
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1929 Session of
1993

INTRODUCED BY LEE, MICHLOVIC, CURRY, PETRONE, TRELLO,
S. H. SMITH, E. Z. TAYLOR, ARMSTRONG, GERLACH AND HARLEY,
JUNE 23, 1993

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, JUNE 23, 1993

AN ACT

1 Providing for State aid for medical insurance for needy
2 individuals; establishing the Health Care Services Commission
3 and conferring powers and duties upon it; conferring powers
4 and duties upon the Insurance Department and the Department
5 of Public Welfare; establishing the Health Insurance Fund and
6 the Employer Health Incentive Fund and providing for their
7 administration; and making a repeal.

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

14 CHAPTER 1

15 PRELIMINARY PROVISIONS

16 Section 101. Short title.

17 This act shall be known and may be cited as the Equal Access
18 to Health Services Act.

19 Section 102. Declaration of policy.

20 The General Assembly finds and declares as follows:

21 (1) Approximately 1,000,000 citizens of this
22 Commonwealth have no health insurance or other coverage and
23 lack the income and resources needed to obtain health
24 services.

25 (2) Without health coverage, persons either go without
26 treatment or eventually receive treatment through costly,
27 inefficient, acute care.

28 (3) The Commonwealth's current medical assistance system
29 results in privately insured patients subsidizing the
30 treatment of medical assistance recipients, thereby driving

1 up the cost of private health insurance and making it more
2 and more difficult for medical assistance patients to find
3 doctors who will treat them.

4 (4) The Commonwealth's current medical assistance system
5 is structured so as to greatly inflate administrative costs
6 and to inappropriately allocate the Commonwealth's limited
7 health care resources.

8 (5) It is the policy of this Commonwealth to guarantee
9 basic health services for citizens near the poverty level and
10 for high risk patients who are unable to secure affordable
11 medical coverage in order to do all of the following:

12 (i) Provide access to health services for those in
13 need.

14 (ii) Allocate existing health care resources in a
15 fair, honest and equitable manner.

16 (iii) Reduce the cost of administering the medical
17 assistance program.

18 (iv) Reduce or eliminate cost shifting.

19 (v) Promote the stability of the health service
20 delivery system and the health, welfare and happiness of
21 all the people of this Commonwealth.

22 Section 103. Definitions.

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

26 "Basic health policy." The Basic Health Services Insurance
27 Policy established in section 505.

28 "Commission" The Health Services Commission established in
29 section 301.

30 "Department." The Department of Public Welfare of the

1 Commonwealth.

2 "Eligible claimant." An individual determined by the
3 Department of Public Welfare under section 501 to be eligible
4 for benefits under this act.

5 "Fund." The Health Insurance Fund established in section
6 504.

7 "Health services." Medical services currently being provided
8 to citizens of this Commonwealth. The term includes all of the
9 following:

10 (1) Provider services and supplies.

11 (2) Outpatient services.

12 (3) Inpatient hospital services.

13 (4) Nursing home care.

14 (5) Home health care.

15 (6) Health promotion and disease prevention services.

16 "Incentive fund." The Employer Health Incentive Fund
17 established in section 503.

18 "Income." As defined in section 303 of the act of March 4,
19 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

20 "Independent actuary." The independent health insurance
21 actuary hired by the Health Services Commission under section
22 301.

23 "Insured." An eligible claimant currently covered by a basic
24 health policy.

25 "Insurer." An entity authorized to transact and transacting
26 the business of health care or accident insurance in this
27 Commonwealth.

28 "Listing." The Health Care Priority Listing under section
29 302.

30 "Policy." A policy of insurance issued by an insurer.

1 "Poverty level." The Poverty Level by Family Size of the
2 United States Bureau of the Census.

3 CHAPTER 3

4 HEALTH SERVICES COMMISSION

5 Section 301. Commission.

6 (a) Establishment.--The Health Services Commission is
7 established. The commission shall consist of 11 members
8 appointed by the Governor with the consent of two-thirds of the
9 members elected to the Senate:

10 (1) Four members must be physicians licensed to practice
11 medicine in this Commonwealth who have clinical expertise in
12 the general areas of obstetrics, perinatal, pediatrics, adult
13 medicine, geriatrics or public health.

14 (2) One member must be a public health nurse.

15 (3) One member must be a social services worker.

