial change.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Article II heading and sections 201 and 441.7(a)
16 of the act of June 13, 1967 (P.L.31, No.21), known as the Human
17 Services Code, are amended to read:

18 ARTICLE II

19 GENERAL POWERS AND DUTIES

20 OF THE DEPARTMENT OF [PUBLIC WELFARE] HUMAN SERVICES

21 Section 201. State Participation in Cooperative Federal
22 Programs.--The department, including through the Office of
23 Independent Medical Assistance Director, shall have the power

1 and its duties shall be:

2 (1) With the approval of the Governor, to act as the sole
3 agency of the State when applying for, receiving and using
4 Federal funds for the financing in whole or in part of programs
5 in fields in which the department has responsibility.

6 (2) With the approval of the Governor, to develop and submit
7 State plans or other proposals to the Federal [government,]
8 Government, except as where limited under paragraph (2.1), to
9 promulgate regulations, establish and enforce standards and to
10 take such other measures as may be necessary to render the
11 Commonwealth eligible for available Federal funds or other
12 assistance. Notwithstanding anything to the contrary in the act
13 of July 31, 1968 (P.L.769, No.240), referred to as the
14 Commonwealth Documents Law, the department may omit notice of
15 proposed rulemaking and promulgate regulations as final when a
16 delay of thirty days or less in the final adoption of
17 regulations will result in the loss of Federal funds or when a
18 delay of thirty days or less in adoption would require the
19 replacement of Federal funds with State funds.

20 (2.1) To develop and submit State plans or other proposals
21 to the Federal Government for medical assistance through the
22 Independent Office of Medical Assistance Director, to promulgate
23 regulations, establish and enforce standards and take other
24 measures as may be necessary to render the Commonwealth eligible
25 for available Federal funds or other assistance. Notwithstanding
26 any provision to the contrary in the act of July 31, 1968
27 (P.L.769, No.240), referred to as the Commonwealth Documents
28 Law, the department may omit notice of proposed rulemaking and
29 promulgate regulations as final when a delay of thirty days or
30 less in the final adoption of regulations will result in the

1 loss of Federal funds or when a delay of thirty days or less in
2 adoption would require the replacement of Federal funds with
3 State funds.

4 (3) To make surveys and inventories of existing facilities
5 and services as required in connection with such State plans,
6 and to assess the need for construction, modernization or
7 additional services and to determine priorities with respect
8 thereto.

9 (4) To conduct investigations of activities related to
10 fraud, misuse or theft of public assistance moneys[, medical
11 assistance moneys or benefits,] or Federal food stamps,
12 committed by any person who is or has been participating in or
13 administering programs of the department, or by persons who aid
14 or abet others in the commission of fraudulent acts affecting
15 welfare programs.

16 (4.1) To conduct investigations of activities related to
17 fraud, misuse or theft of medical assistance moneys or benefit
18 through the Office of Independent Medical Assistance Director by
19 a person who is or has been participating in or administering
20 medical assistance programs or by a person who aids or abets
21 others in the commission of fraudulent acts affecting medical
22 assistance.

23 (5) To collect data on its programs and services, including
24 efforts aimed at preventative health care, to provide [the
25 General Assembly with adequate information] to the Office of
26 Independent Medical Assistance Director, who will compile the
27 data for use by the General Assembly to determine the most cost-
28 effective allocation of resources in the medical assistance
29 program.

30 (6) To submit on [a biannual] an annual basis a report

1 prepared by the Office of Independent Medical Assistance
2 Director to the General Assembly regarding the medical
3 assistance population, which shall include aggregate figures,
4 delineated on a monthly basis, for the number of individuals to
5 whom services were provided, the type and incidence of services
6 provided by procedure and the cost per service as well as total
7 expenditures by service.

8 Section 441.7. Income for the Community Spouse.--(a) When a
9 community spouse has income below the monthly maintenance needs
10 allowance as determined under the [department's] regulations
11 [and] adopted by the Office of Independent Medical Assistance
12 Director for the Commonwealth approved State plan under Title
13 XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396
14 et seq.), the institutionalized spouse may transfer additional
15 resources to the community spouse only in accordance with this
16 section.

17 * * *

18 Section 2. Sections 443.1, 443.2, 443.3 and 454(a) and (c)
19 of the act are amended to read:

20 Section 443.1. Medical Assistance Payments for Institutional
21 Care.--The following medical assistance payments shall be made
22 on behalf of eligible persons whose institutional care is
23 prescribed by physicians:

24 (1) Payments as determined by the [department] Office of
25 Independent Medical Assistance Director for inpatient hospital
26 care consistent with Title XIX of the Social Security Act (49
27 Stat. 620, 42 U.S.C. § 1396 et seq.). To be eligible for such
28 payments, a hospital must be qualified to participate under
29 Title XIX of the Social Security Act and have entered into a
30 written agreement with the [department] Office of Independent

1 Medical Assistance Director regarding matters designated by the
2 secretary as necessary to efficient administration, such as
3 hospital utilization, maintenance of proper cost accounting
4 records and access to patients' records. Such efficient
5 administration shall require the [department] Office of
6 Independent Medical Assistance Director to permit participating
7 hospitals to utilize the same fiscal intermediary for this Title
8 XIX program as such hospitals use for the Title XVIII program.

9 (1.1) Subject to section 813-G, for inpatient hospital
10 services provided during a fiscal year in which an assessment is
11 imposed under Article VIII-G, payments under the medical
12 assistance fee-for-service program shall be determined in
13 accordance with the [department's] regulations adopted by the
14 Office of Independent Medical Assistance Director, except as
15 follows:

16 (i) If the Commonwealth's approved Title XIX State Plan for
17 inpatient hospital services in effect for the period of July 1,
18 2010, through June 30, 2018, specifies a methodology for
19 calculating payments that is different from the department's
20 regulations or authorizes additional payments not specified in
21 the department's regulations, such as inpatient disproportionate
22 share payments and direct medical education payments, the
23 department shall follow the methodology or make the additional
24 payments as specified in the approved Title XIX State Plan.

25 (ii) Subject to Federal approval of an amendment to the
26 Commonwealth's approved Title XIX State Plan, in making medical
27 assistance fee-for-service payments to acute care hospitals for
28 inpatient services provided on or after July 1, 2010, the
29 [department] Office of Independent Medical Assistance Director
30 shall use payment methods and standards that provide for all of

1 the following:

2 (A) Use of the All Patient Refined-Diagnosis Related Group
3 (APR/DRG) system for the classification of inpatient stays into
4 DRGs.

