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Legislative Reference Bureau

INTRODUCED _____

By Venkat, Arvind District NO. 30

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on	
Date	_____
Reported	_____
As Committed-Amended	
Recomendation	_____
By Hon.	_____

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, in regulation of insurers and related persons
3 generally, providing for payment choice; and imposing
4 penalties.

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

7 Section 1. Title 40 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 47

10 PAYMENT CHOICE

11 Sec.

12 4701. Definitions.

13 4702. Payment.

14 4703. Regulations.

15 4704. Enforcement.

16 § 4701. Definitions.

17 The following words and phrases when used in this chapter
18 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Commissioner." The Insurance Commissioner of the
3 Commonwealth.

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

7 "Credit card payment." A type of electronic funds transfer
8 in which a health insurer or its contracted vendor issues a
9 single-use series of numbers associated with the payment of
10 covered health care services performed by a participating health
11 care provider and chargeable at a predetermined rate for which
12 the health care provider is responsible for processing the
13 payment by a credit card terminal or Internet portal. The term
14 includes virtual or online credit card payments for which no
15 physical card is presented to the health care provider and the
16 single-use credit card expires upon payment processing.

17 "Electronic funds transfer." A payment of any method of
18 electronic funds transfer other than through the Automated
19 Clearing House Network, as codified in 45 CFR 162.1601 (relating
20 to health care electronic funds transfers (EFT) and remittance
21 advice transaction) and 162.1602 (relating to standards for
22 health care electronic funds transfers (EFT) and remittance
23 advice transaction).

24 "Health care billing agent." A person who establishes a
25 contractual arrangement with a participating health care
26 provider to process bills for services provided by the health
27 care provider under terms and conditions established between the
28 agent and the health care provider. The contracts may permit the
29 health care billing agent to submit bills, request
30 reconsideration and receive reimbursements.

1 "Health care provider." A licensed hospital or health care
2 facility, medical equipment supplier or person who is licensed,
3 certified or otherwise regulated to provide health care services
4 under the laws of this Commonwealth, including a physician,
5 podiatrist, optometrist, psychologist, physical therapist,
6 certified nurse practitioner, registered nurse, nurse midwife,
7 physician's assistant, chiropractor, dentist, pharmacist or an
8 individual accredited or certified to provide behavioral health
9 services. The term includes an individual providing emergency
10 services under a licensed emergency medical services agency as
11 defined in 35 Pa.C.S. § 8103 (relating to definitions).

12 "Health care service." A covered treatment, admission,
13 procedure, medical supplies and equipment or other service,
14 including behavioral health, prescribed or otherwise provided or
15 proposed to be provided by a health care provider to a covered
16 person for the diagnosis, prevention, treatment, cure or relief
17 of a health condition, illness, injury or disease under the
18 terms of health insurance policy.

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

- 23 (1) An accident only policy.
- 24 (2) A credit only policy.
- 25 (3) A long-term care or disability income policy.
- 26 (4) A specified disease policy.
- 27 (5) A Medicare supplement policy.
- 28 (6) A TRICARE policy, including a Civilian Health and
29 Medical Program of the Uniformed Services (CHAMPUS)
30 supplement policy.

1 (7) A fixed indemnity policy.
2 (8) A hospital indemnity policy.
3 (9) A workers' compensation policy.
4 (10) An automobile medical payment policy under 75
5 Pa.C.S. (relating to vehicles).

6 (11) A homeowner's insurance policy.
7 (12) Any other similar policies providing for limited
8 benefits.

9 "Health insurer." An entity that offers, issues or renews a
10 health insurance policy that is offered or governed under any of
11 the following:

12 (1) The act of May 17, 1921 (P.L.682, No.284), known as
13 The Insurance Company Law of 1921, including section 630 and
14 Article XXIV.

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

17 (3) Chapter 61 (relating to hospital plan corporations).

18 (4) Chapter 63 (relating to professional health services
19 plan corporations).

20 "Participating health care provider." A health care provider
21 that has entered into a contractual or operating relationship
22 with a health insurer to participate in one or more designated
23 networks of the health insurer and to provide health care
24 services to covered persons under the terms of the health
25 insurer's administrative policy.

26 § 4702. Payment.

27 (a) Payment.--A health insurer or its contracted vendor may
28 not restrict the method of payment to a participating health
29 care provider so that the exclusive payment method is a credit
30 card payment.

1 (b) Changing payment.--If initiating or changing payments to
2 a participating health care provider using electronic funds
3 transfer payments, including credit card payments, a health
4 insurer or its contracted vendor shall:

5 (1) Advise the health care provider of all available
6 payment methods.

7 (2) Notify the health care provider of any fees imposed
8 by the health insurer or through its contracted vendor. A
9 contracted vendor may not include a financial institution
10 chosen by the health care provider.

11 (3) Provide clear instructions to the health care
12 provider for the process of selecting a payment method.

13 (4) Not charge a fee solely to transmit the payment to
14 the health care provider, unless the health care provider has
15 consented to the fee.

16 (c) Fees.--

17 (1) A health insurer or its contracted vendor that
18 initiates or changes payments to a participating health care
19 provider through the Automated Clearing House Network, as
20 defined in 45 CFR 162.1601 (relating to health care
21 electronic funds transfers (EFT) and remittance advice
22 transaction) and 162.1602 (relating to standards for health
23 care electronic funds transfers (EFT) and remittance advice
24 transaction), may not charge a fee solely to transmit the
25 payment to the health care provider unless the health care
26 provider has consented to the fee.

27 (2) A health care billing agent may charge reasonable
28 fees to a health care provider for Automated Clearing House
29 Network payments related to transaction management, data
30 management, portal services and other value-added services in

1 addition to the bank transmittal.

2 (d) Waiver prohibited.--The provisions of this section may
3 not be waived by contract, and any contractual clause in
4 conflict with the provisions of this section or that purport to
5 waive any requirements of this section are void.

6 § 4703. Regulations.

7 The department may promulgate rules and regulations necessary
8 to implement this chapter.

9 § 4704. Enforcement.

10 (a) Penalties.--Upon satisfactory evidence of the violation
11 of this chapter by a health insurer or any other person, one or
12 more of the following penalties may be imposed at the
13 commissioner's discretion:

14 (1) A fine of not more than \$5,000 for each violation of
15 this chapter.

16 (2) A fine of not more than \$10,000 for each willful
17 violation of this chapter.

18 (b) Limitations.--

19 (1) Fines imposed against an individual insurer under
20 this chapter may not exceed \$500,000 in the aggregate during
21 a single calendar year.

22 (2) Fines imposed against any other person under this
23 chapter may not exceed \$100,000 in the aggregate during a
24 single calendar year.

25 (c) Additional remedies.--The enforcement remedies imposed
26 under this section are in addition to any other remedies or
27 penalties that may be imposed under any other applicable law of
28 this Commonwealth, including:

29 (1) The act of July 22, 1974 (P.L.589, No.205), known as
30 the Unfair Insurance Practices Act. Violations of this

1 chapter shall be deemed to be an unfair method of competition
2 and an unfair or deceptive act or practice under that act.

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

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

7 (d) Administrative procedure.--The administrative provisions
8 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
9 (relating to practice and procedure of Commonwealth agencies). A
10 party against whom penalties are assessed in an administrative
11 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.
12 Ch. 7 Subch. A (relating to judicial review of Commonwealth
13 agency action).

14 Section 2. This act shall apply to contracts offered,
15 entered, issued or renewed after the effective date of this
16 section.

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