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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 970 Session of  
1991

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INTRODUCED BY STRITTMATTER, ROBINSON, FLEAGLE, KING, SAURMAN AND  
THOMAS, APRIL 2, 1991

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REFERRED TO COMMITTEE ON HEALTH AND WELFARE, APRIL 2, 1991

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AN ACT

1 Providing a comprehensive plan for health care for the medically  
2 indigent; providing further duties of the Department of  
3 Health, the Insurance Department, the Department of Public  
4 Welfare and the Department of Revenue; imposing a payroll  
5 tax; providing for certain tax credits, for eligibility for  
6 medical assistance and for health care professional loans;  
7 and making repeals.

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

28 CHAPTER 1

29 GENERAL PROVISIONS

30 Section 101. Short title.

1 This act shall be known and may be cited as the Health Care  
2 Access Act.

3 Section 102. Legislative findings and intent.

4 (a) Findings.--The General Assembly finds as follows:

5 (1) The uninsured health care population of this  
6 Commonwealth is over 1,000,000 persons, and many thousands  
7 more lack adequate insurance coverage. Approximately two-  
8 thirds of the uninsured are employed or dependents of  
9 employed persons.

10 (2) Over one-third of the uninsured health care  
11 population is children. Uninsured children are of particular  
12 concern because of their need for ongoing preventive and  
13 primary care. Measures not taken to care for uninsured  
14 children now may result in higher human and financial costs  
15 later. Access to timely and appropriate care is particularly  
16 serious for women who receive late or no prenatal care which  
17 increases the risk of low birth weights and infant morbidity  
18 and mortality.

19 (3) Many uninsured and underinsured individuals lack  
20 ready access to timely and appropriate primary and preventive  
21 care. As a result, they often delay or forego health care,  
22 with the resulting increased risk of developing complications  
23 and more advanced stages of illness which are more expensive  
24 to treat. This tendency of the medically indigent to delay  
25 care and to seek ambulatory care in the more costly hospital-  
26 based settings also causes inefficiencies in the health care  
27 system.

28 (4) Health markets have been distorted through cost  
29 shifts for the uncompensated health care costs of uninsured  
30 citizens of this Commonwealth which have caused decreased

1 competitive capacity on the part of those health care  
2 providers who serve the poor and increased costs of other  
3 health care payors.

4 (5) Cost containment efforts and increased competition  
5 have and will inhibit the traditional method of funding care  
6 for uninsured citizens of this Commonwealth through cost  
7 shifting.

8 (6) A small proportion of the health care population  
9 opts not to purchase health insurance for reasons other than  
10 inability to pay. When large health care expenses are  
11 incurred, these individuals find it difficult to pay those  
12 amounts, which in turn forces an undesirable cost shift to  
13 other less improvident individuals.

14 (b) Declaration of intent.--It is the intent of the General  
15 Assembly and the purpose of this act to:

16 (1) Ensure access to timely and appropriate health care  
17 for the medically indigent citizens of this Commonwealth by  
18 providing for cost-effective, comprehensive health coverage  
19 for low-income citizens of this Commonwealth who are unable  
20 to afford coverage or obtain it through their employment.

21 (2) Provide incentives for employers to provide health  
22 insurance coverage for their employees and their uninsured  
23 dependents by providing for more affordable group coverage.

24 (3) Promote the efficient use of health services by  
25 assuring that care is being provided at an appropriate stage,  
26 early enough to avert the need for more expensive treatment.

27 Section 103. Definitions.

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

1 "Agency." The Pennsylvania Higher Education Assistance  
2 Agency.

3 "Department." The Department of Health of the Commonwealth.

4 "Financially vulnerable employer." An employer determined by  
5 the fund to be in danger of insolvency or to be greatly hindered  
6 in developing capital required for necessary expansion because  
7 of requirements for the purchase of health insurance. Employers  
8 whose business has been in existence for less than three years  
9 and whose present business is not a continuation or extension of  
10 an existing business, whose health insurance costs exceed 5% of  
11 gross revenue, or whose health insurance costs exceed 10% of net  
12 income and who have less than seven employees shall be deemed to  
13 be financially vulnerable.

14 "Fund." The Pennsylvania Health Insurance Fund established  
15 by this act.