16 (4) Two members must be representatives of the health
17 insurance industry.

18 (5) Two members must be consumers of health care.

19 (6) One member must be a certified public accountant.

20 (b) Term.--

21 (1) Members of the commission shall serve original terms
22 as follows:

23 (i) Two members shall serve for two years.

24 (ii) Three members shall serve for three years.

25 (iii) Three members shall serve for four years.

26 (iv) Three members shall serve for five years.

27 (2) After the completion of the initial term under
28 paragraph (1), each member of the commission shall serve for
29 a term of four years.

30 (c) Compensation.--Members shall receive compensation for

1 their services at rates set by the department and shall be
2 allowed actual and necessary travel expenses incurred in the
3 performance of their duties.

4 (d) Assistance.--The commission may establish subcommittees
5 of its members and hire other medical, economic or health
6 services advisers as necessary to assist the commission in the
7 performance of its duties.

8 (e) Independent actuary.--The commission shall employ the
9 services of an independent health insurance actuary in order to
10 provide the report called for in section 302(d) and to determine
11 the services to be included in each basic health services
12 insurance policy.

13 Section 302. Listing.

14 (a) Duty.--By the first Tuesday in January of each odd-
15 numbered year, the commission shall report to the Governor and
16 the General Assembly a list of health services ranked by
17 priority, from the most worthy to the least worthy of State
18 funding. This list shall be referred to as the Health Care
19 Priority Listing.

20 (b) Criteria.--In considering the prioritization to be given
21 to each health service, the commission shall determine which
22 health services are of most benefit to citizens of this
23 Commonwealth. The commission may take into consideration the
24 cost of the service to be provided versus the benefit to be
25 gained, as well as other factors necessary to ensure the most
26 equitable, humane and fair method of distributing public health
27 care resources. The commission may differentiate services
28 according to the patient's likelihood of recovery and probable
29 postrecovery physical and mental condition.

30 (c) Public input.--The commission shall actively solicit

1 public involvement in a community meeting process to build a
2 consensus on the values to be used to guide health resource
3 allocation decisions. After determining the criteria to be
4 utilized in determining the priority of health services, the
5 commission shall conduct public hearings throughout this
6 Commonwealth to obtain information regarding each of the health
7 services to be prioritized. The commission shall solicit
8 testimony and information from a broad range of interested
9 parties, including advocates for seniors; handicapped persons;
10 mental health services consumers; low-income citizens; and
11 providers of health care, including physicians, dentists, oral
12 surgeons, chiropractors, naturopaths, hospitals, clinics,
13 pharmacists, nurses and allied health professionals.

14 (d) Report.--The listing shall be accompanied by a report of
15 the independent actuary determining the cost of health insurance
16 necessary to cover each of the health services in the listing.

17 CHAPTER 5

18 HEALTH CARE

19 Section 501. Eligibility.

20 (a) Determination.--The department shall establish
21 regulations to determine eligible claimants. The regulations
22 shall ensure all of the following:

23 (1) The following individuals are eligible claimants:

24 (i) Individuals whose family income is equal to or
25 less than 133% of the poverty level.

26 (ii) Individuals who cannot obtain insurance for
27 less than an excessive percentage of their income. For
28 purposes of this subparagraph, the department shall
29 establish, for all levels of income, a maximum percentage
30 of income which is not excessive.

(2) Employees covered under their employer's health insurance plan shall not be eligible claimants.

(b) Projections.--The department shall furnish the commission with its projections regarding the number of claimants in each established eligibility category.

Section 502. Copayment formula.

The department shall establish regulations setting forth a copayment amount, which each eligible claimant shall be required to pay when purchasing health insurance. The regulations shall ensure all of the following:

(1) No eligible claimant's copayment percentage shall be so high that a fiscally prudent person could not afford to pay it.

(2) All eligible claimants shall be required to pay some percentage of their basic medical insurance policy cost.

(3) The copayment percentages shall be established on a sliding scale under which eligible claimants earning more money shall be required to pay a greater percentage of their basic health policy costs.

Section 503. Incentive fund.

(a) Establishment.--The Employer Health Incentive Fund is established. The source of the incentive fund shall be contributions from employers. The department shall promulgate regulations on contributions under the following guidelines:

(1) Employers shall only be required to contribute for employees whose income is less than 300% of the poverty level.

