
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 50 Session of
2019

INTRODUCED BY HUGHES, COLLETT, COSTA, BLAKE, BOSCOLA, BREWSTER,
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A. WILLIAMS, L. WILLIAMS, YUDICHAK AND BROWNE, MARCH 4, 2019

REFERRED TO BANKING AND INSURANCE, MARCH 4, 2019

AN ACT

1 Providing for health care insurance coverage protections, for
2 duties of the Insurance Department and the Insurance
3 Commissioner, for regulations, for enforcement and for
4 penalties.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Health
9 Insurance Access Protection Act.

10 Section 2. Definitions.

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

14 "Affordable Care Act." Collectively, the Patient Protection
15 and Affordable Care Act (Public Law 111-148, 124 Stat. 119) and
16 the Health Care and Education Reconciliation Act of 2010 (Public
17 Law 111-152, 124 Stat. 1029).

18 "Commissioner." The Insurance Commissioner of the

1 Commonwealth.

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

3 "Enrollee." A policyholder, subscriber, covered person or
4 other individual who is entitled to receive health care services
5 under a health insurance policy.

6 "Grandfathered health plan." Individual or group health
7 insurance coverage in which an individual was enrolled prior to
8 the date of enactment of the Affordable Care Act or as otherwise
9 specified in section 1251 of the Affordable Care Act (42 U.S.C.
10 § 18011).

11 "Group health insurance policy." A policy, subscriber
12 contract, certificate or plan issued by an insurer that provides
13 medical or health care coverage on an annual basis to
14 individuals who obtain health insurance coverage through a
15 group.

16 "Health factor." An element related to an individual's
17 physical or mental makeup, including:

- 18 (1) Health status.
- 19 (2) Medical condition.
- 20 (3) Claims experience.
- 21 (4) Receipt of health care.
- 22 (5) Medical history.
- 23 (6) Genetic information.
- 24 (7) Evidence of insurability, including conditions
25 arising out of acts of domestic violence.
- 26 (8) Disability.

27 "Health insurance policy." A policy, subscriber contract,
28 certificate or plan issued by an insurer that provides medical
29 or health care coverage. The term does not include any of the
30 following:

- 1 (1) An accident only policy.
- 2 (2) A credit only policy.
- 3 (3) A long-term care or disability income policy.
- 4 (4) A specified disease policy.
- 5 (5) A Medicare supplement policy.
- 6 (6) A fixed indemnity policy.
- 7 (7) A dental only policy.
- 8 (8) A vision only policy.
- 9 (9) A workers' compensation policy.
- 10 (10) An automobile medical payment policy.
- 11 (11) A policy under which benefits are provided by the
- 12 Federal Government to active or former military personnel and
- 13 their dependents.
- 14 (12) Any other similar policies providing for limited
- 15 benefits.

16 "Individual health insurance policy." A policy, subscriber
17 contract, certificate or plan issued by an insurer that provides
18 medical or health care coverage on an annual basis to an
19 individual other than in connection with a group.

20 "Individual market." The market for health insurance
21 coverage offered to individuals other than in connection with a
22 group.

23 "Insurer." An entity that offers, issues or renews an
24 individual or group health insurance policy that provides
25 medical or health care coverage by a health care facility or
26 licensed health care provider and that is governed under any of
27 the following:

- 28 (1) The act of May 17, 1921 (P.L.682, No.284), known as
- 29 The Insurance Company Law of 1921, including section 630 and
- 30 Article XXIV of The Insurance Company Law of 1921.

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

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

5 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
6 services plan corporations).

7 "Pre-existing condition." A health condition present before
8 the date of enrollment for coverage, or if coverage is denied,
9 the date of the denial, whether or not any medical advice,
10 diagnosis, care or treatment was recommended or received before
11 that date.

12 "Small group market." The market for health insurance for
13 coverage offered through a group health insurance policy for a
14 group of 2 to 50 individuals, exclusive of their dependents.

15 "Wellness program." A program offered by an employer that is
16 designed to promote health or prevent disease.

17 Section 3. Prohibitions concerning discrimination based on pre-
18 existing conditions or health factors.

19 (a) Prohibition concerning eligibility for and enrollment in
20 health insurance.--An insurer offering, issuing or renewing an
21 individual or group health insurance policy may not impose any
22 rule for initial or continued eligibility of any individual to
23 enroll in or renew a health insurance policy based on any pre-
24 existing condition or health factor in relation to an individual
25 or a dependent of the individual.

26 (b) Prohibition concerning premium rates.--

27 (1) An insurer offering, issuing or renewing an
28 individual or group health insurance policy may not require
29 an individual to pay a premium rate that is greater than the
30 premium rate for a similarly situated individual enrolled in

1 the policy on the basis of any pre-existing condition or
2 health factor in relation to an individual or a dependent of
3 the individual.

4 (2) Nothing in paragraph (1) shall be construed to
5 prevent an insurer offering a group health insurance policy
6 from establishing premium discounts or rebates or modifying
7 otherwise applicable copayments or deductibles in return for
8 adherence to a wellness program. Pending the promulgation of
9 regulations by the department, a wellness program shall be
10 subject to limitations as may be established in Federal law
11 or regulation.