5 (B) Calculation of base DRG rates, based upon a Statewide
6 average cost, which are adjusted to account for a hospital's
7 regional labor costs, teaching status, capital and medical
8 assistance patient levels and such other factors as the
9 [department] Office of Independent Medical Assistance Director
10 determines may significantly impact the costs that a hospital
11 incurs in delivering inpatient services and which may be
12 adjusted based on the assessment revenue collected under Article
13 VIII-G.

14 (C) Adjustments to payments for outlier cases where the
15 costs of the inpatient stays either exceed or are below cost
16 thresholds established by the [department] Office of
17 Independent Medical Assistance Director.

18 (iii) Notwithstanding subparagraph (i), the [department]
19 Office of Independent Medical Assistance Director may make
20 additional changes to its payment methods and standards for
21 inpatient hospital services consistent with Title XIX of the
22 Social Security Act, including changes to supplemental payments
23 currently authorized in the State plan based on the availability
24 of Federal and State funds.

25 (1.2) Subject to section 813-G, for inpatient acute care
26 hospital services provided under the physical health medical
27 assistance managed care program during State fiscal year 2010-
28 2011, the following shall apply:

29 (i) For inpatient hospital services provided under a
30 participation agreement between an inpatient acute care hospital

1 and a medical assistance managed care organization in effect as
2 of June 30, 2010, the medical assistance managed care
3 organization shall pay, and the hospital shall accept as payment
4 in full, amounts determined in accordance with the payment terms
5 and rate methodology specified in the agreement and in effect as
6 of June 30, 2010, during the term of that participation
7 agreement. If a participation agreement in effect as of June 30,
8 2010, uses the [department] fee for service DRG rate methodology
9 in determining payment amounts, the medical assistance managed
10 care organization shall pay, and the hospital shall accept as
11 payment in full, amounts determined in accordance with the fee
12 for service payment methodology in effect as of June 30, 2010,
13 including, without limitation, continuation of the same grouper,
14 outlier methodology, base rates and relative weights, during the
15 term of that participation agreement.

16 (ii) Nothing in subparagraph (i) shall prohibit payment
17 rates for inpatient acute care hospital services provided under
18 a participation agreement to change from the rates in effect as
19 of June 30, 2010, if the change in payment rates is authorized
20 by the terms of the participation agreement between the
21 inpatient acute care hospital and the medical assistance managed
22 care organization. For purposes of this act, any contract
23 provision that provides that payment rates and changes to
24 payment rates shall be calculated based upon the department's
25 fee for service DRG payment methodology shall be interpreted to
26 mean the [department's] fee for service medical assistance DRG
27 methodology in place on June 30, 2010.

28 (iii) If a participation agreement between a hospital and a
29 medical assistance managed care organization terminates during a
30 fiscal year in which an assessment is imposed under Article

1 VIII-G prior to the expiration of the term of the participation
2 agreement, payment for services, other than emergency services,
3 covered by the medical assistance managed care organization and
4 rendered by the hospital shall be made at the rate in effect as
5 of the termination date, as adjusted in accordance with
6 subparagraphs (i) and (ii), during the period in which the
7 participation agreement would have been in effect had the
8 agreement not terminated. The hospital shall receive the
9 supplemental payment in accordance with subparagraph (v).

10 (iv) If a hospital and a medical assistance managed care
11 organization do not have a participation agreement in effect as
12 of June 30, 2010, the medical assistance managed care
13 organization shall pay, and the hospital shall accept as payment
14 in full, for services, other than emergency services, covered by
15 the medical assistance managed care organization and rendered
16 during a fiscal year in which an assessment is imposed under
17 Article VIII-G, an amount equal to the rates payable for the
18 services by the medical assistance fee for service program as of
19 June 30, 2010. The hospital shall receive the supplemental
20 payment in accordance with subparagraph (v).

21 (v) The [department] Office of Independent Medical
22 Assistance Director shall make enhanced capitation payments to
23 medical assistance managed care organizations if necessary
24 exclusively for the purpose of making supplemental payments to
25 hospitals in order to promote continued access to quality care
26 for medical assistance recipients. Medical assistance managed
27 care organizations shall use the enhanced capitation payments
28 received pursuant to this section solely for the purpose of
29 making supplemental payments to hospitals and shall provide
30 documentation to the [department] Office of Independent Medical

1 Assistance Director certifying that all funds received in this
2 manner are used in accordance with this section. The
3 supplemental payments to hospitals made pursuant to this
4 subsection are in lieu of increased or additional payments for
5 inpatient acute care services from medical assistance managed
6 care organizations resulting from the [department's] Office of
7 Independent Medical Assistance Director's implementation of
8 payments under paragraph (1.1)(ii). Medical assistance managed
9 care organizations shall in no event be obligated under this
10 section to make supplemental or other additional payments to
11 hospitals that exceed the enhanced capitation payments made to
12 the medical assistance managed care organization under this
13 section. Medical assistance managed care organizations shall not
14 be required to advance the supplemental payments to hospitals
15 authorized by this subsection and shall only make the
16 supplemental payments to hospitals once medical assistance
17 managed care organizations have received the enhanced capitation
18 payments from the [department] Office of Independent Medical
19 Assistance Director.

20 (vi) Nothing in this subsection shall prohibit an inpatient
21 acute care hospital and a medical assistance managed care
22 organization from executing a new participation agreement or
23 amending an existing participation agreement on or after July 1,
24 2010, in which they agree to payment terms that would result in
25 payments that are different than the payments determined in
26 accordance with subparagraphs (i), (ii), (iii) and (iv).

27 (1.3) Subject to section 813-G, the [department] Office of
28 Independent Medical Assistance Director may adjust its
29 capitation payments to medical assistance managed care
30 organizations under the physical health medical assistance

1 managed care program during State fiscal year 2011-2012 to
2 provide additional funds for inpatient hospital services to
3 mitigate the impact, if any, to the managed care organizations
4 that may result from the changes to the [department's] Office of
5 Independent Medical Assistance Director's payment methods and
6 standards specified in paragraph (1.1)(ii). If the [department]
7 Office of Independent Medical Assistance Director adjusts a
8 medical assistance managed care organization's capitation
9 payments pursuant to this paragraph, the following shall apply:

10 (i) The medical assistance managed care organization shall
11 provide documentation to the [department] Office of Independent
12 Medical Assistance Director identifying how the additional funds
13 received pursuant to this subsection were used by the medical
14 assistance managed care organization.