16 "Hospital." An institution having an organized medical staff  
17 which is engaged primarily in providing to inpatients, by or  
18 under the supervision of physicians, diagnostic and therapeutic  
19 services for the care of injured, disabled, pregnant, diseased  
20 or sick or mentally ill persons. The term includes facilities  
21 for the diagnosis and treatment of disorders within the scope of  
22 specific medical specialties, including facilities which provide  
23 care and treatment exclusively for the mentally ill and drug or  
24 alcohol inpatient detoxification or rehabilitative care. The  
25 term does not include inpatient nonhospital activity as  
26 described in 28 Pa. Code § 701.1 (relating to general  
27 definitions), publicly owned inpatient facilities or skilled or  
28 intermediate care nursing facilities.

29 "Medical assistance." The State program of medical  
30 assistance established under the act of June 13, 1967 (P.L.31,

1 No.21), known as the Public Welfare Code.

2 "Medicaid." The Federal medical assistance program  
3 established under Title XIX of the Social Security Act (Public  
4 Law 74-271, 42 U.S.C. § 301 et seq.).

5 "Medically indigent." Individuals who cannot pay for their  
6 care because they are above the medical assistance eligibility  
7 levels and have no or inadequate health insurance or other  
8 financial resources with which to pay for their health care.

9 "Medically underserved area." A geographic area or  
10 population group determined by the department to have a shortage  
11 of health manpower and to meet the general qualifications  
12 criteria of the National Health Service Corps Loan Repayment  
13 Program established by section 338B of the Public Health Service  
14 Act (58 Stat. 682, 42 U.S.C. § 201 et seq.).

15 "Preexisting medical conditions exclusion." An exclusion of  
16 insurance benefits based on physical or medical conditions  
17 existing prior to date of enrollment and usually based on a  
18 finding that a person either did or should have sought medical  
19 care for the condition.

20 "Primary care physician." A general practitioner of  
21 medicine, a family practitioner as defined by the American Board  
22 of Medical Specialties, a general practitioner as defined by the  
23 Board of General Practice and Surgery of the American  
24 Osteopathic Association or a general pediatrician or a general  
25 internist or obstetrician-gynecologist as defined by the  
26 American Board of Medical Specialties or the American  
27 Osteopathic Association's respective boards.

28 "Qualified health insurance plan."

29 (1) A health insurance plan that provides the following  
30 benefits or their actuarial equivalent for a person, his

1 spouse and dependents:

2 (i) Maternal and child care, including prenatal,  
3 postnatal and preventive health care for children and  
4 adolescents, in accordance with child health supervision  
5 guidelines of the American Academy of Pediatrics.

6 (ii) Immunizations in accordance with guidelines  
7 determined by the department to conform with the  
8 standards of the Advisory Committee on Immunization  
9 Practices of the United States Public Health Service.

10 (iii) Periodic examinations to detect and prevent  
11 serious illness in accordance with the guidelines of the  
12 American College of Physicians and the American Academy  
13 of Family Physicians.

14 (iv) Semiprivate hospital room and board with  
15 related basic services.

16 (v) Services of physician in and out of hospital.

17 (vi) Services of other health care professionals in  
18 and out of hospital.

19 (vii) Mental health and substance abuse diagnosis  
20 and treatment services to cover inpatient, outpatient,  
21 outreach and partial hospitalization.

22 (viii) Short-term home care and/or SNF care.

23 (ix) Hospice care in the home in case of terminal  
24 illness.

25 The Department of Insurance shall, by regulation, further  
26 define the benefit package and shall define actuarially  
27 equivalent benefit packages to meet the needs of  
28 differing employee groups. A qualified plan shall not  
29 require copayments or deductibles for prenatal care,  
30 preventive health care for children and adolescents or

1 for immunizations. A qualified plan shall not exclude  
2 preexisting medical conditions.

