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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 511 Session of  
2023

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INTRODUCED BY TARTAGLIONE, KEARNEY, FONTANA, HAYWOOD, STREET,  
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MARCH 15, 2023

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REFERRED TO HEALTH AND HUMAN SERVICES, MARCH 15, 2023

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AN ACT

1 Providing for complex wheelchair quality assurance; and imposing  
2 duties on the Department of Human Services and the Insurance  
3 Department.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Complex  
8 Wheelchair Quality Assurance Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Beneficiary." An individual covered under a government  
14 program.

15 "Complex wheelchair." A wheelchair owned by a beneficiary or  
16 an insured in which all of the following apply:

17 (1) The wheelchair is originally designed, manufactured,  
18 individually configured, adjusted or modified for a specific

1 individual to meet the individual's unique medical, physical  
2 or functional needs and capacities.

3 (2) The wheelchair is primarily used to serve a medical,  
4 physical or functional purpose and is generally not useful to  
5 an individual in the absence of disability, illness, injury  
6 or other medical condition.

7 (3) The wheelchair requires certain services to ensure  
8 appropriate use, including at least one of the following:

9 (i) An evaluation of the features and functions to  
10 the specific individual who will use the wheelchair.

11 (ii) Configuring, fitting, programming, adjusting or  
12 adapting the particular wheelchair for use by the  
13 individual.

14 "Costs incurred." The real costs of providing a semiannual  
15 evaluation of a complex wheelchair, which shall include:

16 (1) Physical checks, adjustments or use of a complex  
17 wheelchair.

18 (2) Labor costs.

19 (3) Contacting, driving to or consulting with a  
20 beneficiary regarding the appropriate use of the complex  
21 wheelchair.

22 "Department." The Department of Human Services of the  
23 Commonwealth.

24 "Government program." Either of the following:

25 (1) The medical assistance program established under the  
26 act of June 13, 1967 (P.L.31, No.21), known as the Human  
27 Services Code.

28 (2) The children's health insurance program established  
29 under Article XXIII-A of the act of May 17, 1921 (P.L.682,  
30 No.284), known as The Insurance Company Law of 1921.

1 "Health insurance policy." As follows:

2 (1) An individual or group insurance policy, subscriber  
3 contract, certificate or plan offered, issued or renewed by a  
4 health insurer that provides medical or health care coverage,  
5 including emergency services.

6 (2) The term does not include:

7 (i) An accident only policy.

8 (ii) A credit only policy.

9 (iii) A long-term care or disability income policy.

10 (iv) A specified disease policy.

11 (v) A Medicare supplement policy.

12 (vi) A TriCARE policy, including a Civilian Health  
13 and Medical Program of the Uniformed Services (CHAMPUS)  
14 supplement policy.

15 (vii) A fixed indemnity policy.

16 (viii) A hospital indemnity policy.

17 (ix) A dental only policy.

18 (x) A vision only policy.

19 (xi) A workers' compensation policy.

20 (xii) An automobile medical payment policy.

21 (xiii) A homeowners' insurance policy.

22 (xiv) Any other similar policy providing for limited  
23 benefits.

24 "Health insurer." An entity licensed by the Insurance  
25 Department with accident and health authority to issue a health  
26 insurance policy that is offered or governed under any of the  
27 following:

28 (1) The Insurance Company Law of 1921, including section  
29 630 and Article XXIV of that act.

30 (2) The act of December 29, 1972 (P.L.1701, No.364),

1 known as the Health Maintenance Organization Act.

2 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
3 corporations) or 63 (relating to professional health services  
4 plan corporations).

5 "Insured." An individual covered under a health insurance  
6 policy.

7 "Service provider." An entity with the capability of  
8 providing well-visits and which is enrolled as a Medicare  
9 durable medical equipment supplier or a Pennsylvania Medicaid  
10 supplier.

11 "Well-visit." An evaluation of a complex wheelchair and the  
12 beneficiary's or insured's use of the complex wheelchair by a  
13 repair technician working on behalf of a service provider, which  
14 shall include the following:

15 (1) Assessment and evaluation of the physical condition  
16 of the complex wheelchair.

17 (2) Adjustments to the condition of the complex  
18 wheelchair.

19 Section 3. Well-visit coverage.

20 A health insurance policy or government program shall provide  
21 coverage for complex wheelchair maintenance and well-visits on  
22 at least a semiannual basis, including costs incurred during the  
23 complex wheelchair maintenance and telehealth well-visits.

24 Consistent with Federal law and regulations, government programs  
25 shall honor telehealth well-visits for complex wheelchairs as  
26 well-visits under the regulation of the Centers for Medicare and  
27 Medicaid Services, as published in 86 Fed. Reg. 221, 64996  
28 (November 19, 2021) or any regulatory successor allowing for  
29 telehealth visits.

30 Section 4. Consumer notice.

1 An insurer or government program shall provide an individual  
2 using a complex wheelchair annual notification of the coverage  
3 specified under section 3 from the insurer or government program  
4 providing coverage.

5 Section 5. Waiver.

6 The department shall seek the appropriate Federal waiver  
7 through the Centers for Medicare and Medicaid Services necessary  
8 to carry out the provisions of this act for all Medicaid-  
9 eligible individuals who utilize a complex wheelchair.

10 Section 6. Rules and regulations.

11 (a) Authorization.--The department and the Insurance  
12 Department may each promulgate or adopt rules and regulations as  
13 may be necessary and appropriate to carry out the provisions of  
14 this act.