15 (ii) If the medical assistance managed care organization
16 uses all of the additional funds received pursuant to this
17 subsection to make additional payments to hospitals, the
18 following shall apply:

19 (A) For inpatient hospital services provided under a
20 participation agreement between an inpatient acute care hospital
21 and the medical assistance managed care organization in effect
22 as of June 30, 2010, the medical assistance managed care
23 organization shall pay, and the hospital shall accept as payment
24 in full, amounts determined in accordance with the payment terms
25 and rate methodology specified in the agreement and in effect as
26 of June 30, 2010, during the term of that participation
27 agreement. If a participation agreement in effect as of June 30,
28 2010, uses the [department] fee-for-service DRG rate methodology
29 in determining payment amounts, the medical assistance managed
30 care organization shall pay, and the hospital shall accept as

1 payment in full, amounts determined in accordance with the fee-
2 for-service payment methodology in effect as of June 30, 2010,
3 including, without limitation, continuation of the same grouper,
4 outlier methodology, base rates and relative weights during the
5 term of that participation agreement.

6 (B) Nothing in clause (A) shall prohibit payment rates for
7 inpatient acute care hospital services provided under a
8 participation agreement to change from the rates in effect as of
9 June 30, 2010, if the change in payment rates is authorized by
10 the terms of the participation agreement between the inpatient
11 acute care hospital and the medical assistance managed care
12 organization. For purposes of this act, any contract provision
13 that provides that payment rates and changes to payment rates
14 shall be calculated based upon the [department's] fee-for-
15 service DRG payment methodology shall be interpreted to mean the
16 department's fee-for-service medical assistance DRG methodology
17 in place on June 30, 2010.

18 (C) For an out-of-network inpatient discharge of a recipient
19 enrolled in a medical assistance managed care organization that
20 occurs in State fiscal year 2011-2012, the medical assistance
21 managed care organization shall pay, and the hospital shall
22 accept as payment in full, the amount that the [department's]
23 fee-for-service program would have paid for the discharge if the
24 recipient were enrolled in the [department's] fee-for-service
25 program and the discharge occurred on June 30, 2010.

26 (D) Nothing in this subparagraph shall prohibit an inpatient
27 acute care hospital and a medical assistance managed care
28 organization from executing a new participation agreement or
29 amending an existing participation agreement on or after July 1,
30 2010, in which they agree to payment terms that would result in

1 payments that are different from the payments determined in
2 accordance with clauses (A), (B) and (C).

3 (1.4) Subject to section 813-G, for inpatient hospital
4 services provided under the physical health medical assistance
5 managed care program during State fiscal years 2012-2013, 2013-
6 2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018, the
7 following shall apply:

8 (A) The [department] Office of Independent Medical
9 Assistance Director may adjust its capitation payments to
10 medical assistance managed care organizations to provide
11 additional funds for inpatient and outpatient hospital services.

12 (B) For an out-of-network inpatient discharge of a recipient
13 enrolled in a medical assistance managed care organization that
14 occurs in State fiscal year 2012-2013, 2013-2014, 2014-2015,
15 2015-2016, 2016-2017 and 2017-2018, the medical assistance
16 managed care organization shall pay, and the hospital shall
17 accept as payment in full, the amount that the [department's]
18 fee-for-service program would have paid for the discharge if the
19 recipient was enrolled in the [department's] fee-for-service
20 program.

21 (C) Nothing in this paragraph shall prohibit an inpatient
22 acute care hospital and a medical assistance managed care
23 organization from executing a new participation agreement or
24 amending an existing participation agreement on or after July 1,
25 2013.

26 (1.5) As used in paragraphs (1.2), (1.3) and (1.4), the
27 following terms shall have the following meanings:

28 (i) "Emergency services" means emergency services as defined
29 in section 1932(b) of the Social Security Act (49 Stat. 620, 42
30 U.S.C. § 1396u-2(b)(2)(B)). The term shall not include

1 poststabilization care services as defined in 42 CFR 438.114(a)
2 (1) (relating to emergency and poststabilization services).

3 (ii) "Medical assistance managed care organization" means a
4 Medicaid managed care organization as defined in section 1903(m)
5 (1)(a) of the Social Security Act (49 Stat. 620, 42 U.S.C. §
6 1396b(m)(1)(a)) that is a party to a Medicaid managed care
7 contract with the [department] Office of Independent Medical
8 Assistance Director, other than a behavioral health managed care
9 organization that is a party to a medical assistance managed
10 care contract with the [department] Office of Independent
11 Medical Assistance Director.

12 (1.6) Notwithstanding any other provision of law or
13 departmental regulation to the contrary, the [department] Office
14 of Independent Medical Assistance Director shall make separate
15 fee-for-service APR/DRG payments for medically necessary
16 inpatient acute care general hospital services provided for
17 normal newborn care and for mothers' obstetrical delivery.

18 (2) The cost of skilled nursing and intermediate nursing
19 care in State-owned geriatric centers, institutions for the
20 mentally retarded, institutions for the mentally ill, and the
21 cost of skilled and intermediate nursing care provided prior to
22 June 30, 2004, in county homes which meet the State and Federal
23 requirements for participation under Title XIX of the Social
24 Security Act and which are approved by the [department] Office
25 of Independent Medical Assistance Director. This cost in county
26 homes shall be as specified by the regulations of the
27 [department] Office of Independent Medical Assistance Director
28 adopted under Title XIX of the Social Security Act and certified
29 to the department by the Auditor General; elsewhere the cost
30 shall be determined by the [department] Office of Independent

1 Medical Assistance Director;

2 (3) Rates on a cost-related basis established by the
3 department for skilled nursing home or intermediate care in a
4 non-public nursing home, when furnished by a nursing home
5 licensed or approved by the department and qualified to
6 participate under Title XIX of the Social Security Act and
7 provided prior to June 30, 2004;

8 (4) Payments as determined by the department for inpatient
9 psychiatric care consistent with Title XIX of the Social
10 Security Act. To be eligible for such payments, a hospital must
11 be qualified to participate under Title XIX of the Social
12 Security Act and have entered into a written agreement with the
13 department regarding matters designated by the secretary as
14 necessary to efficient administration, such as hospital
15 utilization, maintenance of proper cost accounting records and
16 access to patients' records. Care in a private mental hospital
17 provided under the fee for service delivery system shall be
18 limited to thirty days in any fiscal year for recipients aged
19 twenty-one years or older who are eligible for medical
20 assistance under Title XIX of the Social Security Act and for
21 recipients aged twenty-one years or older who are eligible for
22 general assistance-related medical assistance. Exceptions to the
23 thirty-day limit may be granted under section 443.3. Only
24 persons aged twenty-one years or under and aged sixty-five years
25 or older shall be eligible for care in a public mental hospital.
26 This cost shall be as specified by regulations of the
27 [department] Office of Independent Medical Assistance Director
28 adopted under Title XIX of the Social Security Act and certified
29 to the department by the Auditor General for county and non-
30 public institutions;

1 (5) After June 30, 2004, and before June 30, 2007, payments
2 to county and nonpublic nursing facilities enrolled in the
3 medical assistance program as providers of nursing facility
4 services shall be calculated and made as specified in the
5 [department's] regulations in effect on July 1, 2003, except
6 that if the Commonwealth's approved Title XIX State Plan for
7 nursing facility services in effect for the period of July 1,
8 2004, through June 30, 2007, specifies a methodology for
9 calculating county and nonpublic nursing facility payment rates
10 that is different than the department's regulations in effect on
11 July 1, 2003, the [department] Office of Independent Medical
12 Assistance Director shall follow the methodology in the
13 Federally approved Title XIX State plan.