3 (2) The following persons shall be deemed to have  
4 qualified health insurance plans: any person who chooses not  
5 to have health insurance because of bona fide religious  
6 belief; any person eligible for Medicaid or Medicare  
7 coverage; any person who chooses not to have his own health  
8 insurance because duplicative coverage is available from a  
9 policy of the person's spouse or other person. The following  
10 persons also shall be deemed to have a qualified plan: those  
11 employed or self-employed by any single employer for less  
12 than 26 hours per week in 1991, less than 20 hours per week  
13 in 1992 and less than 18 hours per week thereafter, and those  
14 self-employed persons whose coverage includes at least 45  
15 days of hospital inpatient treatment, 21 days of mental  
16 health and drug abuse treatment in addition to emergency,  
17 pregnancy and newborn care and whose deductible does not  
18 exceed \$400.

19 "Spend-down." The qualifying procedure for the Pennsylvania  
20 Medical Assistance Program set forth in 55 Pa. Code Ch. 181  
21 (relating to income provisions for categorically needy nonmoney  
22 payment (NMP-MA) and medically needs only (MNO-MA) medical  
23 assistance (MA)).

### 24 CHAPTER 3

#### 25 HEALTH INSURANCE COVERAGE REQUIREMENTS

##### 26 Section 301. General.

27 Each employer doing business in this Commonwealth shall  
28 provide for his employees resident in this Commonwealth and  
29 their dependents a qualified health plan in accordance with this  
30 act.

1 Section 302. Limitations on employer contribution.

2 The employer's contribution to the cost of a qualified health  
3 plan need not exceed 80% of the cost of that plan nor exceed  
4 9.9% of the employer's gross wage base. Financially vulnerable  
5 employers need make no contribution. Employer, as used in this  
6 section, does not include self-employed persons.

7 Section 303. Limitation on employee contribution.

8 The employee's contribution to the cost of a qualified health  
9 plan shall not exceed 20%. An employee whose gross wages are  
10 less than 125% of poverty shall make no contribution; at 150% of  
11 poverty, the contribution shall not exceed 7%; at 175% of  
12 poverty, and up to 200% of poverty, the contribution shall not  
13 exceed 14%. Above 200% of poverty, the employee's contribution  
14 to the cost of a qualified health plan shall not exceed 20%.  
15 Employee, as used in this section, does not include self-  
16 employed persons.

17 Section 304. Limitation on self-employed person's contribution.

18 A self-employed person whose net earnings are less than 125%  
19 of poverty shall make no contribution to the cost of a qualified  
20 health plan; at 150% of poverty, his contribution shall be one-  
21 third; at 175% of poverty, his contribution shall be two-thirds;  
22 and above 200% of poverty, he shall pay the full cost.

23 Section 305. Multiple employer trusts.

24 (a) Availability to certain employers.--All insurers writing  
25 health insurance in this Commonwealth shall offer multiple  
26 employer trusts as an option to employers with less than 11  
27 employees seeking health insurance coverage.

28 (b) Regulations.--The Insurance Department shall publish  
29 regulations governing multiple employer trusts for the purpose  
30 of encouraging their use, preventing abuses and encouraging the

1 development of appropriate reinsurance mechanisms.

2 Section 306. Preexisting medical conditions.

3 No health insurance policy may deny coverage for an enrollee  
4 for a preexisting condition nor deny coverage generally on the  
5 basis the enrollee has a preexisting condition nor use waivers  
6 or riders of any kind to exclude, limit or reduce coverage or  
7 benefits for a specifically named or described preexisting  
8 disease or physical or mental condition.

9 CHAPTER 5

10 HEALTH INSURANCE PAYROLL TAX

11 Section 501. Imposition of tax.

12 A payroll tax is imposed on wages in this Commonwealth paid  
13 by an employer to each employee and on net earnings from self  
14 employment for each taxable year commencing in 1991.

15 Section 502. Rate.

16 The rate of tax shall be that rate necessary to fund the  
17 fund.

18 Section 503. Credits.

19 Commencing in 1991, an employer or self-employed person shall  
20 receive a tax credit equal to the payroll tax imposed for each  
21 employee or self-employed person with a qualified health  
22 insurance plan.

23 CHAPTER 7

24 PENNSYLVANIA HEALTH INSURANCE FUND

25 Section 701. Establishment.

26 There is hereby created a separate account within the State  
27 Treasury to be known as the Pennsylvania Health Insurance Fund.  
28 The fund shall be administered by the Department of Revenue.

