

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 947 Session of 2021

INTRODUCED BY ZIMMERMAN, MILLARD, JAMES, JOZWIAK, GLEIM, MOUL, DRISCOLL, KEEFER, R. BROWN, FREEMAN, BURGOS, RADER, GAYDOS, JONES, IRVIN, SCHLEGEL CULVER AND WHEELAND, MARCH 17, 2021

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 16, 2021

AN ACT

1 ~~Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An~~ <--
2 ~~act relating to insurance; amending, revising, and~~
3 ~~consolidating the law providing for the incorporation of~~
4 ~~insurance companies, and the regulation, supervision, and~~
5 ~~protection of home and foreign insurance companies, Lloyds~~
6 ~~associations, reciprocal and inter insurance exchanges, and~~
7 ~~fire insurance rating bureaus, and the regulation and~~
8 ~~supervision of insurance carried by such companies,~~
9 ~~associations, and exchanges, including insurance carried by~~
10 ~~the State Workmen's Insurance Fund; providing penalties; and~~
11 ~~repealing existing laws," in casualty insurance, providing~~
12 ~~for furnishing claims experience to policyholders.~~

13 AMENDING TITLE 40 (INSURANCE) OF THE PENNSYLVANIA CONSOLIDATED <--
14 STATUTES, IN REGULATION OF INSURERS AND RELATED PERSONS
15 GENERALLY, PROVIDING FOR GROUP MARKET PROVISIONS.

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

18 ~~Section 1. The act of May 17, 1921 (P.L.682, No.284), known~~ <--
19 ~~as The Insurance Company Law of 1921, is amended by adding a~~
20 ~~section to read:~~

21 ~~Section 621.6. Furnishing Claims Experience to~~
22 ~~Policyholders. (a) Subject to the other provisions of this~~
23 ~~section, each insurer shall furnish, regardless of the rating~~

1 ~~methodology used, claims experience to group policyholders~~
2 ~~within thirty days of a policyholder's request unless the~~
3 ~~information has been furnished to the group policyholder within~~
4 ~~the preceding six months.~~

5 ~~(b) Claims experience shall be furnished for all groups of~~
6 ~~fifty one or more covered employees, members or enrollees, not~~
7 ~~including dependents.~~

8 ~~(c) Claims experience shall include the following:~~

9 ~~(1) Earned premiums separated by policy year for at least~~
10 ~~the last two policy years, if applicable.~~

11 ~~(2) Total paid claims and total incurred claims, inclusive~~
12 ~~of any high amount or pooled claims, including both capitated~~
13 ~~and noncapitated expenses specified in the same manner as~~
14 ~~premiums.~~

15 ~~(3) Any amounts in excess of the individual pooling or stop~~
16 ~~loss point applicable to the group.~~

17 ~~(d) An insurer that utilizes provider contracting methods,~~
18 ~~including financial devices such as global fee arrangements, to~~
19 ~~cover all medical expenses may apply to the commissioner for~~
20 ~~approval of the use of an alternative form of claims experience~~
21 ~~reporting. The following shall apply:~~

22 ~~(1) The insurer shall provide Commonwealth experience on a~~
23 ~~group specific basis or on another reasonable basis as the~~
24 ~~commissioner may approve for the insurer, in advance, based upon~~
25 ~~a submission of an explanation and supporting documentation.~~

26 ~~(2) An insurer that received approval for an alternative~~
27 ~~form of group claims experience reporting to policyholders shall~~
28 ~~be required to seek the commissioner's advance approval of a~~
29 ~~proposed response letter to group policyholders who request~~
30 ~~experience reporting. The letter shall describe the insurer's~~

1 ~~reasons for seeking an alternative reporting process and~~
2 ~~describe the alternative form of reporting approved by the~~
3 ~~commissioner.~~

4 ~~(e) An insurer may charge a reasonable fee for providing the~~
5 ~~information under this section to group policyholders. The~~
6 ~~schedule or amount of fees to be charged to group policyholders~~
7 ~~for providing the information shall be filed by each insurer~~
8 ~~with the commissioner.~~