14 (6) For public nursing home care provided on or after July
15 1, 2005, the [department] Office of Independent Medical
16 Assistance Director may recognize the costs incurred by county
17 nursing facilities to provide services to eligible persons as
18 medical assistance program expenditures to the extent the costs
19 qualify for Federal matching funds and so long as the costs are
20 allowable as determined by the department and reported and
21 certified by the county nursing facilities in a form and manner
22 specified by the department. Expenditures reported and certified
23 by county nursing facilities shall be subject to periodic review
24 and verification by the department or the Auditor General.
25 Notwithstanding this paragraph, county nursing facilities shall
26 be paid based upon rates determined in accordance with
27 paragraphs (5) and (7).

28 (7) After June 30, 2007, payments to county and nonpublic
29 nursing facilities enrolled in the medical assistance program as
30 providers of nursing facility services shall be determined in

1 accordance with the methodologies for establishing payment rates
2 for county and nonpublic nursing facilities specified in the
3 [department's] Office of Independent Medical Assistance
4 Director's regulations and the Commonwealth's approved Title XIX
5 State Plan for nursing facility services in effect after June
6 30, 2007. The following shall apply:

7 (i) For the fiscal year 2007-2008, the [department] Office
8 of Independent Medical Assistance Director shall apply a revenue
9 adjustment neutrality factor and make adjustments to county and
10 nonpublic nursing facility payment rates for medical assistance
11 nursing facility services. The revenue adjustment factor shall
12 limit the estimated aggregate increase in the Statewide day-
13 weighted average payment rate over the three-year period
14 commencing July 1, 2005, and ending June 30, 2008, from the
15 Statewide day-weighted average payment rate for medical
16 assistance nursing facility services in fiscal year 2004-2005 to
17 6.912% plus any percentage rate of increase permitted by the
18 amount of funds appropriated for nursing facility services in
19 the General Appropriation Act of 2007. Application of the
20 revenue adjustment neutrality factor shall be subject to Federal
21 approval of any amendments as may be necessary to the
22 Commonwealth's approved Title XIX State Plan for nursing
23 facility services.

24 (ii) The [department] Office of Independent Medical
25 Assistance Director may make additional changes to its
26 methodologies for establishing payment rates for county and
27 nonpublic nursing facilities enrolled in the medical assistance
28 program consistent with Title XIX of the Social Security Act,
29 except that if during a fiscal year an assessment is implemented
30 under Article VIII-A, the department shall not make a change

1 under this subparagraph unless it adopts regulations as provided
2 under section 814-A.

3 (iii) Subject to Federal approval of such amendments as may
4 be necessary to the Commonwealth's approved Title XIX State
5 Plan, the department shall do all of the following:

6 (A) For each fiscal year between July 1, 2008, and June 30,
7 2011, the department shall apply a revenue adjustment neutrality
8 factor to county and nonpublic nursing facility payment rates.
9 For each such fiscal year, the revenue adjustment neutrality
10 factor shall limit the estimated aggregate increase in the
11 Statewide day-weighted average payment rate so that the
12 aggregate percentage rate of increase for the period that begins
13 on July 1, 2005, and ends on the last day of the fiscal year is
14 limited to the amount permitted by the funds appropriated by the
15 General Appropriations Act for those fiscal years.

16 (B) In calculating rates for nonpublic nursing facilities
17 for fiscal year 2008-2009, the department shall continue to
18 include costs incurred by county nursing facilities in the rate-
19 setting database, as specified in the department's regulations
20 in effect on July 1, 2007.

21 (C) The department shall propose regulations that phase out
22 the use of county nursing facility costs as an input in the
23 process of setting payment rates of nonpublic nursing
24 facilities. The final regulations shall be effective July 1,
25 2009, and shall phase out the use of these costs in rate-setting
26 over a period of three rate years, beginning fiscal year 2009-
27 2010 and ending on June 30, 2012.

28 (D) The department shall propose regulations that establish
29 minimum occupancy requirements as a condition for bed-hold
30 payments. The final regulations shall be effective July 1, 2009,

1 and shall phase in these requirements over a period of two rate
2 years, beginning fiscal year 2009-2010.

3 (iv) Subject to Federal approval of such amendments as may
4 be necessary to the Commonwealth's approved Title XIX State
5 Plan, for each fiscal year beginning on or after July 1, 2011,
6 the [department] Office of Independent Medical Assistance
7 Director shall apply a revenue adjustment neutrality factor to
8 county and nonpublic nursing facility payment rates so that the
9 estimated Statewide day-weighted average payment rate in effect
10 for that fiscal year is limited to the amount permitted by the
11 funds appropriated by the General Appropriation Act for the
12 fiscal year. The revenue adjustment neutrality factor shall
13 remain in effect until the sooner of June 30, 2019, or the date
14 on which a new rate-setting methodology for medical assistance
15 nursing facility services which replaces the rate-setting
16 methodology codified in 55 Pa. Code Chs. 1187 (relating to
17 nursing facility services) and 1189 (relating to county nursing
18 facility services) takes effect.

19 (v) Subject to Federal approval of such amendments as may be
20 necessary to the Commonwealth's approved Title XIX State Plan,
21 for fiscal year 2013-2014, the [department] Office of
22 Independent Medical Assistance Director shall make quarterly
23 medical assistance day-one incentive payments to qualified
24 nonpublic nursing facilities. The [department] Office of
25 Independent Medical Assistance Director shall determine the
26 nonpublic nursing facilities that qualify for the quarterly
27 medical assistance day-one incentive payments and calculate the
28 payments using the total Pennsylvania medical assistance (PA MA)
29 days and total resident days as reported by nonpublic nursing
30 facilities under Article VIII-A. The [department's] Office of

1 Independent Medical Assistance Director's determination and
2 calculations under this subparagraph shall be based on the
3 nursing facility assessment quarterly resident day reporting
4 forms available on October 31, January 31, April 30 and July 31.
5 The [department] Office of Independent Medical Assistance
6 Director shall not retroactively revise a medical assistance
7 day-one incentive payment amount based on a nursing facility's
8 late submission or revision of its report after these dates. The
9 [department] Office of Independent Medical Assistance Director,
10 however, may recoup payments based on an audit of a nursing
11 facility's report. The following shall apply:

12 (A) A nonpublic nursing facility shall meet all of the
13 following criteria to qualify for a medical assistance day-one
14 incentive payment:

15 (I) The nursing facility shall have an overall occupancy
16 rate of at least 85% during the resident day quarter. For
17 purposes of determining a nursing facility's overall occupancy
18 rate, a nursing facility's total resident days, as reported by
19 the facility under Article VIII-A, shall be divided by the
20 product of the facility's licensed bed capacity, at the end of
21 the quarter, multiplied by the number of calendar days in the
22 quarter.

