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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 544 Session of 2023

INTRODUCED BY CAPPELLETTI, HAYWOOD, KANE, FONTANA, PENNYCUICK, COMITTA, SCHWANK, COSTA, SANTARSIERO AND STREET, MARCH 28, 2023

REFERRED TO BANKING AND INSURANCE, MARCH 28, 2023

AN ACT

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," in casualty insurance, providing for coverage for anti-obesity treatments; and abrogating a regulation.

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

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

<u>Section 635.9. Coverage for Anti-Obesity Treatments.--(a) Notwithstanding any other provision of law, all of the following shall be considered compensable items or services under the Commonwealth's medical assistance program:</u>

<u>(1) Bariatric surgery and related treatments for obesity and</u>

morbid obesity when the prescribing physician has issued a written order stating that treatment is in accordance with the patient qualifications and treatment standards provided by the American Society for Metabolic and Bariatric Surgery or the American College of Surgeons, subject to the following:

(i) Related treatment may include, but not be limited to, preoperative psychological screening and counseling, behavior modification, weight loss, exercise regimens, nutritional counseling and postoperative follow-up, overview and counseling of dietary, exercise and lifestyle changes.

(ii) The insured shall be at least eighteen (18) years of age.

(2) An anti-obesity drug when it is included:

(i) in the definition of "covered outpatient drug" under 42 U.S.C. § 1396r-8(k) (relating to payment for covered outpatient drugs) and subject to 42 U.S.C. § 1396r-8(a)(1); and

(ii) on the Pennsylvania Medical Assistance Statewide Preferred Drug List authorized under section 459.1 of the act of June 13, 1967 (P.L.31, No.21), known as the "Human Services Code."

(b) Notwithstanding any other provision of law, a health insurer that issues or renews a health insurance policy providing benefits for medical or hospital expenses to insureds residing in this Commonwealth shall provide to the insured under the health insurance policy coverage for all of the following:

(1) Bariatric surgery and related treatments for obesity and morbid obesity when the prescribing physician has issued a written order stating that treatment is in accordance with the patient qualifications and treatment standards provided by the American Society for Metabolic and Bariatric Surgery or the

American College of Surgeons, subject to the following:

(i) Related treatment may include, but not be limited to, preoperative psychological screening and counseling, behavior modification, weight loss, exercise regimens, nutritional counseling and postoperative follow-up, overview and counseling of dietary, exercise and lifestyle changes.

(ii) The insured shall be at least eighteen (18) years of age.

(iii) An entity subject to this subsection shall provide the benefits required under this subsection to the same extent as for other medically necessary surgical procedures and treatments under the insured's contract or policy with the entity.

(2) An anti-obesity drug approved by the Food and Drug Administration of the United States Department of Health and Human Services.

(c) As used in this section:

(1) "Health insurance policy" means the following:

(i) A group or individual health or sickness or accident insurance policy, subscriber contract or certificate issued by an entity subject to any one of the following:

(A) Section 630 and Article XXIV of this act.

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

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

(ii) The term does not include accident only, fixed indemnity, hospitality indemnity, limited benefit, credit, dental, vision, specified disease, Medicare supplement, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement, long-term care or disability income, workers' compensation or automobile medical payment insurance.

(2) "Health insurer" means an entity licensed by the Pennsylvania Insurance Department with accident and health authority to issue a policy, subscriber contract, certificate or plan that provides medical or health care coverage that is offered or governed under any of the following:

(i) This act.

(ii) The "Health Maintenance Organization Act."

(iii) 40 Pa.C.S. Ch. 61 or 63.

(3) "Insured" means a person on whose behalf an insurer is obligated to pay covered health care expense benefits or provide health care services under a health insurance policy. The term includes:

(i) A policyholder, subscriber, certificate holder, member, dependent or other individual who is eligible to receive health care services through a health insurance policy.

(ii) All individuals named in a health insurance policy issued by a health insurer.

Section 2. The addition of section 635.9 of the act shall apply to health insurance policies offered, issued or renewed on or after the effective date of this section.

Section 3. The provisions of 55 Pa. Code § 1121.54(1) are abrogated insofar as they are inconsistent with the addition of section 635.9(a)(2) of the act.

Section 4. This act shall take effect in 60 days.