9 ~~(f) In providing claims experience to group policyholders~~
10 ~~under this section, an insurer shall adhere to all Federal and~~
11 ~~State laws regarding disclosure of protected health or personal~~
12 ~~information.~~

13 ~~(g) As used in this section:~~

14 ~~"Commissioner" means the Insurance Commissioner of the~~
15 ~~Commonwealth.~~

16 ~~"Insurer" means an entity licensed by the Insurance~~
17 ~~Department with accident and health authority to issue a policy,~~
18 ~~subscriber contract, certificate or plan that provides medical~~
19 ~~or health care coverage, including emergency services, and is~~
20 ~~offered or governed under any of the following:~~

21 ~~(1) This act, including section 630 and Article XXIV.~~

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

24 ~~(3) 40 Pa.C.S. Ch. 61 (relating to hospital plan~~
25 ~~corporations) or 63 (relating to professional health services~~
26 ~~plan corporations).~~

27 SECTION 1. TITLE 40 OF THE PENNSYLVANIA CONSOLIDATED
28 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

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29 CHAPTER 41
30 GROUP MARKET PROVISIONS

1 SUBCHAPTER

2 A. PRELIMINARY PROVISIONS

3 B. PROCEDURES

4 C. MISCELLANEOUS PROVISIONS

5 SUBCHAPTER A

6 PRELIMINARY PROVISIONS

7 SEC.

8 4101. DEFINITIONS.

9 § 4101. DEFINITIONS.

10 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
11 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
12 CONTEXT CLEARLY INDICATES OTHERWISE:

13 "COMMISSIONER." THE INSURANCE COMMISSIONER OF THE
14 COMMONWEALTH.

15 "DEPARTMENT." THE INSURANCE DEPARTMENT OF THE COMMONWEALTH.

16 "INSURER." AN ENTITY LICENSED BY THE DEPARTMENT WITH
17 ACCIDENT AND HEALTH AUTHORITY TO ISSUE A POLICY, SUBSCRIBER
18 CONTRACT, CERTIFICATE OR PLAN THAT PROVIDES MEDICAL OR HEALTH
19 CARE COVERAGE, INCLUDING EMERGENCY SERVICES, AND IS OFFERED OR
20 GOVERNED UNDER ANY OF THE FOLLOWING:

21 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS
22 THE INSURANCE COMPANY LAW OF 1921, INCLUDING SECTION 630 AND
23 ARTICLE XXIV THEREOF.

24 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),
25 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

26 (3) CHAPTER 61 (RELATING TO HOSPITAL PLAN CORPORATIONS)
27 OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN
28 CORPORATIONS).

29 SUBCHAPTER B

30 PROCEDURES

1 SEC.

2 4111. FURNISHING CLAIMS EXPERIENCE DATA TO POLICYHOLDERS.

3 § 4111. FURNISHING CLAIMS EXPERIENCE DATA TO POLICYHOLDERS.

4 (A) GENERAL RULE.--SUBJECT TO THE OTHER PROVISIONS OF THIS
5 CHAPTER, EACH INSURER SHALL FURNISH CLAIMS EXPERIENCE DATA TO
6 GROUP POLICYHOLDERS WITHIN 30 DAYS OF A GROUP POLICYHOLDER'S
7 REQUEST UNLESS THE INFORMATION HAS BEEN FURNISHED TO THE GROUP
8 POLICYHOLDER WITHIN THE PRECEDING SIX MONTHS.

9 (B) APPLICABLE GROUP SIZE.--CLAIMS EXPERIENCE DATA SHALL BE
10 FURNISHED FOR EACH GROUP OF 51 OR MORE COVERED EMPLOYEES, MEMBERS
11 OR ENROLLEES, NOT INCLUDING DEPENDENTS.

