

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1044 Session of  
2001

INTRODUCED BY GORDNER, BARRAR, BEBKO-JONES, BELARDI, BELFANTI,  
BUNT, CALTAGIRONE, CLARK, COY, CURRY, DALEY, DeWEESE,  
FAIRCHILD, FREEMAN, GEORGE, GRUCELA, HALUSKA, HARHAI, HORSEY,  
JAMES, LAUGHLIN, LEDERER, McCALL, McILHATTAN, MELIO,  
PISTELLA, PRESTON, READSHAW, SATHER, SHANER, SOLOBAY,  
STABACK, STEELMAN, SURRA, THOMAS, TRELLO, TRICH, WANSACZ,  
J. WILLIAMS, WOJNAROSKI AND YOUNGBLOOD, MARCH 15, 2001

REFERRED TO COMMITTEE ON INSURANCE, MARCH 15, 2001

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," providing for nondiscrimination in  
12 rural patient access to providers of health care benefit  
13 plans.

14 The General Assembly finds and declares as follows:

15 (1) This Commonwealth has the nation's largest rural  
16 population.

17 (2) This Commonwealth's rural areas have lower  
18 population densities, greater distances and more difficult  
19 travel terrain, fewer resources such as public  
20 transportation, more chronic health care needs and a greater  
21 population proportion of elderly and those living in poverty

1       than their urban counterparts.

2           (3) Access to some type of care, including emergency  
3 services, is inadequate in rural areas of this Commonwealth,  
4 contributing to an accidental death rate in rural areas that  
5 is 40 times higher than in urban locations.

6           (4) Agriculture is the nation's most hazardous industry  
7 with a work-related death rate that is 22% higher than the  
8 second most hazardous industry, which is mining and  
9 quarrying.

10          (5) There is a shortage of health care facilities and  
11 doctors in rural areas of this Commonwealth. Rural areas are  
12 experiencing great difficulties in recruiting prospective  
13 physicians.

14          (6) People want to choose their own doctor and how far  
15 they want to drive for health care services. They want to  
16 know that treatment, if needed, is nearby.

17          (7) Managed care programs take choice of doctor and  
18 health care facility away from the individual.

19          (8) The recent rapid introduction of managed care health  
20 programs into the rural areas of this Commonwealth has caused  
21 great concern in regard to the negative effect of these  
22 programs on recruitment and retention of health care  
23 providers.

24          (9) Rural citizens' health care needs will be at further  
25 risk as managed care programs remove necessary incentives for  
26 rural doctors and other health care providers to stay and  
27 work in rural communities.

28          (10) In response to the increased risk of our rural  
29 citizens' health care, there shall be openness and  
30 nondiscrimination in any health care benefit plan operating

1 in the rural areas of this Commonwealth.

2 (11) To improve health care access for this  
3 Commonwealth's rural citizens and to enhance recruitment and  
4 retention of doctors and other health professionals in rural  
5 areas, an article shall be added to carry out the above-  
6 stated findings and declarations.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. The act of May 17, 1921 (P.L.682, No.284), known  
10 as The Insurance Company Law of 1921, is amended by adding an  
11 article to read:

12 ARTICLE XIX.

13 NONDISCRIMINATION IN RURAL PATIENT ACCESS TO  
14 PROVIDERS OF HEALTH CARE BENEFIT PLANS.

15 Section 1901. Definitions.--As used in this article the  
16 following words and phrases shall have the meanings given to  
17 them in this section:

18 "Health care benefit plan." An insurance policy, contract or  
19 plan that provides health care to participants or beneficiaries  
20 directly or through insurance, reimbursement or otherwise.

21 "Health care payer." An individual or entity that is  
22 responsible for providing or paying for all or part of the cost  
23 of health care services covered by a health care benefit plan.  
24 The term includes, but is not limited to:

25 (1) A person that establishes, operates or maintains a  
26 network of participating providers.

27 (2) An entity subject to:

28 (i) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
29 corporations) or 63 (relating to professional health service  
30 plan corporations).

1     (ii) This act, including any preferred provider organization  
2 subject to section 630.

3     (iii) The act of December 29, 1972 (P.L.1701, No.364), known  
4 as the "Health Maintenance Organization Act."

5     (iv) The act of December 14, 1992 (P.L.835, No.134), known  
6 as the "Fraternal Benefit Societies Code."