12 (c) Prohibition concerning benefit coverage.--An insurer
13 offering, issuing or renewing an individual or group health
14 insurance policy may not exclude or deny coverage for any
15 benefit provided for in a policy based on any pre-existing
16 condition or health factor in relation to an individual or a
17 dependent of the individual.

18 Section 4. Limitations on premium rating factors.

19 (a) In general.--With respect to the premium rate charged by
20 an insurer for health insurance coverage offered in the
21 individual or small group market, the premium rate may only vary
22 for a particular plan or coverage based on the following:

23 (1) Family size.

24 (2) Geographic rating area.

25 (3) Age, except that the rate shall not vary by more
26 than 3 to 1 for adults except as provided under subsection
27 (d).

28 (4) Tobacco use, except that the rate shall not vary by
29 more than 1.5 to 1 except as provided under subsection (d).

30 (b) Geographic rating areas.--The department may specify the

1 geographic rating areas by publication on the department's
2 publicly accessible Internet website and submission of a notice
3 to the Legislative Reference Bureau for publication in the
4 Pennsylvania Bulletin. Prior to publication, the department will
5 provide a 30-day comment period and will consult with insurers
6 offering health insurance policies in this Commonwealth.

7 (c) Age bands.--The department may define the permissible
8 age bands for rating purposes by publication on the department's
9 publicly accessible Internet website and submission of a notice
10 to the Legislative Reference Bureau for publication in the
11 Pennsylvania Bulletin. Prior to publication, the department will
12 provide a 30-day comment period and will consult with insurers
13 offering health insurance policies in this Commonwealth.

14 (d) Adjustment of age and tobacco rating variations.--The
15 department may, by regulation, adjust the rating bands for age
16 and tobacco use.

17 Section 5. Single risk pools.

18 (a) Individual market.--An insurer shall consider all
19 enrollees in all health insurance policies offered by the
20 insurer in the individual market, other than grandfathered
21 health plans, to be members of a single risk pool.

22 (b) Small group market.--An insurer shall consider all
23 enrollees in all health insurance policies offered by the
24 insurer in the small group market, other than grandfathered
25 health plans, to be members of a single risk pool.

26 Section 6. Regulations.

27 (a) Authority to promulgate.--The department may promulgate
28 regulations as may be necessary and appropriate to carry out the
29 provisions of this act.

30 (b) Temporary regulations.--

1 (1) Notwithstanding any other provision of law, in order
2 to facilitate the prompt implementation of this act, the
3 department may issue temporary regulations which shall expire
4 no later than two years following publication of the
5 temporary regulations in the Pennsylvania Bulletin. The
6 temporary regulations shall be exempt from the following:

7 (i) Sections 201, 202, 203, 204 and 205 of the act
8 of July 31, 1968 (P.L.769, No.240), referred to as the
9 Commonwealth Documents Law.

10 (ii) Section 204(b) of the act of October 15, 1980
11 (P.L.950, No.164), known as the Commonwealth Attorneys
12 Act.

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

15 (iv) Section 612 of the act of April 9, 1929
16 (P.L.177, No.175), known as The Administrative Code of
17 1929.

18 (2) The authority of the department to issue temporary
19 regulations under this subsection shall expire two years from
20 the effective date of this section. Regulations adopted after
21 the two-year period shall be promulgated as provided by
22 statute.

23 Section 7. Enforcement.

24 (a) General rule.--Upon satisfactory evidence of the
25 violation of any section of this act by an insurer or any other
26 person, one or more of the following penalties may be imposed at
27 the commissioner's discretion:

28 (1) Suspension or revocation of the license of the
29 offending insurer or other person.

30 (2) Refusal, for a period not to exceed one year, to

1 issue a new license to the offending insurer or other person.

2 (3) A fine of not more than \$5,000 for each violation of
3 this act.

4 (4) A fine of not more than \$10,000 for each willful
5 violation of this act.

6 (b) Limitations.--

7 (1) Fines imposed against an individual insurer under
8 this act may not exceed \$500,000 in the aggregate during a
9 single calendar year.

10 (2) Fines imposed against any other person under this
11 act may not exceed \$100,000 in the aggregate during a single
12 calendar year.

13 (c) Additional remedies.--The enforcement remedies imposed
14 under this section are in addition to any other remedies or
15 penalties that may be imposed under any other applicable law of
16 this Commonwealth, including:

17 (1) The act of July 22, 1974 (P.L.589, No.205), known as
18 the Unfair Insurance Practices Act. Violations of this act
19 shall be deemed to be an unfair method of competition and an
20 unfair or deceptive act or practice under the Unfair
21 Insurance Practices Act.

22 (2) The act of December 18, 1996 (P.L.1066, No.159),
23 known as the Accident and Health Filing Reform Act.

24 (3) The act of June 25, 1997 (P.L.295, No.29), known as
25 the Pennsylvania Health Care Insurance Portability Act.

26 (d) Administrative procedure.--The administrative provisions
27 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
28 (relating to practice and procedure of Commonwealth agencies).
29 A party against whom penalties are assessed in an administrative
30 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.

1 Ch. 7 Subch. A (relating to judicial review of Commonwealth
2 agency action).

3 Section 8. Repeals.

4 All acts and parts of acts are repealed insofar as they are
5 inconsistent with this act.

6 Section 9. Effective date.

7 This act shall take effect immediately.