

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 875 Session of
1997

INTRODUCED BY HOLL, COSTA, CORMAN, HELFRICK, AFFLERBACH, O'PAKE,
KUKOVICH, ROBBINS, PUNT, MOWERY, MUSTO, LEMMOND, THOMPSON,
WOZNIAK, TOMLINSON, GERLACH AND MADIGAN, APRIL 2, 1997

SENATOR HOLL, BANKING AND INSURANCE, AS AMENDED, APRIL 29, 1997

AN ACT

1 ~~Providing for the regulation of health insurance practices.~~ <—
2 PROVIDING FOR THE REGULATION OF HEALTH INSURANCE PRACTICES. <—

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

5 ~~Section 1. Short title.~~ <—

6 ~~This act shall be known and may be cited as the Pennsylvania~~
7 ~~Health Care Insurance Portability Act.~~

8 ~~Section 2. Purpose.~~

9 ~~It is necessary to maintain the Commonwealth's sovereignty~~
10 ~~over the regulation of health insurance in this Commonwealth by~~
11 ~~complying with the required sections of the Health Insurance~~
12 ~~Portability and Accountability Act of 1996 (Public Law 104-191,~~
13 ~~110 Stat. 1936). The provisions of this act are intended to meet~~
14 ~~these requirements while retaining the Commonwealth's authority~~
15 ~~to regulate health insurance in this Commonwealth.~~

16 ~~Section 3. Definitions.~~

17 ~~(a) General rule. The following words and phrases when used~~

~~in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Commissioner." The Insurance Commissioner of the Commonwealth.~~

~~"Company," "association" or "exchange." Those entities defined in section 101 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~"Department." The Insurance Department of the Commonwealth.~~

~~"Fraternal benefit society." Any entity holding a current certificate of authority in this Commonwealth under the act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code.~~

~~"Federal act." The Federal law known as the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).~~

~~"Health maintenance organization" or "HMO." An entity organized and operated under the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.~~

~~"Hospital plan corporation." An entity organized and operating under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations).~~

~~"Insurer." A foreign or domestic insurance company, association or exchange, health maintenance organization, hospital plan corporation, professional health services plan corporation, fraternal benefit society or risk assuming preferred provider organization. This term shall not include a group health plan as defined in section 2791 of the Health Insurance Portability and Accountability Act of 1996.~~

~~"Preferred provider organization" or "PPO." An entity~~

~~organized and operating under section 630 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~"Professional health services plan corporation." An entity organized and operating under the 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations).~~

~~(b) Federal law. The words, terms and definitions found in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104 191, 110 Stat. 1936), including those in section 2791, are hereby adopted for purposes of implementing this act, except as noted herein. The term "health insurance issuer" found at section 2791(b)(2) of the Health Insurance Portability and Accountability Act of 1996 shall have the meaning provided under "insurer" in subsection (a).~~

~~Section 4. Adoption of Federal act.~~

~~Group health plans shall comply with the provisions of sections 195(b), 2701, 2702, 2705 and 2721 of the Federal act. Insurers shall be subject to all of the provisions in sections 193, 195(b), 2701, 2702, 2705, 2711, 2712, 2713 and 2721. State licensed HMOs that are not federally qualified shall comply with section 195(b) of the Federal act.~~

~~Section 5. Adoption of provisions of Federal act necessary to implement acceptable alternative mechanism in individual market.~~

~~Hospital plan corporations and professional health services plan corporations shall offer to eligible individuals, upon request, policies based upon the following provisions:~~

~~(1) Continuous year round open enrollment.~~

~~(2) Guaranteed issue.~~

~~(3) No preexisting condition exclusions.~~

~~(4) A choice of at least two individual health insurance policies that include at least one policy form of coverage that is comparable to the comprehensive health insurance coverage offered by the hospital plan and professional health services plan corporations in the individual market or one that is comparable to a standard option of coverage offered by the hospital plan and professional health services plan corporations in the group or individual health insurance market in this Commonwealth.~~

~~(5) Financial subsidization of premium cost for eligible individuals. The hospital plan and professional health services plan corporations shall file for review with the commissioner a method for this financial subsidization.~~

~~Section 6. Penalties.~~

~~(a) General rule. Upon satisfactory evidence of a violation of this act by any insurer, group health plan or any other person, the commissioner may, in the commissioner's discretion, pursue any one or more of the following courses of action:~~

