

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1850 Session of  
1995

INTRODUCED BY KUKOVICH, KING, THOMAS, BELARDI, CURRY, MELIO,  
DeWEESE, MIHALICH, STEELMAN, MANDERINO, STURLA, STABACK,  
MUNDY, HALUSKA, JOSEPHS, YOUNGBLOOD, RICHARDSON, TRELLO,  
PISTELLA AND MICHLOVIC, JUNE 21, 1995

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,  
JUNE 21, 1995

AN ACT

1 Amending the act of December 29, 1972 (P.L.1701, No.364),  
2 entitled "An act providing for the establishment of nonprofit  
3 corporations having the purpose of establishing, maintaining  
4 and operating a health service plan; providing for  
5 supervision and certain regulations by the Insurance  
6 Department and the Department of Health; giving the Insurance  
7 Commissioner and the Secretary of Health certain powers and  
8 duties; exempting the nonprofit corporations from certain  
9 taxes and providing penalties," adding and amending  
10 definitions; and providing for consumer and provider  
11 information.

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

14 Section 1. Section 3 of the act of December 29, 1972  
15 (P.L.1701, No.364), known as Health Maintenance Organization,  
16 amended December 19, 1980 (P.L.1300, No.234) and repealed in  
17 part December 20, 1982 (P.L.1409, No.326), is amended to read:

18 Section 3. Definitions.--As used in this act:

19 "Basic health services" means those health services,  
20 including as a minimum, but not limited to, emergency care,  
21 inpatient hospital and physician care, ambulatory physician

1 care, and outpatient and preventive medical services. For  
2 medical assistance beneficiaries, the term shall include all  
3 services otherwise compensable under medical assistance,  
4 including, but not limited, to, drug and alcohol treatment under  
5 sections 2334 and 2335 of the act of April 9, 1929 (P.L.177,  
6 No.175), known as "The Administrative Code of 1929," early and  
7 periodic screening, diagnosis and treatment for children under  
8 twenty-one years of age, even if the services are not listed in  
9 the State plan or the medical assistance fee schedule.

10 "Certified nurse practitioner" means a registered nurse  
11 licensed in this Commonwealth who is jointly certified by the  
12 State Board of Nursing and the State Board of Medicine in a  
13 particular clinical specialty area and who, while functioning in  
14 the expanded role as a professional nurse, performs acts of  
15 medical diagnosis or prescription of medical therapeutic or  
16 corrective measures in collaboration with and under the  
17 direction of a physician licensed to practice medicine in this  
18 Commonwealth.

19 "Commissioner" means the Insurance Commissioner of the  
20 Commonwealth of Pennsylvania.

21 "Direct provider" means an individual who is a direct  
22 provider of health care services under a benefit plan of a  
23 health maintenance organization or an individual whose primary  
24 current activity is the administration of health facilities in  
25 which such care is provided. An individual shall not be  
26 considered a direct provider of health care solely because the  
27 individual is a member of the governing body of a health-related  
28 organization.

29 "Health maintenance organization" means an organized system  
30 which combines the delivery and financing of health care and

1 which provides basic health services to voluntarily enrolled  
2 subscribers and to mandatorily enrolled medical assistance  
3 beneficiaries including those in any entity classified under  
4 Federal law as a health insuring organization for a fixed  
5 prepaid fee.

6 "Managed care entity" means a managed care organization and  
7 any parent organization thereof.

8 "Managed care organization" means the party to a managed care  
9 plan which agrees to provide and/or reimburse health care,  
10 related equipment or services for members or subscribers.

11 "Managed care plan" means a system pursuant to which health  
12 care, related equipment or services are provided for members or  
13 subscribers whose access to other health care must be approved  
14 by a primary care practitioner selected by or for such member or  
15 subscriber from a panel of participating practitioners.

16 "Marketing materials" means any writings, printings,  
17 audiotapes, videotapes, computer programs, broadcasts or similar  
18 media which have as a purpose attracting or increasing  
19 membership in a managed care plan.

20 "Primary care physician" means a medical doctor or doctor of  
21 osteopathy who supervises, coordinates and provides initial and  
22 basic care to patients, initiates their referral for specialist  
23 care and maintains continuity of care. The term shall include  
24 pediatricians for individuals under eighteen years of age,  
25 specialists in obstetrics/gynecology for women and other  
26 specialists.

27 "Primary care practitioner" means a licensed or certified  
28 professional who supervises, coordinates and provides initial  
29 and basic care to patients, initiates their referral for  
30 specialist care and maintains continuity of care. The term shall

include, but is not limited to, primary care physicians,  
certified nurse practitioners and certified nurse-midwives for  
women during pregnancy.