23 (II) The nursing facility shall have a medical assistance
24 occupancy rate of at least 65% during the resident day quarter.
25 For purposes of determining a nursing facility's medical
26 assistance occupancy rate, the nursing facility's total PA MA
27 days shall be divided by the nursing facility's total resident
28 days, as reported by the facility under Article VIII-A.

29 (III) The nursing facility shall be a nonpublic nursing
30 facility for a full resident day quarter prior to the applicable

1 quarterly reporting due dates of October 31, January 31, April
2 30 and July 31.

3 (B) The [department] Office of Independent Medical
4 Assistance Director shall calculate a qualified nonpublic
5 nursing facility's medical assistance day-one incentive
6 quarterly payment as follows:

7 (I) The total funds appropriated for payments under this
8 subparagraph shall be divided by four.

9 (II) To establish the quarterly per diem rate, the amount
10 under subclause (I) shall be divided by the total PA MA days, as
11 reported by all qualifying nonpublic nursing facilities under
12 Article VIII-A.

13 (III) To determine a qualifying nonpublic nursing facility's
14 quarterly medical assistance day-one incentive payment, the
15 quarterly per diem rate shall be multiplied by a nonpublic
16 nursing facility's total PA MA days, as reported by the facility
17 under Article VIII-A.

18 (C) For fiscal year 2013-2014, the State funds available for
19 the nonpublic nursing facility medical assistance day-one
20 incentive payments shall equal eight million dollars
21 (\$8,000,000).

22 (vi) Subject to Federal approval of such amendments as may
23 be necessary to the Commonwealth's approved Title XIX State
24 Plan, for fiscal years 2015-2016, 2016-2017 and 2018-2019, the
25 [department] Office of Independent Medical Assistance Director
26 shall make up to four medical assistance day-one incentive
27 payments to qualified nonpublic nursing facilities. The
28 department shall determine the nonpublic nursing facilities that
29 qualify for the medical assistance day-one incentive payments
30 and calculate the payments using the total Pennsylvania medical

1 assistance (PA MA) days and total resident days as reported by
2 nonpublic nursing facilities under Article VIII-A. The
3 department's determination and calculations under this
4 subparagraph shall be based on the nursing facility assessment
5 quarterly resident day reporting forms, as determined by the
6 department. The department shall not retroactively revise a
7 medical assistance day-one incentive payment amount based on a
8 nursing facility's late submission or revision of the
9 department's report after the dates designated by the
10 department. The department, however, may recoup payments based
11 on an audit of a nursing facility's report. The following shall
12 apply:

13 (A) A nonpublic nursing facility shall meet all of the
14 following criteria to qualify for a medical assistance day-one
15 incentive payment:

16 (I) The nursing facility shall have an overall occupancy
17 rate of at least eighty-five percent during the resident day
18 quarter. For purposes of determining a nursing facility's
19 overall occupancy rate, a nursing facility's total resident
20 days, as reported by the facility under Article VIII-A, shall be
21 divided by the product of the facility's licensed bed capacity,
22 at the end of the quarter, multiplied by the number of calendar
23 days in the quarter.

24 (II) The nursing facility shall have a medical assistance
25 occupancy rate of at least sixty-five percent during the
26 resident day quarter. For purposes of determining a nursing
27 facility's medical assistance occupancy rate, the nursing
28 facility's total PA MA days shall be divided by the nursing
29 facility's total resident days, as reported by the facility
30 under Article VIII-A.

1 (III) The nursing facility shall be a nonpublic nursing
2 facility for a full resident day quarter prior to the applicable
3 quarterly reporting due dates, as determined by the department.

4 (B) The department shall calculate a qualified nonpublic
5 nursing facility's medical assistance day-one incentive payment
6 as follows:

7 (I) The total funds appropriated for payments under this
8 subparagraph shall be divided by the number of payments, as
9 determined by the department.

10 (II) To establish the per diem rate for a payment, the
11 amount under subclause (I) shall be divided by the total PA MA
12 days, as reported by all qualifying nonpublic nursing facilities
13 under Article VIII-A for that payment.

14 (III) To determine a qualifying nonpublic nursing facility's
15 medical assistance day-one incentive payment, the per diem rate
16 calculated for the payment shall be multiplied by a nonpublic
17 nursing facility's total PA MA days, as reported by the facility
18 under Article VIII-A for the payment.

19 (C) For fiscal years 2015-2016, 2016-2017 and 2018-2019, the
20 State funds available for the nonpublic nursing facility medical
21 assistance day-one incentive payments shall equal eight million
22 dollars (\$8,000,000).

23 (8) As a condition of participation in the medical
24 assistance program, before any county or nonpublic nursing
25 facility increases the number of medical assistance certified
26 beds in its facility or in the medical assistance program,
27 whether as a result of an increase in beds in an existing
28 facility or the enrollment of a new provider, the facility must
29 seek and obtain advance written approval of the increase in
30 certified beds from the department. The following shall apply:

1 (i) Before July 1, 2009, the department shall propose
2 regulations that would establish the process and criteria to be
3 used to review and respond to requests for increases in medical
4 assistance certified beds, including whether an increase in the
5 number of certified beds is necessary to assure that long-term
6 living care and services under the medical assistance program
7 will be provided in a manner consistent with applicable Federal
8 and State law, including Title XIX of the Social Security Act.

9 (ii) Pending adoption of regulations, a nursing facility's
10 request for advance written approval for an increase in medical
11 assistance certified beds shall be submitted and reviewed in
12 accordance with the process and guidelines contained in the
13 statement of policy published in 28 Pa.B. 138.