~~(1) Suspend, revoke or refuse to renew the license of the offending person.~~

~~(2) Enter a cease and desist order.~~

~~(3) Impose a civil penalty of not more than \$5,000 for each action in violation of this act.~~

~~(4) Impose a civil penalty of not more than \$10,000 for each action in willful violation of this act.~~

~~(b) Limitation. Penalties imposed against a person under this act shall not exceed \$500,000 in the aggregate during a single calendar year.~~

~~Section 7. Regulations.~~

~~The commissioner may promulgate such regulations as may be~~

1 ~~necessary or appropriate to carry out this act.~~

2 ~~Section 8. Repeals.~~

3 ~~All acts and parts of acts are repealed insofar as they are~~
4 ~~inconsistent with this act.~~

5 ~~Section 9. Applicability.~~

6 ~~This act shall apply as follows:~~

7 ~~(1) The requirements of section 2705 of the Federal act~~
8 ~~shall apply to plan years beginning on or after January 1,~~
9 ~~1998.~~

10 ~~(2) Section 5 shall apply to individual policies issued~~
11 ~~on or after January 1, 1998.~~

12 ~~(3) Except as otherwise provided, section 4 shall apply~~
13 ~~to all policies for plan years beginning on or after the~~
14 ~~effective date of this act.~~

15 ~~Section 10. Effective date.~~

16 ~~This act shall take effect July 1, 1997.~~

17 SECTION 1. SHORT TITLE.

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18 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE PENNSYLVANIA
19 HEALTH CARE INSURANCE PORTABILITY ACT.

20 SECTION 2. PURPOSE.

21 IT IS NECESSARY TO MAINTAIN THE COMMONWEALTH'S SOVEREIGNTY
22 OVER THE REGULATION OF HEALTH INSURANCE IN THIS COMMONWEALTH BY
23 COMPLYING WITH THE REQUIRED SECTIONS OF THE HEALTH INSURANCE
24 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191,
25 110 STAT. 1936). THE PROVISIONS OF THIS ACT ARE INTENDED TO MEET
26 THESE REQUIREMENTS WHILE RETAINING THE COMMONWEALTH'S AUTHORITY
27 TO REGULATE HEALTH INSURANCE IN THIS COMMONWEALTH.

28 SECTION 3. DEFINITIONS.

29 (A) GENERAL RULE.--THE FOLLOWING WORDS AND PHRASES WHEN USED
30 IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

2 "COMMISSIONER." THE INSURANCE COMMISSIONER OF THE
3 COMMONWEALTH.

4 "COMPANY," "ASSOCIATION" OR "EXCHANGE." THOSE ENTITIES
5 HOLDING A CURRENT CERTIFICATE OF AUTHORITY WHICH ARE DEFINED IN
6 SECTION 101 OF THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN
7 AS THE INSURANCE COMPANY LAW OF 1921.

8 "DEPARTMENT." THE INSURANCE DEPARTMENT OF THE COMMONWEALTH.

9 "FEDERAL ACT." THE FEDERAL LAW KNOWN AS THE HEALTH INSURANCE
10 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191,
11 110 STAT. 1936) AND ANY SUBSEQUENT AMENDMENTS TO THAT ACT.

12 "FRATERNAL BENEFIT SOCIETY." AN ENTITY HOLDING A CURRENT
13 CERTIFICATE OF AUTHORITY UNDER THE ACT OF DECEMBER 14, 1992
14 (P.L.835, NO.134), KNOWN AS THE FRATERNAL BENEFIT SOCIETIES
15 CODE.

16 "HEALTH MAINTENANCE ORGANIZATION" OR "HMO." AN ENTITY
17 HOLDING A CURRENT CERTIFICATE OF AUTHORITY UNDER THE ACT OF
18 DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN AS THE HEALTH
19 MAINTENANCE ORGANIZATION ACT.

20 "HOSPITAL PLAN CORPORATION." AN ENTITY HOLDING A CURRENT
21 CERTIFICATE OF AUTHORITY ORGANIZED AND OPERATED UNDER 40 PA.C.S.
22 CH. 61 (RELATING TO HOSPITAL PLAN CORPORATIONS).