(2) The contribution rate shall be established as a percentage of wages for the employee for whom contribution is made.

1 (3) The contribution rate shall not be so high as to
2 significantly discourage an employer from hiring an
3 individual if the employer elects not to insure the
4 individual. The contribution rate shall not exceed 3% of the
5 wages of the employee for whom contribution is made.

6 (b) Tax credit.--The department shall promulgate regulations
7 providing a tax credit from the incentive fund for employers who
8 provide health insurance to their employees. The department
9 shall follow the following criteria in promulgating regulations
10 under this subsection:

11 (1) The tax credit shall be based upon a percentage of
12 the actual expense of providing health insurance to the
13 employee for whom the contribution under subsection (a) is
14 made.

15 (2) The tax credit shall only be offered to employers
16 whose health insurance plans cover all the health services
17 provided for in the basic health policy.

18 (3) The amount of the tax credits under this subsection
19 should, to the greatest extent possible, equal the amount of
20 the contributions under subsection (a). If the amount of tax
21 credits under this subsection exceeds the contributions under
22 subsection (a), the department may transfer money from the
23 fund to the incentive fund. No money may be transferred from
24 the incentive fund to the fund.

25 (c) Balancing.--In order to balance the incentive fund,
26 regulations under subsections (a) and (b) shall provide for
27 automatic changes in the contribution rate and the amount of tax
28 credit if the incentive fund is in danger of depletion.

29 Section 504. Fund.

30 (a) Establishment.--The Health Insurance Fund is hereby

1 established as a separate account in the State Treasury.

2 (b) Source.--The source of the fund shall be annual
3 appropriations. In order to safeguard against possible fund
4 shortfalls, the department may direct the independent actuary to
5 allow for a surplus beyond coverage of basic health policies in
6 the report under section 302(d).

7 (c) Administration.--

8 (1) The department shall promulgate regulations to
9 administer the fund.

10 (2) The purpose of the actuarial study under section
11 302(d) is to insure that the aggregate expenditures by the
12 department for coverage of health services under this act
13 shall not exceed the money appropriated to the fund. If the
14 fund is depleted and no supplemental appropriation is
15 provided, the department may not make any payments under this
16 act. If this paragraph applies, section 508(b) shall not
17 apply.

18 (3) If the fund is depleted or in danger of depletion,
19 the department may not set reimbursement limits for health
20 services.

21 Section 505. Basic health policy.

22 (a) Establishment.--Within one month of the enactment of the
23 general appropriation act, the independent actuary shall set
24 forth the health services which will be covered by the Basic
25 Health Services Insurance Policy. The independent actuary shall
26 determine what services can be provided under the basic health
27 policy by utilizing the following figures:

28 (1) The amount of money appropriated to the fund program
29 under section 504.

30 (2) The copayment formula established under section 502.

(3) The anticipated number of eligible claimants
supplied to the commission by the department.

(b) Criteria.--In determining the health services which will
be covered by every basic health policy, the independent actuary
shall include services in the order in which they are
prioritized on the listing.

(c) Notice.--After determining the coverage to be provided
under the basic health policy, the independent actuary shall
notify the commission and the department of its findings. The
department shall submit the findings to the Legislative
Reference Bureau for publication as a notice in the Pennsylvania
Bulletin.

(d) Subsequent legislation.--If, after publication of the
notice under subsection (b), the General Assembly appropriates
additional money to the fund, the independent actuary will have
30 days from that date to determine what additional services can
then be provided under the basic health policy.

Section 506. Insurers.

(a) General rule.--Insurers are encouraged to make available
health insurance coverage identical to that in a basic health
policy. However, nothing in this act shall be construed so as to
require insurers to offer such coverage.

(b) Provisions.--It is the intent of this act to allow
insurers some flexibility in fashioning basic health policies.
Accordingly, the Insurance Department shall promulgate
regulations setting forth provisions which shall be allowed in
such policies, including deductibles, preferred providers and
other cost saving provisions.

(c) Term.--The initial basic health policies shall begin
after October 31, 1993. Except for special circumstances

1 recognized in regulations of the Insurance Department, renewals
2 of basic health policies shall be for one-year periods starting
3 on November 1, 1994.