15 (b) Temporary regulations.--

16 (1) Notwithstanding any other provision of law, in order  
17 to facilitate the prompt implementation of this act, the  
18 department and the Insurance Department may each issue  
19 temporary regulations. The following apply:

20 (i) The department and the Insurance Department must  
21 issue the temporary regulations within six months of the  
22 effective date of this subsection. Regulations adopted  
23 after this six-month period shall be promulgated as  
24 provided by statute.

25 (ii) Notice of the temporary regulations shall be  
26 transmitted to the Legislative Reference Bureau for  
27 publication in the next available issue of the  
28 Pennsylvania Bulletin.

29 (iii) The department and the Insurance Department  
30 shall each post their temporary regulations on their

1 publicly accessible Internet websites.

2 (iv) The temporary regulations shall expire no later  
3 than two years following publication of the temporary  
4 regulations in the Pennsylvania Bulletin.

5 (2) The temporary regulations under paragraph (1) shall  
6 be exempt from the following:

7 (i) Section 612 of the act of April 9, 1929  
8 (P.L.177, No.175), known as The Administrative Code of  
9 1929.

10 (ii) Sections 201, 202, 203, 204 and 205 of the act  
11 of July 31, 1968 (P.L.769, No.240), referred to as the  
12 Commonwealth Documents Law.

13 (iii) Sections 204(b) and 301(10) of the act of  
14 October 15, 1980 (P.L.950, No.164), known as the  
15 Commonwealth Attorneys Act.

16 (iv) The act of June 25, 1982 (P.L.633, No.181),  
17 known as the Regulatory Review Act.

18 (c) Contents of rules and regulations of department.--Rules  
19 and regulations of the department under this section may:

20 (1) Establish guidelines for a well-visit in accordance  
21 with this act, including required components of the well-  
22 visit and the competencies needed by the service provider to  
23 perform the well-visit. The following apply:

24 (i) The department shall provide any required  
25 changes to the guidelines to insurers, service providers  
26 and individuals using complex wheelchairs.

27 (ii) The department shall post the guidelines, and  
28 any changes to the guidelines, on the publicly accessible  
29 Internet website of the department.

30 (2) Establish a methodology for reimbursements by a

1 government program to a service provider regarding a complex  
2 wheelchair well-visit. The following apply:

3 (i) The methodology must recognize the costs  
4 incurred to provide a well-visit under which the  
5 government program shall pay all reasonably necessary  
6 costs associated with the well-visit, subject to any  
7 copayment, coinsurance or deductible.

8 (ii) The methodology must include:

9 (A) An explanation of how the schedule for  
10 reimbursement rates was established, including the  
11 factors, data and sources used to establish the  
12 methodology.

13 (B) The elements needed to provide a well-visit.

14 (C) The documentation necessary for a service  
15 provider to receive reimbursement for the well-visit.

16 (d) Contents of rules and regulations by Insurance  
17 Department.--Rules and regulations of the Insurance Department  
18 under this section shall establish procedures regarding payments  
19 for a complex wheelchair well-visit, which shall address the  
20 fair reimbursement of costs incurred by a service provider in  
21 providing the well-visit to an insured who owns the complex  
22 wheelchair and is covered under a health insurance policy.

23 (e) Permanent regulations.--Prior to the expiration of the  
24 temporary regulations, the department and the Insurance  
25 Department shall each propose for approval permanent regulations  
26 as provided by statute. The proposed permanent regulations shall  
27 be consistent with subsections (c) and (d) and may be the same  
28 as the temporary regulations.

29 Section 7. Review.

30 The department shall undertake a review of the methodology

1 under section 6(c)(2) at least once every five years. The  
2 following apply:

3 (1) The department shall seek public review and comment  
4 of the methodology and reimbursement rates.

5 (2) If the department intends or does not intend to make  
6 changes to the methodology or reimbursement rates during the  
7 review, the department shall transmit notice of that  
8 determination to the Legislative Reference Bureau for  
9 publication in the next available issue of the Pennsylvania  
10 Bulletin.

11 Section 8. Enforcement.

12 This act shall be enforced by the department and the  
13 Insurance Department. The following apply:

14 (1) The department shall:

15 (i) Follow the complaint procedures under 55 Pa.  
16 Code § 107.4(c) (relating to procedures to assure  
17 nondiscrimination of participating agencies,  
18 institutions, organizations and vendors) for complaints  
19 arising under this act.

20 (ii) Ensure that service providers receiving medical  
21 assistance payments are not engaged in activities  
22 prohibited by 55 Pa Code § 1101.75 (relating to provider  
23 prohibited acts).

24 (2) The Insurance Department shall enforce provisions  
25 for private insurers in accordance with the act of July 22,  
26 1974 (P.L.589, No.205), known as the Unfair Insurance  
27 Practices Act.

28 Section 9. Construction.

29 Nothing in this act shall be construed to limit benefits  
30 otherwise available to an individual under a health insurance

1 policy or government program.

2 Section 10. Applicability.

3 This act shall apply as follows:

4 (1) For health insurance policies for which either rates  
5 or forms are required to be filed with the Federal Government  
6 or the Insurance Department, this act shall apply to any  
7 policy for which a form or rate is first filed on or after  
8 the effective date of this section.

9 (2) For health insurance policies for which neither  
10 rates nor forms are required to be filed with the Federal  
11 Government or the Insurance Department, this act shall apply  
12 to any policy issued or renewed on or after 180 days after  
13 the effective date of this section.

14 Section 11. Effective date.

15 This act shall take effect in 60 days.