14 (iii) The [department] Office of Independent Medical
15 Assistance Director may publish amendments to the statement of
16 policy if the department determines that changes to the process
17 and guidelines for reviewing and responding to requests for
18 approval of increases in medical assistance certified beds will
19 facilitate access to medically necessary nursing facility
20 services or are required to assure that long-term living care
21 and services under the medical assistance program will be
22 provided in a manner consistent with applicable Federal and
23 State law, including Title XIX of the Social Security Act. The
24 [department] Office of Independent Medical Assistance Director
25 shall publish the proposed amendments in the Pennsylvania
26 Bulletin and solicit public comments for thirty days. After
27 consideration of the comments it receives, the [department]
28 Office of Independent Medical Assistance Director may proceed to
29 adopt the amendments by publishing an amended statement of
30 policy in the Pennsylvania Bulletin which shall include its

1 responses to the public comments that it received concerning the
2 proposed amendments.

3 Section 443.2. Medical Assistance Payments for Home Health
4 Care.--The following medical assistance payments shall be made
5 in behalf of eligible persons whose care in the home has been
6 prescribed by a physician, chiropractor or podiatrist:

7 (1) Rates established by the [department] Office of
8 Independent Medical Assistance Director for post-hospital home
9 care, as specified by regulations of the [department] Office of
10 Independent Medical Assistance Director adopted under Title XIX
11 of the Federal Social Security Act for not more than one hundred
12 eighty days following a period of hospitalization, if such care
13 is related to the reason the person was hospitalized and if
14 given by a hospital as comprehensive, hospital type care in a
15 patient's home;

16 (2) Rates established by the [department] Office of
17 Independent Medical Assistance Director for home health care
18 services if such services are furnished by a voluntary or
19 governmental health agency.

20 Section 443.3. Other Medical Assistance Payments.--(a)
21 Payments on behalf of eligible persons shall be made for other
22 services, as follows:

23 (1) Rates established by the [department] Office of
24 Independent Medical Assistance Director for outpatient services
25 as specified by regulations of the department adopted under
26 Title XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. §
27 1396 et seq.) consisting of preventive, diagnostic, therapeutic,
28 rehabilitative or palliative services; furnished by or under the
29 direction of a physician, chiropractor or podiatrist, by a
30 hospital or outpatient clinic which qualifies to participate

1 under Title XIX of the Social Security Act, to a patient to whom
2 such hospital or outpatient clinic does not furnish room, board
3 and professional services on a continuous, twenty-four hour a
4 day basis.

5 (1.1) Rates established by the [department] Office of
6 Independent Medical Assistance Director for observation services
7 provided by or furnished under the direction of a physician and
8 furnished by a hospital. Payment for observation services shall
9 be made in an amount specified by the [department] Office of
10 Independent Medical Assistance Director by notice in the
11 Pennsylvania Bulletin and shall be effective for dates of
12 service on or after July 1, 2016. Payment for observation
13 services shall be subject to conditions specified in the
14 [department's] Office of Independent Medical Assistance Director
15 regulations, including regulations adopted by the [department]
16 Office of Independent Medical Assistance Director to implement
17 this paragraph. Pending adoption of regulations implementing
18 this paragraph, the conditions for payment of observation
19 services shall be specified in a medical assistance bulletin.

20 (2) Rates established by the [department] Office of
21 Independent Medical Assistance Director for (i) other laboratory
22 and X-ray services prescribed by a physician, chiropractor or
23 podiatrist and furnished by a facility other than a hospital
24 which is qualified to participate under Title XIX of the Social
25 Security Act, (ii) physician's services consisting of
26 professional care by a physician, chiropractor or podiatrist in
27 his office, the patient's home, a hospital, a nursing facility
28 or elsewhere, (iii) the first three pints of whole blood, (iv)
29 remedial eye care, as provided in Article VIII consisting of
30 medical or surgical care and aids and services and other vision

1 care provided by a physician skilled in diseases of the eye or
2 by an optometrist which are not otherwise available under this
3 Article, (v) special medical services for school children, as
4 provided in the Public School Code of 1949, consisting of
5 medical, dental, vision care provided by a physician skilled in
6 diseases of the eye or by an optometrist or surgical care and
7 aids and services which are not otherwise available under this
8 article.

9 (3) Notwithstanding any other provision of law, for
10 recipients aged twenty-one years or older receiving services
11 under the fee for service delivery system who are eligible for
12 medical assistance under Title XIX of the Social Security Act
13 and for recipients aged twenty-one years or older receiving
14 services under the fee-for-service delivery system who are
15 eligible for general assistance-related categories of medical
16 assistance, the following medically necessary services:

17 (i) Psychiatric outpatient clinic services not to exceed
18 five hours or ten one-half-hour sessions per thirty consecutive
19 day period.

20 (ii) Psychiatric partial hospitalization not to exceed five
21 hundred forty hours per fiscal year.

22 (b) The [department] Office of Independent Medical
23 Assistance Director may grant exceptions to the limits specified
24 in this section, section 443.1(4) or the department's
25 regulations when any of the following circumstances applies:

26 (1) The [department] Office of Independent Medical
27 Assistance Director determines that the recipient has a serious
28 chronic systemic illness or other serious health condition and
29 denial of the exception will jeopardize the life of or result in
30 the rapid, serious deterioration of the health of the recipient.

1 (2) The [department] Office of Independent Medical
2 Assistance Director determines that granting a specific
3 exception to a limit is a cost-effective alternative for the
4 medical assistance program.

5 (3) The [department] Office of Independent Medical
6 Assistance Director determines that granting an exception to a
7 limit is necessary in order to comply with Federal law.

8 (c) The [Secretary of Public Welfare] Office of Independent
9 Medical Assistance Director shall promulgate regulations
10 pursuant to section 204(1)(iv) of the act of July 31, 1968
11 (P.L.769, No.240), referred to as the Commonwealth Documents
12 Law, to implement this section. Notwithstanding any other
13 provision of law, the promulgation of regulations under this
14 subsection shall, until December 31, 2005, be exempt from all of
15 the following:

16 (1) Section 205 of the Commonwealth Documents Law.

17 (2) Section 204(b) of the act of October 15, 1980 (P.L.950,
18 No.164), known as the "Commonwealth Attorneys Act."

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

21 Section 454. Medical Assistance Benefit Packages; Coverage,
22 Copayments, Premiums and Rates.--(a) Notwithstanding any other
23 provision of law to the contrary, the [department] Office of
24 Independent Medical Assistance Director shall promulgate
25 regulations as provided in subsection (b) to establish provider
26 payment rates; the benefit packages and any copayments for
27 adults eligible for medical assistance under Title XIX of the
28 Social Security Act (49 Stat 620, 42 U.S.C. § 1396 et seq.) and
29 adults eligible for medical assistance in general assistance-
30 related categories; and the premium or copayment requirements

1 for disabled children whose family income is above two hundred
2 percent of the Federal poverty income limit. Subject to such
3 Federal approval as may be necessary, the regulations shall
4 authorize and describe the available benefit packages and any
5 copayments and premiums, except that the [department] Office of
6 Independent Medical Assistance Director shall set forth the
7 copayment and premium schedule for disabled children whose
8 family income is above two hundred percent of the Federal
9 poverty income limit by publishing a notice in the Pennsylvania
10 Bulletin. The [department] Office of Independent Medical
11 Assistance Director may adjust such copayments and premiums for
12 disabled children by notice published in the Pennsylvania
13 Bulletin. The regulations shall also specify the effective date
14 for provider payment rates.