"Secretary" means the Secretary of Health of the Commonwealth  
of Pennsylvania.

"Specialist" means a licensed treatment professional whose  
area of clinical practice is limited to a particular field or  
fields.

Section 2. The act is amended by adding a section to read:

Section 5.2. Consumer and Provider Information.--(a) All  
managed care plans shall develop easily understandable  
informational materials for enrollees and persons interested in  
enrolling which explain how services are obtained, how providers  
are selected, the grievance procedures and other information  
that may be useful to enrollees in obtaining needed health care.

(b) All managed care plans shall develop informational  
materials for health and related service providers who are not  
participants in the plan but may provide services to plan  
enrollees. The materials should specify how to request payment  
from the plan for services provided to enrollees.

(c) Upon development, the informational materials required  
under subsections (a) and (b) of this section shall be submitted  
to the Department of Health for approval.

(d) All managed care plans shall designate employees in  
sufficient numbers to answer questions from enrollees and  
providers regarding the plan. These employees shall include:

(1) at least one employee or person under contract trained  
and available to provide advice regarding services available  
both inside and outside the managed care plan to persons with  
mental illness and behavioral disorders, persons with mental

1 retardation and persons with physical, cognitive and sensory  
2 disabilities;

3 (2) at least one employe or person under contract who is  
4 familiar with the publicly funded services available to children  
5 with developmental disabilities, including, but not limited to,  
6 early intervention services, and services available under  
7 various special programs operated by the Department of Health  
8 such as the Children with Disabling and Chronic Conditions  
9 Program and the Ventilator Dependent Child Home Care Program;

10 (3) at least one employe or person under contract who is  
11 familiar with services funded through the Department of Aging;  
12 and

13 All persons assigned to answer enrollee's questions regarding  
14 coverage and access to services must be trained and available to  
15 inform parents and caretakers of medical assistance eligible  
16 children that these children are legally entitled to receive all  
17 medically necessary health care including, when necessary, case  
18 managers to help the family access medical, social and education  
19 services.

20 (e) Employes under subsection (d) of this section shall  
21 serve to assist enrolled individuals and families in accessing  
22 services that may not be available under the plan. Every managed  
23 care plan shall make the name and telephone number of these  
24 persons available to all primary care practitioners  
25 participating in the plan and all enrollees.

26 (f) Each managed care entity shall submit all its marketing  
27 materials to the Department of Health. The Department of Health  
28 shall review those materials and shall have the authority and  
29 responsibility to order any managed care entity to withdraw any  
30 marketing material it deems to be false, misleading or contrary

to law and to take such remedial action, not including the payment of a civil penalty, as the Department of Health deems necessary.

(g) Each managed care entity operating a plan that has a contract with the Department of Public Welfare to enroll persons on medical assistance shall submit its marketing materials relevant to that contract to the Department of Public Welfare. The Department of Public Welfare shall review those materials and shall have the authority and responsibility to order any managed care entity to withdraw any marketing material, relevant to its medical assistance contract, it deems to be false, misleading or contrary to law and to take such remedial action as the Department of Public Welfare deems necessary.

(h) The Department of Public Welfare shall monitor marketing practices relative to managed care entities having medical assistance contracts for the purpose of ensuring that persons on medical assistance are given accurate information in an understandable fashion regarding the managed care plan being marketed and the differences between the plan and fee-for-service and other managed care plans and that unfair trade practices are not being used by the managed care entity or its agents to secure enrollment. The Department of Public Welfare shall have the authority and responsibility to order a managed care entity to cease and desist such marketing practices as it determines to be false, misleading or contrary to law. The Department of Public Welfare shall require that all persons enrolled during the use of such marketing practices be provided with accurate information and afforded an opportunity to disenroll without any financial penalty or consequence. The Department of Public Welfare shall have the authority to take

1 such other remedial actions, including suspending the managed  
2 care entity from the medical assistance program, as it deems  
3 necessary.

4 (i) Marketing only outside of low-income areas or otherwise  
5 discouraging the enrollment of low-income, disabled or costly  
6 patients should be considered an unfair trade practice and the  
7 Department of Public Welfare shall be required to investigate  
8 and take appropriate remedial action.

9 (j) All contracts, reports and publications issued by any  
10 managed care entity shall be written, organized and designed so  
11 that they conform to the act of June 23, 1993 (P.L.128, No.29),  
12 known as the "Plain Language Consumer Contract Act."

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