23 "INSURER." A FOREIGN OR DOMESTIC INSURANCE COMPANY,
24 ASSOCIATION OR EXCHANGE, HEALTH MAINTENANCE ORGANIZATION,
25 HOSPITAL PLAN CORPORATION, PROFESSIONAL HEALTH SERVICES PLAN
26 CORPORATION, FRATERNAL BENEFIT SOCIETY OR RISK-ASSUMING
27 PREFERRED PROVIDER ORGANIZATION. THIS TERM SHALL NOT INCLUDE A
28 GROUP HEALTH PLAN AS DEFINED IN SECTION 2791 OF THE FEDERAL ACT.

29 "PREFERRED PROVIDER ORGANIZATION" OR "PPO." AN ENTITY
30 HOLDING A CURRENT CERTIFICATE OF AUTHORITY UNDER SECTION 630 OF

1 THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE
2 INSURANCE COMPANY LAW OF 1921.

3 "PROFESSIONAL HEALTH SERVICES PLAN CORPORATION." AN ENTITY
4 HOLDING A CURRENT CERTIFICATE OF AUTHORITY UNDER 40 PA.C.S. CH.
5 63 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS).
6 THIS TERM SHALL NOT INCLUDE DENTAL SERVICE CORPORATIONS OR
7 OPTOMETRIC SERVICE CORPORATIONS, AS THOSE TERMS ARE DEFINED
8 UNDER 40 PA.C.S. § 6302(A) (RELATING TO DEFINITIONS).

9 (B) FEDERAL LAW.--THE WORDS, TERMS AND DEFINITIONS FOUND IN
10 THE FEDERAL ACT, INCLUDING THOSE IN SECTION 2791, ARE HEREBY
11 ADOPTED FOR PURPOSES OF IMPLEMENTING THIS ACT, EXCEPT AS NOTED
12 HEREIN. THE TERM "HEALTH INSURANCE ISSUER" UNDER SECTION
13 2791(B)(2) OF THE HEALTH INSURANCE PORTABILITY AND
14 ACCOUNTABILITY ACT OF 1996 SHALL HAVE THE MEANING PROVIDED UNDER
15 "INSURER" IN SUBSECTION (A).

16 SECTION 4. ADOPTION OF FEDERAL ACT.

17 INSURERS SHALL COMPLY WITH SECTIONS 2701, 2702, 2705, 2711,
18 2712, 2713, 2721, 2742, 2743 AND 2747 OF THE FEDERAL ACT.

19 LICENSED HMOS MAY OFFER POLICIES IN CONFORMITY WITH SECTION 193
20 OF THE FEDERAL ACT.

21 SECTION 5. PENALTIES.

22 (A) GENERAL RULE.--UPON SATISFACTORY EVIDENCE OF A VIOLATION
23 OF THIS ACT BY ANY INSURER OR OTHER PERSON, THE COMMISSIONER
24 MAY, IN THE COMMISSIONER'S DISCRETION, PURSUE ANY ONE OF THE
25 FOLLOWING COURSES OF ACTION:

26 (1) SUSPEND, REVOKE OR REFUSE TO RENEW THE LICENSE OF
27 THE OFFENDING PERSON.

28 (2) ENTER A CEASE AND DESIST ORDER.

29 (3) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$5,000 FOR
30 EACH ACTION IN VIOLATION OF THIS ACT.

1 (4) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR
2 EACH ACTION IN WILLFUL VIOLATION OF THIS ACT.

3 (B) LIMITATION.--PENALTIES IMPOSED AGAINST A PERSON UNDER
4 THIS ACT SHALL NOT EXCEED \$500,000 IN THE AGGREGATE DURING A
5 SINGLE CALENDAR YEAR.

6 SECTION 6. REGULATIONS.

7 THE COMMISSIONER MAY PROMULGATE SUCH REGULATIONS AS MAY BE
8 NECESSARY OR APPROPRIATE TO CARRY OUT THIS ACT.

9 SECTION 7. REPEALS.

10 ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS THEY ARE
11 INCONSISTENT WITH THIS ACT.

12 SECTION 8. EFFECTIVE DATE.

13 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

14 (1) THE REQUIREMENTS OF SECTION 2705 OF THE FEDERAL ACT
15 SHALL TAKE EFFECT FOR POLICIES ISSUED OR RENEWED ON OR AFTER
16 JANUARY 1, 1998.

17 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1,
18 1997.