7     (v) An agreement by a self-insured employer or self-insured  
8 multiple employer trust to provide health care benefits to  
9 employees and their dependents.

10    "Participating provider." A provider who has entered into an  
11 agreement with a health care payer, directly or indirectly, to  
12 provide such services or supplies to a patient enrolled in a  
13 health care benefit plan.

14    "Provider." A physician or other person appropriately  
15 licensed by the Bureau of Professional and Occupational Affairs  
16 to provide health care services.

17    Section 1902. Scope of Article.--The provisions of this  
18 article shall apply to all counties within this Commonwealth,  
19 except counties of the first class, counties of the second class  
20 and counties of the second class A.

21    Section 1903. Credentialing.--(a) A health care payer who  
22 establishes, operates or maintains a participating provider  
23 network shall not exclude providers from participation except in  
24 accordance with this section.

25    (b) A health care payer shall credential participating  
26 providers within its plan and allow all providers within the  
27 plan's geographic service area to apply for such credentials. At  
28 least once per year, the health care payer shall notify  
29 providers of the opportunity to apply for credentials. Such a  
30 credentialing process shall begin upon application of a provider

1 to the plan for inclusion. Each application shall be reviewed by  
2 a credentialing committee with appropriate representation of the  
3 applicant's medical specialty.

4 (c) Credentialing shall be based on objective standards of  
5 quality with input from providers credentialed in the plan, and  
6 such standards shall be available to applicants and enrollees.  
7 When economic considerations are part of the decision, objective  
8 criteria must be used and must be available to applicants,  
9 participating providers and enrollees. Any economic profiling of  
10 providers shall be adjusted to recognize case mix, severity of  
11 illness, age of patients and other features of a provider's  
12 practice that may account for higher-than-expected or lower-  
13 than-expected costs. Profiles shall be made available to those  
14 so profiled. When graduate medical education is a consideration  
15 in credentialing, equal recognition shall be given to training  
16 programs accredited by the Accrediting Council on Graduate  
17 Medical Education and by the American Osteopathic Association.

18 (d) A health care payer may not discriminate against  
19 enrollees with expensive medical conditions by excluding  
20 providers with practices containing a substantial number of such  
21 patients. A health care payer may not exclude providers on the  
22 basis that they lack hospital admitting privileges.

23 (e) All decisions shall be made on the record, and the  
24 applicant shall be provided with all reasons used if the  
25 application is denied or the contract is not renewed.

26 (f) A health care payer may not include clauses in physician  
27 or other provider contracts that allow for its plan to terminate  
28 the contract "without cause."

29 (g) There shall be a due process appeal from all adverse  
30 decisions. The due process appeal mechanisms shall be as set

1 forth in the Health Care Quality Improvement Act of 1986 (Public  
2 Law 99-660, 42 U.S.C. § 11101 et seq.).

3 (h) The same standards and procedures used for an  
4 application for credentials shall also be used in those cases  
5 where a health care payer seeks to reduce or withdraw such  
6 credentials. Prior to initiation of a proceeding leading to  
7 termination of a contract "for cause," the provider shall be  
8 provided with notice, an opportunity for discussion and an  
9 opportunity to enter into and complete a corrective action plan,  
10 except in cases where there is imminent harm to patient health  
11 or an action by a State medical board or other government agency  
12 that effectively impairs the provider's ability to practice  
13 within the jurisdiction.

14 Section 1904. Input Into Plan's Medical Policy.--A health  
15 care payer shall establish a mechanism, with defined rights,  
16 under which providers participating in its plan provide input  
17 into the plan's medical policy, including coverage of new  
18 technology and procedures, utilization review criteria and  
19 procedures, quality and credentialing criteria and medical  
20 management procedures.

21 Section 1905. Interpretation and Intent.--(a) Provisions of  
22 the Employee Retirement Income Security Act of 1974 (Public Law  
23 93-406, 88 Stat. 829) may be interpreted to prohibit the  
24 application of this article to certain types of health care  
25 benefit plans and health care payers.

26 (b) It is the intent of the General Assembly that this  
27 article be given the broadest possible application and that its  
28 scope include applications permitted by future legislative  
29 amendments and judicial interpretations of the Employee  
30 Retirement Income Security Act of 1974.

1       Section 2. The provisions of this act are severable. If any  
2 provisions of this act or its application to any person or  
3 circumstance is held invalid, the invalidity shall not affect  
4 other provisions or applications of this act which can be given  
5 effect without the invalid provision or application.

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