4 (d) Approval.--Before offering a basic health policy, an
5 insurer must submit the policy to the Insurance Department for
6 approval. If the Insurance Department approves the basic health
7 policy or fails to disapprove it within 30 days of submittal,
8 the basic health policy may be offered for sale to eligible
9 claimants.

10 (e) Additional coverage.--Nothing in this act shall be
11 construed to prohibit or discourage eligible claimants from
12 purchasing, at their own expense, additional health insurance
13 coverage beyond what is required to be in a basic health policy.
14 Section 507. Purchase of insurance.

15 (a) Application.--Upon application for a basic health policy
16 by an eligible claimant, the insurer shall provide the eligible
17 claimant with a copy of its policy.

18 (b) Department.--An eligible claimant shall submit the
19 policy under subsection (a) to the department. The following
20 shall apply:

21 (1) If the department determines the policy premium to
22 be reasonable and determines the policy's coverages to be
23 substantially similar to those required in a basic health
24 policy, the difference between the policy premium and the
25 eligible claimant's determined copayment shall be paid to the
26 insurer from the fund.

27 (2) If the department determines the policy premium to
28 be unreasonable or determines the policy's coverages to be
29 not substantially similar to those required in a basic health
30 policy, the department shall assist the eligible claimant in

1 obtaining insurance coverage with an insurer company with
2 which the Commonwealth contracts to provide basic health
3 policies. The difference between the policy premium and the
4 eligible claimant's determined copayment shall be paid to the
5 insurer from the fund.

6 Section 508. Failure to insure.

7 (a) General rule.--If an eligible claimant who has not
8 purchased insurance is in need of health services covered under
9 a basic health policy, the department shall pay for the services
10 from the fund.

11 (b) Recovery from eligible claimant.--If payment is made
12 under subsection (a), the department shall take the following
13 actions:

14 (1) Impose an administrative penalty upon the eligible
15 claimant an amount equal to the lesser of:

16 (i) the amount of the eligible claimant's copayment
17 had the eligible claimant purchased a basic health
18 policy; or

19 (ii) the actual cost of the health services
20 obtained.

21 (2) Require the eligible claimant to purchase a basic
22 health policy. For a policy under this paragraph, the
23 eligible claimant's copayment shall be 50% higher than that
24 required by regulation under section 502. The department may
25 seek, in the court of common pleas of the judicial district
26 in which the eligible claimant resides, attachment of wages
27 to effect the purchase under this paragraph. This paragraph
28 shall not be extended to require renewals of the basic health
29 policy. Upon purchase of a renewal of the basic health
30 policy, the eligible claimant shall receive a credit toward

1 the copayment required in an amount equal to the 50% addition
2 to copayment under this paragraph.

3 Section 509. Employer obligations.

4 Employers with more than one employee who do not provide
5 medical insurance shall contribute to the incentive fund and
6 shall provide notice to their employees of all of the following:

7 (1) The existence of this act.

8 (2) The medical assistance available under this act and
9 location of the nearest office of the department where
10 additional information can be obtained.

11 (3) The possible financial penalties for failure to
12 obtain health insurance under this act.

13 (4) Any employee group health insurance plan in which
14 the employee may be eligible to participate.

15 CHAPTER 11

16 MISCELLANEOUS PROVISIONS

17 Section 1101. Construction.

18 (a) Other acts.--Nothing in this act shall be construed to
19 deny benefits to individuals provided for under any other
20 statute.

21 (b) Competition.--Nothing in this act shall be construed to
22 discourage or prohibit insurers from competing in the free
23 marketplace to offer the lowest rates possible for basic health
24 policies and other insurance.

25 Section 1102. Immunity.

26 An insurer or health care provider shall not be subject to
27 criminal or civil liability or professional disciplinary action
28 for failing to provide a service which the General Assembly has
29 not funded or has eliminated from its funding under this act.

30 Section 1103. Applicability.

1 Any provision of this act which is dependent upon the
2 department securing Federal approval shall not apply until that
3 approval is secured.

4 Section 1104. Repeal.

5 Subdivision (f) of Article IV of the act of June 13, 1967
6 (P.L.31, No.21), known as the Public Welfare Code, is repealed.

7 Section 1105. Effective date.

8 This act shall take effect as follows:

9 (1) Sections 501(a), 502, 503, 504(c)(1) and 506(b) and
10 this section shall take effect immediately.

11 (2) The remainder of this act shall take effect in 180
12 days.