29 Section 702. Purpose.

30 The fund shall be expended for the purpose of assisting

1 employers, employees or self-employed persons who have  
2 contributed to the purchase of qualified health plans as  
3 required by sections 301 through 304 up to the limits provided  
4 in those sections. The fund shall provide the difference between  
5 the contributed amount and the cost of purchasing a qualified  
6 health plan.

7 Section 703. Composition.

8 The fund shall consist of all payroll taxes collected under  
9 Chapter 5, all property and securities acquired by the use of  
10 moneys belonging to the fund and all interest thereon, less  
11 withdrawals for reasonable administrative expenses. A prudent  
12 level of reserve funds shall be maintained.

13 Section 704. Trust.

14 Moneys deposited in the fund are imposed with a trust for the  
15 benefit of self-employed persons and employees and are not  
16 subject to appropriation.

17 CHAPTER 9

18 MEDICAID EXPANSION

19 Section 901. Persons eligible for medical assistance.

20 (a) General rule.--In addition to those persons described in  
21 section 441.1(1) and (2) of the act of June 13, 1967 (P.L.31,  
22 No.21), known as the Public Welfare Code, the following persons  
23 shall also be eligible for medical assistance under that act:

24 (1) Medically needy persons, whose income eligibility  
25 levels shall be no lower than 133.3% of the highest Aid To  
26 Families with Dependent Children grant paid in this  
27 Commonwealth.

28 (2) Pregnant women and infants whose family income is at  
29 or less than 185% of the federally determined poverty level.

30 (3) Children under eight years of age whose family income

1 is less than 100% of the federally determined poverty level.

2 (4) All individuals or classes of individuals for which  
3 Federal matching Medicaid funds are available now or in the  
4 future to the maximum level for which matching funds are  
5 available.

6 (b) Additional eligibility.--For purposes of this section and  
7 section 441.1 of the Public Welfare Code, all recipients  
8 (including medically needy recipients) and recipients of the  
9 State blind pension shall be entitled to all the medical  
10 assistance benefits available to persons deemed categorically  
11 needy as provided for in section 441.1(1) of the Public Welfare  
12 Code. The Healthy Horizon Program resource level shall be  
13 increased to the maximum amount for which Federal matching funds  
14 are available.

15 Section 902. Physician fees.

16 Physician and provider fees under the Medicaid program shall  
17 be set by the Department of Public Welfare, at least annually,  
18 at levels that are sufficient to enlist enough providers so that  
19 care and services are available to Medicaid recipients at least  
20 to the extent that such care and services are available to the  
21 general population within each county. The Department of Public  
22 Welfare shall study provider participation and patient access  
23 and shall report annually to the General Assembly on its  
24 findings and recommendations. The report shall also be  
25 distributed by the Department of Public Welfare to consumer and  
26 provider groups.

27 Section 903. Hospital payments.

28 Payments to hospitals under the Medicaid program shall be set  
29 by the Department of Public Welfare at a level sufficient to pay  
30 the costs of the delivery of those services by the hospital. The

1 Department of Public Welfare may make a finding after notice and  
2 hearing that a hospital is not run efficiently and in such case  
3 may pay the cost that would have been incurred if the hospital  
4 had been run efficiently.

5 Section 904. Standing.

6 Medicaid recipients, physicians and hospitals shall have  
7 standing to challenge Department of Public Welfare findings  
8 under sections 902 and 903. The Department of Public Welfare  
9 shall be upheld if its determinations are supported by the  
10 preponderance of the evidence.

11 Section 905. Medicaid outreach.

12 The Department of Public Welfare shall establish and  
13 administer an outreach program to enroll people who are eligible  
14 for Medicaid but have not enrolled. The program shall include  
15 the following:

16 (1) Placing caseworkers in hospitals which serve a large  
17 Medicaid population to take onsite applications for Medicaid.

18 (2) Providing Statewide training to hospital staff on  
19 Medicaid spend-down and other eligibility procedures.

20 (3) Developing a program of public service announcements  
21 to be aired on television and radio on a regular Statewide  
22 basis, advising citizens of:

23 (i) expanded Medicaid eligibility for pregnant  
24 women, infants, the elderly, the disabled and persons  
25 with acquired immune deficiency syndrome (AIDS); and

26 (ii) general eligibility requirements, spend-down,  
27 expedited issuance of medical assistance cards and how  
28 and where to apply.