12 (C) CLAIMS EXPERIENCE DATA DEFINED.--FOR PURPOSES OF THIS
13 CHAPTER, CLAIMS EXPERIENCE DATA INCLUDES, FOR AT LEAST THE LAST
14 TWO POLICY YEARS, IF APPLICABLE, SEPARATED BY POLICY YEAR, THE
15 AGGREGATED DOLLAR VALUE OF EACH OF THE FOLLOWING:

16 (1) EARNED PREMIUMS.

17 (2) TOTAL INCURRED CLAIMS, INCLUDING PAID, RESERVED AND
18 INCURRED BUT NOT RESERVED CLAIMS, INCLUSIVE OF HIGH AMOUNT
19 CLAIMS, POOLED CLAIMS, CAPITATED EXPENSES AND NONCAPITATED
20 EXPENSES.

21 (3) ANY AMOUNTS INCURRED IN EXCESS OF THE INDIVIDUAL
22 POOLING OR STOP-LOSS POINT APPLICABLE TO THE GROUP.

23 (4) ANY AMOUNTS UNDER A PROVIDER REIMBURSEMENT
24 METHODOLOGY OTHER THAN FEE FOR SERVICE THAT WERE ALLOCATED TO
25 THE GROUP OR OTHERWISE ACCOUNTED FOR IN RATING THE GROUP'S
26 POLICY.

27 (D) FEE PERMITTED.--AN INSURER MAY CHARGE A FEE FOR
28 PROVIDING THE CLAIMS EXPERIENCE DATA TO A GROUP POLICYHOLDER.
29 THE FEE SHALL BE:

30 (1) REASONABLE.

1 VIOLATION OF THIS CHAPTER.

2 (B) LIMITATIONS.--

3 (1) FINES IMPOSED UNDER THIS SECTION AGAINST AN INSURER
4 MAY NOT EXCEED \$500,000 IN THE AGGREGATE DURING A SINGLE
5 CALENDAR YEAR.

6 (2) FINES IMPOSED UNDER THIS SECTION AGAINST ANY OTHER
7 PERSON MAY NOT EXCEED \$100,000 IN THE AGGREGATE DURING A
8 SINGLE CALENDAR YEAR.

9 (C) ADDITIONAL REMEDIES.--THE ENFORCEMENT REMEDIES IMPOSED
10 UNDER THIS SECTION ARE IN ADDITION TO OTHER REMEDIES OR
11 PENALTIES THAT MAY BE IMPOSED UNDER OTHER APPLICABLE LAW OF THIS
12 COMMONWEALTH, INCLUDING:

13 (1) THE ACT OF DECEMBER 18, 1996 (P.L.1066, NO.159),
14 KNOWN AS THE ACCIDENT AND HEALTH FILING REFORM ACT.

15 (2) THE ACT OF JULY 22, 1974 (P.L.589, NO.205), KNOWN AS
16 THE UNFAIR INSURANCE PRACTICES ACT. VIOLATIONS OF THIS
17 CHAPTER SHALL BE DEEMED TO BE UNFAIR METHODS OF COMPETITION
18 AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES UNDER THE UNFAIR
19 INSURANCE PRACTICES ACT.

20 (3) THE ACT OF JUNE 25, 1997 (P.L.295, NO.29), KNOWN AS
21 THE PENNSYLVANIA HEALTH CARE INSURANCE PORTABILITY ACT.

22 (D) ADMINISTRATIVE PROCEDURE.--

23 (1) THE ADMINISTRATIVE PROVISIONS OF THIS SECTION SHALL
24 BE SUBJECT TO 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE
25 AND PROCEDURE OF COMMONWEALTH AGENCIES).

26 (2) A PARTY AGAINST WHOM PENALTIES ARE ASSESSED IN AN
27 ADMINISTRATIVE ACTION MAY APPEAL TO COMMONWEALTH COURT AS
28 PROVIDED IN 2 PA.C.S. CH. 7 SUBCH. A (RELATING TO JUDICIAL
29 REVIEW OF COMMONWEALTH AGENCY ACTION).

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