

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1823 Session of
2001

INTRODUCED BY KENNEY, PETRONE, ADOLPH, ALLEN, ARGALL, ARMSTRONG,
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O'BRIEN, OLIVER, PETRARCA, PHILLIPS, PISTELLA, PRESTON,
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R. STEVENSON, STRITTMATTER, STURLA, TANGRETTI, J. TAYLOR,
THOMAS, TIGUE, TRAVAGLIO, TRELLO, TRICH, TULLI, VEON, WALKO,
WASHINGTON, WATERS, WATSON, J. WILLIAMS, WILT, WOGAN,
WOJNAROSKI, YEWIC, YOUNGBLOOD, YUDICHAK, ZIMMERMAN AND ZUG,
JUNE 21, 2001

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
JUNE 21, 2001

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,

1 boards, commissions, and officers; fixing the salaries of the
2 Governor, Lieutenant Governor, and certain other executive
3 and administrative officers; providing for the appointment of
4 certain administrative officers, and of all deputies and
5 other assistants and employes in certain departments, boards,
6 and commissions; and prescribing the manner in which the
7 number and compensation of the deputies and all other
8 assistants and employes of certain departments, boards and
9 commissions shall be determined," providing for duties of the
10 Bureau of Drug and Alcohol Programs over certain grievances;
11 and making repeals.

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

14 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
15 as The Administrative Code of 1929, is amended by adding a
16 section to read:

17 Section 2126. Duties of the Bureau of Drug and Alcohol
18 Programs over Certain Grievances.--(a) The Bureau of Drug and
19 Alcohol Programs in the Department of Health shall establish a
20 grievance procedure to handle complaints and grievances
21 regarding access to, denial of and the provision of drug and
22 alcohol treatment services by health maintenance entities.

23 (b) Complaints and grievances regarding alcohol and drug
24 treatment shall follow a one-level, external grievance procedure
25 and shall be resolved in thirty (30) days from submission of the
26 complaint.

27 (c) Managed care entities handling drug and alcohol
28 treatment or behavioral health authorizations, utilization and
29 review, assessments or otherwise approving care or making
30 clinical determinations shall routinely advise subscribers of
31 the grievance procedure and how to initiate the procedure
32 through written materials and at the point of any denial or
33 adverse treatment decision.

34 (d) At the point of an inquiry regarding corrective action
35 or a complaint or grievance regarding drug and alcohol treatment

1 services, subscribers shall be advised of the one-step appeal
2 procedure.

3 (e) At the point of each denial of requested drug and
4 alcohol treatment, the managed care entity or any entity
5 responsible for assessing or approving drug and alcohol
6 treatment delivery as well as drug and alcohol treatment
7 programs shall advise the subscriber of the grievance procedure
8 and how to initiate the process.

9 (f) Any time a health maintenance entity, third-party
10 administrator, utilization review firm or behavioral health
11 managed care company or managed care contractor denies access
12 for a specific covered treatment or treatment modality or denies
13 continuation of existing treatment or makes other adverse
14 treatment decisions, that decision shall be provided in writing
15 to the patient, the referral source and the drug and alcohol
16 facility providing treatment and shall set forth the specific
17 reasons for denial and the name of the individual making that
18 decision.

19 (g) The consumer, facility or designee or a treatment
20 program which is providing or has provided a service to a
21 subscriber may initiate the grievance procedure.

22 (h) (1) The Bureau of Drug and Alcohol Programs shall
23 establish a registry of drug and alcohol treatment clinicians
24 working in drug and alcohol treatment facilities licensed by the
25 Department of Health who are qualified to conduct grievance
26 reviews.

27 (2) The minimum qualifications for a clinician on the
28 registry are:

29 (i) A master's or bachelor's degree or certified addiction
30 counselor certificate.

1 (ii) Five years' experience in addiction treatment programs
2 serving public and private clients. This experience shall
3 include drug and alcohol clinical experience in both inpatient
4 and outpatient treatment settings with demonstrated strength in
5 client assessment.

6 (3) The registry shall consist of noncivil service
7 positions.

8 (i) The grievance procedure shall include, at a minimum, the
9 following elements:

10 (1) A requirement that a case assigned to a clinician or
11 clinicians for review shall have all identifying matter, such as
12 patient name, name of the treatment program and the managed care
13 entity's name removed.

14 (2) A requirement that a clinician or clinicians shall not
15 review a case where there is a conflict of interest.

16 (3) A procedure for efficient assignment of cases to
17 clinicians for review.

18 (4) A requirement that all clinical reviews be conducted by
19 registry clinicians using the Pennsylvania client placement
20 criteria or criteria developed by the American Society of
21 Addiction Medicine.

22 (5) A requirement that the clinician or clinicians assigned
23 to the case shall report the results of their final
24 determination to the Bureau of Drug and Alcohol Programs and to
25 the effected parties to the case.

26 (6) A requirement that the parties to the case shall
27 immediately comply with the determination of the clinician or
28 clinicians.

29 (7) A requirement that the decision of the clinician or
30 clinicians shall be binding upon the parties to the case absent

1 that such decision is a gross abuse of discretion.

2 (j) No subscriber of a health maintenance entity shall be
3 deprived of alcohol and other drug treatment or coverage due to
4 identification of an alcohol and other drug problem that occurs
5 as a result of contact with the legal or criminal justice
6 system.

7 (k) Nothing in this section shall be construed to prohibit a
8 licensed drug and alcohol treatment program from providing drug
9 and alcohol addiction treatment while the grievance procedure is
10 under way or to require a health maintenance entity to pay for
11 the treatment if the program provides the treatment during that
12 time period.

13 (l) The Bureau of Drug and Alcohol Programs shall compile,
14 maintain and make available on an annual basis records on
15 inquiries requiring corrective action, complaints and grievances
16 regarding alcohol and drug treatment services by health
17 maintenance entities.

18 (m) The Bureau of Drug and Alcohol Programs shall promulgate
19 rules and regulations to implement this section.

20 (n) As used in this section the term, "managed care entity"
21 means a health care system that integrates any financing and
22 delivery of health care services. The term shall include, but
23 not be limited to, a health insurer, health plan, health
24 maintenance organization, managed care firm or third-party
25 administrator.

26 Section 2. (a) Section 14 of the act of December 29, 1972
27 (P.L.1701, No.364), known as the Health Maintenance Organization
28 Act, is repealed insofar as it is inconsistent with this act.

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

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