29 (4) Developing pamphlets and informational services for  
30 Medicaid providers to help providers inform patients about

1 medical assistance options and eligibility.

2 (5) Providing the General Assembly and the public with  
3 an annual report for each fiscal year, detailing the outreach  
4 and enrollment efforts taken by each county assistance office  
5 and reporting by county on the number of citizens enrolled in  
6 the Medicaid and the projected Medicaid-eligible population  
7 of each county.

## 8 CHAPTER 11

### 9 HEALTH MANPOWER

10 Section 1101. Health Care Professional Loan Repayment Program.

11 The department shall establish the Health Care Professional  
12 Loan Repayment Program in order to improve the delivery of  
13 health services in medically underserved areas. The program  
14 shall be established in accordance with the provisions of  
15 section 338H of the Public Health Service Act (58 Stat. 682, 42  
16 U.S.C. § 201 et seq.) and, consistent with that act, shall  
17 provide for the repayment of government and commercial loans for  
18 the tuition and education-related expenses of primary-care  
19 physicians who agree to and complete service for a designated  
20 period of time in a medically underserved area.

21 Section 1102. Eligibility.

22 The department shall develop eligibility criteria and  
23 conditions for primary-care physicians who seek to participate  
24 in the program. The eligibility criteria and conditions shall  
25 meet the specific qualifications criteria established by the  
26 Secretary of Health and Human Services in administering section  
27 338H of the Public Health Service Act (58 Stat. 682, 42 U.S.C. §  
28 201 et seq.).

29 Section 1103. Application and administration.

30 The department shall submit an application to the Secretary

1 of Health and Human Services for a grant to fund the Health Care  
2 Professional Loan Repayment Program within the limits of funds  
3 available under section 338H of the Public Health Service Act  
4 (58 Stat. 682, 42 U.S.C. § 201 et seq.). The department shall  
5 administer the program and may prescribe such application forms  
6 and promulgate regulations necessary to carry out the provisions  
7 of this act with respect to loan repayment criteria and  
8 conditions.

9 CHAPTER 13

10 HEALTH CARE LOW-INTEREST LOAN PROGRAM

11 Section 1301. Fund.

12 There is hereby created a fund within the State Treasury to  
13 be known as the Health Care Low-Interest Loan Fund. The Health  
14 Care Low-Interest Loan Fund shall be a continuing fund in which  
15 may be deposited moneys received from repayment of principal on  
16 loans from the fund and payments of interest and other fees and  
17 charges with respect to loans made pursuant to this chapter,  
18 insurance premiums and charges assessed and collected by the  
19 agency on loans made from the fund, appropriations made to the  
20 fund by the General Assembly, proceeds of the sale of notes,  
21 bonds or other indebtedness to the extent and in the manner  
22 provided in a resolution properly adopted by the agency and  
23 other moneys received from any other source for the purpose of  
24 the fund. Except as otherwise provided in a contract with  
25 bondholders, all appropriations and payments made into the  
26 Health Care Low-Interest Loan Fund are hereby appropriated to  
27 the agency and may be applied and reapplied as the agency shall  
28 direct subject to the purpose of the fund and shall not be  
29 subject to lapsing.

30 Section 1302. Purpose.

1       The purpose of the Health Care Low-Interest Loan Fund shall  
2   be to provide low-interest loans to individuals to pay health  
3   care costs.

4 Section 1303. Administration.

5       The Health Care Low-Interest Loan Fund shall be administered  
6 by the agency as a special fund. The agency may adopt such  
7 regulations as to qualifications of recipients and other matters  
8 as are reasonably necessary to carry out the purposes of the  
9 fund.

## CHAPTER 15

## MISCELLANEOUS PROVISIONS

12 Section 1501. Repeals.

13 (a) Specific.--Section 441.1(3) of the act of June 13, 1967  
14 (P.L.31, No.21), known as the Public Welfare Code, is repealed.

(b) General.--All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

17 Section 1502. Effective date.

18 This act shall take effect in 90 days.