15 * * *

16 (c) The [department] Office of Independent Medical
17 Assistance Director is authorized to grant exceptions to any
18 limits specified in the benefit packages adopted under this
19 section or when any of the following circumstances applies:

20 (1) The [department] Office of Independent Medical
21 Assistance Director determines the recipient has a serious
22 chronic systemic illness or other serious health condition and
23 denial of the exception will jeopardize the life of or result in
24 the rapid, serious deterioration of the health of the recipient.

25 (2) The [department] Office of Independent Medical
26 Assistance Director determines that granting a specific
27 exception to a limit is a cost-effective alternative for the
28 medical assistance program.

29 (3) The department determines that granting an exception to
30 a limit is necessary in order to comply with Federal law.

1 * * *

2 Section 3. The act is amended by adding an article to read:

3 ARTICLE IV-A

4 OFFICE OF INDEPENDENT MEDICAL ASSISTANCE DIRECTOR

5 Section 401-A. Declaration of purpose.

6 The General Assembly finds and declares that the intent of
7 this article is to ensure that the Commonwealth's current
8 medical assistance programs provide all of the following:

9 (1) Budget stability and predictability through defined
10 outcomes, performance and accountability.

11 (2) A balance of quality, patient satisfaction,
12 financial measures and self-sufficiency.

13 (3) The most efficient and cost-effective services,
14 administrative systems and structures.

15 (4) A sustainable and uniform delivery system across the
16 Commonwealth's departments and agencies.

17 (5) Services are offered to assist recipients attain
18 independence or self-care.

19 Section 402-A. Definitions.

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

23 "Commonwealth agency." A State agency, department, board,
24 office, bureau, division, committee or council.

25 "Director." The Director of the Office of Independent
26 Medical Assistance Director.

27 Section 403-A. Office of Independent Medical Assistance
28 Director.

29 (a) Establishment.--The Office of Independent Medical
30 Assistance Director is established within the department for

1 budgetary purposes.

2 (b) Employees.--Employees of any Commonwealth agency who
3 operate and administer medical assistance programs prior to the
4 effective date of this section shall be transferred to the
5 Office of Independent Medical Assistance Director at the
6 discretion of the director. The funds that pay for the salaries
7 of the employees transferred under this section shall be paid
8 out of the encumbered funds of the agency from which the
9 employee was transferred.

10 (c) Funding.--All funding from any Federal or State sources
11 regarding the operation of the Commonwealth's medical assistance
12 programs shall be transferred into a restricted account in the
13 General Fund in accordance with the following:

14 (1) Money from the restricted account may be transferred
15 only upon the approval of the director or the director's
16 designee, as prescribed under this article.

17 (2) The director shall coordinate payments from the
18 Commonwealth's medical assistance programs with the State
19 Treasurer to optimize the Commonwealth's cash flow within the
20 General Fund and total operating budget.

21 Section 404-A. Director of the Office of Independent Medical
22 Assistance Director.

23 (a) Appointment.--The Governor shall appoint the director
24 from the list submitted by the Selection and Organization
25 Committee under subsection (c) for a term of six years and
26 subject to confirmation by the Senate. The initial term of
27 office for the director shall commence upon confirmation by the
28 Senate and shall expire June 30, 2022. After June 30, 2022, the
29 term of office for the director shall be six years and shall
30 commence on July 1 after the date of confirmation. A director

1 may serve more than one term if selected by the Selection and
2 Organization Committee.

3 (b) Committee.--The Selection and Organization Committee is
4 established for the purpose of comprising a list of potential
5 nominees for director. The committee shall consist of the
6 following:

7 (1) The chair and minority chair of the Appropriations
8 Committee of the Senate and the chair and minority chair of
9 the Appropriations Committee of the House of Representatives.

10 (2) The Majority Leader and the Minority Leader of the
11 Senate and the Majority Leader and the Minority Leader of the
12 House of Representatives.

13 (3) The President pro tempore of the Senate and the
14 Speaker of the House of Representatives.

15 (5) The chair and minority chair of the Health and Human
16 Services Committee of the Senate.

17 (6) The chair and minority chair of the Health Committee
18 of the House of Representatives.

19 (c) Nomination.--The following shall apply:

20 (1) The Selection and Organization Committee shall
21 submit no more than three potential nominees to the Governor
22 within 30 days of a vacancy.

23 (2) The Governor shall submit a nominee from the list
24 submitted under paragraph (1) for director to the Senate for
25 confirmation no later than May 1 of the year when the term of
26 office expires.

27 (3) If the Governor fails to submit a nominee under
28 paragraph (2) by May 1 of the year when the term of office
29 expires, the President pro tempore of the Senate and the
30 Speaker of the House of Representatives shall jointly submit

1 a nominee to the Senate on or before May 15 of the same year
2 by resolution. The resolution shall include all of the
3 following:

4 (i) The name of the nominee.

5 (ii) The effective date of the appointment.

6 (iii) The date of expiration of the term of office.

7 (iv) The residence of the nominee.

8 (v) A clause providing that the nominee is submitted
9 upon joint recommendation of the President pro tempore of
10 the Senate and the Speaker of the House of
11 Representatives.

12 (4) If a nominee for director is not confirmed within 30
13 days of submission to the Senate, a new nominee for director
14 shall be submitted to the Senate.

15 (d) Vacancy.--The following shall apply if the position of
16 director is vacant:

17 (1) If the vacancy occurs before the director's term of
18 office expires, the Governor shall submit a nominee from the
19 list submitted by the Selection and Organization Committee
20 under subsection (c) for director to the Senate no later than
21 60 days after the vacancy occurs.

22 (2) If the vacancy occurs when the General Assembly is
23 not in session, the Governor shall appoint an acting director
24 until such time as the General Assembly has reconvened. An
25 acting director may not serve for more than three months.

26 (3) If no director has been approved within 3 months of
27 a vacancy, a new director shall be appointed in accordance
28 with paragraph (1).

29 (e) Removal.--The Governor may remove the director only if
30 the director has committed a breach of public trust or violated

1 the laws of this Commonwealth.

