

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2399 Session of 2024

INTRODUCED BY SAPPEY, GAYDOS, MADDEN, HILL-EVANS, PROBST,
HANBIDGE, ROZZI, FLEMING, KHAN, SANCHEZ, HOWARD, PIELLI,
CONKLIN, FREEMAN AND OTTEN, JUNE 10, 2024

REFERRED TO COMMITTEE ON INSURANCE, JUNE 10, 2024

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 reimbursement for custom-fabricated devices or custom-
13 fitted devices.

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

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

19 Section 635.9. Reimbursement for Custom-fabricated Devices
20 or Custom-fitted Devices.--(a) A health insurance policy
21 offered, issued or renewed in this Commonwealth shall provide
22 coverage for any custom-fabricated device or custom-fitted
23 device, including any component, if prescribed by a health care

1 practitioner who is legally authorized to prescribe the device.

2 The following apply:

3 (1) The coverage for the device shall apply if the health
4 care practitioner determines that the device is medically
5 necessary for any of the following purposes:

6 (i) Completing activities of daily living or essential job-
7 related activities.

8 (ii) Performing physical activities, such as running,
9 biking, swimming or strength training.

10 (iii) Maximizing the enrollee's whole-body health or lower
11 or upper limb function.

12 (2) As follows:

13 (i) Subject to subparagraph (ii), the coverage for the
14 device shall include the fitting, repair or replacement of the
15 device if the health care practitioner determines that the
16 fitting, repair or replacement is medically necessary.

17 (ii) Subparagraph (i) shall not apply if the fitting, repair
18 or replacement of the device is necessitated by the enrollee's:

19 (A) negligence in properly caring for or maintaining the
20 device; or

21 (B) misuse or abuse of the device.

22 (b) A health insurer may require prior authorization to
23 determine medical necessity and the enrollee's eligibility for
24 benefits under this section.

25 (c) A health insurer may require that:

26 (1) A prosthesis or related service be rendered by a
27 provider that contracts with the health insurer.

28 (2) A prosthetic device or component be provided by a vendor
29 designated by the health insurer.

30 (d) Nothing in this section shall be construed to prevent

1 the application of a provision in a health insurance policy
2 relating to a deductible, copayment or coinsurance.

3 (e) For coverage under this section to be operative, a
4 health care practitioner who is legally authorized to prescribe
5 a custom-fabricated device or custom-fitted device, including a
6 component, must certify the medical necessity for the device as
7 a proposed course of treatment.

8 (f) As used in this section:

9 "Activities of daily living" means activities such as eating,
10 drinking, ambulating, transferring in and out of a bed or chair,
11 toileting, bladder and bowel management, personal hygiene and
12 proper turning and positioning in a bed or chair.

13 "Component" means the materials and equipment needed to
14 ensure the comfort and functioning of a custom-fabricated device
15 or custom-fitted device.

16 "Custom-fabricated device" means a prosthesis, orthosis or
17 pedorthic device that is fabricated to comprehensive
18 measurements or a mold for use by a patient in accordance with a
19 prescription and which requires substantial clinical and
20 technical judgment in its design fabrication and fitting.

21 "Custom-fitted device" means a prefabricated prosthesis,
22 orthosis or pedorthic device to accommodate the patient's
23 measurement that is sized or modified for use by the patient in
24 accordance with a prescription and which requires substantial
25 clinical judgment and substantive alterations in its design for
26 appropriate use.

27 "Department" means the Insurance Department of the
28 Commonwealth.

29 "Enrollee" means a policyholder, subscriber or covered person
30 under a health insurance policy.

1 "Health care practitioner" means an individual who is
2 authorized to practice some component of the healing arts by a
3 license, permit, certificate or registration issued by a
4 Commonwealth licensing agency or board.

5 "Health care service" means as defined in section 2102.

6 "Health insurance policy" means a policy, subscriber
7 contract, certificate or plan issued by a health insurer that
8 provides medical or health care coverage. The term does not
9 include any of the following:

10 (1) An accident only policy.

11 (2) A credit only policy.

12 (3) A long-term care or disability income policy.

13 (4) A specified disease policy.

14 (5) A Medicare supplement policy.

15 (6) A TRICARE policy, including a Civilian Health and
16 Medical Program of the Uniformed Services (CHAMPUS) supplement
17 policy.

18 (7) A fixed indemnity policy.

19 (8) A hospital indemnity policy.

20 (9) A dental only policy.

21 (10) A vision only policy.

22 (11) A workers' compensation policy.

23 (12) An automobile medical payment policy under 75 Pa.C.S.
24 (relating to vehicles).

25 (13) A homeowner's insurance policy.

26 (14) Any other similar policy providing for limited
27 benefits.

28 "Health insurer" means an entity licensed by the department
29 with accident and health authority to issue a health insurance
30 policy and is offered or governed under any of the following:

1 (1) Section 630, Article XXIV or another provision of this
2 act.

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

5 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
6 corporations) or 63 (relating to professional health services
7 plan corporations).

8 "MA or CHIP managed care plan" means as defined in section
9 2102.

10 "Orthosis" means a custom-fabricated or custom-fitted device
11 designed to externally provide support, alignment or prevention
12 to the body or a limb for the purposes of correcting or
13 alleviating a neuromuscular or musculoskeletal disease, injury
14 or deformity.

15 "Pedorthic device" means as follows:

16 (1) Therapeutic shoes, a shoe modification made for
17 therapeutic purposes, a partial foot prosthesis, a foot orthosis
18 or a below-the-knee pedorthic modality.

19 (2) The term does not include:

20 (i) A nontherapeutic, accommodative inlay or nontherapeutic
21 accommodative footwear, regardless of the method of manufacture.

22 (ii) Unmodified, nontherapeutic over-the-counter shoes.

23 (iii) A prefabricated unmodified or unmodifiable foot care
24 or footwear product.

25 "Prior authorization" means a prospective utilization review
26 performed by a health insurer or MA or CHIP managed care plan,
27 or by a utilization review entity acting on behalf of a health
28 insurer or MA or CHIP managed care plan, of all reasonably
29 necessary supporting information that occurs prior to the
30 delivery or provision of a health care service and results in a

1 decision to approve or deny payment for the health care service.
2 The term includes step therapy and step therapy exception
3 requests.

4 "Prosthesis" means a custom-designed, custom-fabricated,
5 custom-fitted or custom-modified device to replace an absent
6 external limb for purposes of restoring physiological function
7 that is not surgically implanted. The term does not include
8 artificial eyes, ears, fingers or toes, dental appliances,
9 cosmetic devices, such as artificial breasts, eyelashes or wigs,
10 or other devices that do not have a significant impact on the
11 musculoskeletal functions of the body.

12 "Step therapy" means as defined in section 2102.

13 "Utilization review" means as defined in section 2102.

14 "Utilization review entity" means as defined in section 2102.

15 Section 2. This act shall apply as follows:

16 (1) For health insurance policies for which either rates
17 or forms are required to be filed with the Federal Government
18 or the Insurance Department, this act shall apply to any
19 policy for which a form or rate is first filed on or after
20 the effective date of this paragraph.

21 (2) For health insurance policies for which neither
22 rates nor forms are required to be filed with the Federal
23 Government or the Insurance Department, this act shall apply
24 to any policy issued or renewed on or after 180 days after
25 the effective date of this paragraph.

26 Section 3. This act shall take effect in 60 days.