2 Section 405-A. Powers and duties of director.

3 The director shall have the following powers and duties:

4 (1) Administering medical assistance programs in a
5 manner in which the total expenditures, net of agency
6 receipts, do not exceed the authorized budget for the medical
7 assistance programs.

8 (2) Employing clerical and professional staff for the
9 Office of Independent Medical Assistance Director, including
10 consultants, actuaries and legal counsel, for the purpose of
11 administering medical assistance programs. The director may
12 offer employment contracts for specified terms and set
13 compensation for the employees, which may include
14 performance-based bonuses based on meeting budget or other
15 targets.

16 (3) Notwithstanding any other provisions of law,
17 entering into and managing contracts for the administration
18 of medical assistance programs, which shall include all of
19 the following:

20 (i) Expected outcomes to improve the health and
21 well-being of residents of this Commonwealth.

22 (ii) Value-based purchasing.

23 (iii) The use of evidence-based programs.

24 (iv) The development of medical homes.

25 (v) Uniform coordination of services.

26 (vi) Cost containment provisions.

27 (vii) Maximizing the amount of Federal funds.

28 (viii) Recommendations for identifying cost savings
29 within medical assistance programs.

30 (4) Establishing and adjusting all components of

1 medical assistance programs within the appropriated and
2 allocated budget.

3 (5) Adopting rules and regulations relating to medical
4 assistance programs in accordance with Executive Order 1996-
5 1.

6 (6) Developing mid-year budget correction plans and
7 strategies and taking mid-year budget corrective actions as
8 necessary to keep medical assistance programs within budget.

9 (7) Approving or disapproving and overseeing all
10 expenditures to be allocated to medical assistance programs.

11 (8) Developing and providing to the Office of the
12 Budget, the Appropriations Committee of the Senate, the
13 Appropriations Committee of the House of Representatives and
14 the Independent Fiscal Office by January 1, 2018, and each
15 year thereafter, the following information about medical
16 assistance programs:

17 (i) A detailed four-year forecast of expected
18 changes to enrollment growth and enrollment demographics.

19 (ii) Changes that will be implemented by the
20 department in order to stay within the existing budget
21 based on the next fiscal year's forecasted enrollment
22 growth and enrollment demographics.

23 (iii) The cost to maintain the current level of
24 services based on the next fiscal year's forecasted
25 enrollment growth and enrollment demographics.

26 (9) Creating a publicly accessible Internet website for
27 the Office of Independent Medical Assistance Director and
28 updating the website on at least a monthly basis with the
29 following information about the medical assistance programs:

30 (i) Enrollment by medical assistance program aid

1 category by county.

2 (ii) Per member, per month spending by category of
3 service.

4 (iii) Spending and receipts by fund, including a
5 detailed variance analysis.

6 (iv) A comparison of the figures specified under
7 subparagraphs (i), (ii) and (iii) to the amounts
8 forecasted and budgeted for the corresponding time
9 period.

10 (10) Developing performance measures and outcomes for
11 programs under the director's jurisdiction and programs which
12 are billed against medical assistance programs.

13 (11) Making annual recommendations to the Governor and
14 the General Assembly to streamline programs to provide better
15 services for residents of this Commonwealth at a lower cost
16 to taxpayers who reside within this Commonwealth.

17 (12) Serving at the pleasure of the residents of this
18 Commonwealth in an independent manner.

19 (13) Developing and implementing policies to address
20 excessive utilization of health care services.

21 (14) Ensuring that services are coordinated throughout
22 Commonwealth agencies, including physical health, behavioral
23 health, long-term services and supports and third-party
24 insurances.

25 Section 406-A. Amendments to State plan for medical assistance
26 programs.

27 (a) Authority.--The director shall have the sole authority
28 to manage all medical assistance programs in the Commonwealth,
29 including, but not limited to, being the sole authority for
30 submitting an amendment to the State's plan under Title XIX of

1 the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.)
2 to the Centers for Medicare and Medicaid services offered under
3 any of the Commonwealth's medical assistance programs.

4 (b) Amendments.--The director may take all necessary action
5 to amend the State plan for medical assistance programs in order
6 to keep medical assistance programs within the certified budget,
7 including State plan amendments, waivers and waiver amendments.

8 (c) Submission.--An amendment to the State plan for medical
9 assistance programs shall be submitted by the director in
10 accordance with the following:

11 (1) A law of this Commonwealth mandating that the
12 director submit an amendment to the State plan for medical
13 assistance programs.

14 (2) A law of this Commonwealth which changes medical
15 assistance programs and requires approval from the Federal
16 Government.

17 (3) A change in Federal law which requires an amendment
18 to the State plan for medical assistance programs.

19 (4) An order of a court of competent jurisdiction if the
20 amendment to the State plan for medical assistance programs
21 is necessary to implement the order.

22 (5) In a manner as required to maintain Federal funding
23 for medical assistance programs.

24 (d) Notice.--No less than 30 days before submitting an
25 amendment to the State plan for medical assistance programs to
26 the Federal Government, the director shall post the amendment on
27 the Office of Independent Medical Assistance Director's publicly
28 accessible Internet website and notify the members of the
29 General Assembly and the Independent Fiscal Office that the
30 amendment has been posted. The notice requirement under this

1 subsection shall not apply to a draft or proposed amendment
2 submitted to the Federal Government for comments and not for
3 approval.

4 Section 407-A. Use of funds.

5 The Office of Independent Medical Assistance Director shall
6 use encumbered funds appropriated to the department to implement
7 this article.

8 Section 408-A. Legislative oversight powers.

9 The Appropriations Committee of the Senate and the
10 Appropriations Committee of House of Representatives, while in
11 discharge of official duties, shall have access to any document
12 and may compel the attendance of an employee or secure any
13 evidence.

14 Section 409-A. Duties of Commonwealth agencies.

15 The following shall apply:

16 (1) A Commonwealth agency shall not interfere with the
17 duties of the director or withhold information requested by
18 the director.

19 (2) A Commonwealth agency shall coordinate with the
20 director to ensure the residents of this Commonwealth have a
21 continuity of care.

22 Section 410-A. Regulations.

23 The Office of Independent Medical Assistance Director shall
24 promulgate regulations.

25 Section 411-A. Construction.

26 Nothing in this article may be construed to limit the budget
27 authority of the Office of the Budget under Article VI of the
28 act of April 9, 1929 (P.L.177, No.175), known as The
29 Administrative Code of 1929.

30 Section 4. All acts and parts of acts are repealed insofar

1 as they are inconsistent with this act.

2 Section 5. This act shall take effect July 1, 2019, or
3 immediately, whichever is later.