

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 141 Session of 2003

INTRODUCED BY SCHWARTZ, KUKOVICH, MELLOW, LOGAN, COSTA, ORIE,
TARTAGLIONE, WAGNER, BOSCOLA, KASUNIC, KITCHEN, MUSTO,
C. WILLIAMS, STOUT, LAVALLE AND EARLL, FEBRUARY 3, 2003

REFERRED TO PUBLIC HEALTH AND WELFARE, FEBRUARY 3, 2003

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," further providing for children's
12 health insurance program definitions; and providing for
13 children's health insurance program presumptive eligibility.

14 The General Assembly finds and declares as follows:

15 (1) The Commonwealth has an interest in having all
16 children covered under a health insurance policy. Adequate
17 and appropriate health care is essential to ensure the
18 optimum growth and development of a child. Early detection of
19 health care problems increases the likelihood of avoiding
20 serious health conditions and decreases the overall cost of
21 health care, in part by reducing dependency on emergency
22 care.

23 (2) One in twelve children in this Commonwealth lack

1 health insurance.

2 (3) Despite the efforts of the Commonwealth, businesses
3 and nonprofit organizations to increase the number of
4 children enrolled in the medical assistance program and CHIP,
5 too many eligible children remain uninsured. Additional
6 efforts are clearly needed at this time.

7 (4) Federal law authorizes states to allow certain
8 providers of services in the community to enroll
9 "presumptively eligible" children in medical assistance and
10 State health care programs. It has been shown that
11 simplification of the enrollment process, through measures
12 such as presumptive eligibility, is one of the most effective
13 means of enrolling new participants in the medical assistance
14 program and CHIP. Ten states have already taken measures to
15 adopt presumptive eligibility in Medicaid, CHIP or in both
16 programs.

17 (5) Many families without health insurance do not seek
18 preventative medical care for their children. As a result,
19 uninsured children are often brought to hospital emergency
20 departments for care.

21 (6) Children born to parents who cannot afford health
22 insurance but do not qualify for medical assistance, yet who
23 themselves are eligible for participation in the medical
24 assistance program or CHIP, are not automatically considered
25 for participation in either program.

26 (7) Many children who are eligible to receive subsidized
27 child care are also eligible for participation in the medical
28 assistance program or CHIP.

29 (8) Many children who are eligible to receive free or
30 reduced-price lunches through the national school lunch

1 program are also eligible for participation in the medical
2 assistance program or CHIP.

3 (9) Allowing hospitals, medical practices, county
4 assistance offices, schools and other entities that regularly
5 come into contact with uninsured children and their families
6 to directly enroll children in the medical assistance program
7 or CHIP will substantially increase the number of
8 Pennsylvania children with health insurance.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 2303 of the act of May 17, 1921 (P.L.682,
12 No.284), known as The Insurance Company Law of 1921, is amended
13 by adding definitions to read:

14 Section 2303. Definitions.--As used in this article, the
15 following words and phrases shall have the meanings given to
16 them in this section:

17 * * *

18 "Presumptive eligibility period." With respect to a child,
19 the period of eligibility which:

20 (1) begins with the date on which a qualified entity
21 determines, on the basis of preliminary information, that the
22 family income of the child does not exceed the applicable income
23 level of eligibility under this article; and

24 (2) ends on the earlier of:

25 (i) the day on which a determination is made with respect to
26 the eligibility of the child for medical assistance or under
27 this article; or

28 (ii) in the case of a child on whose behalf an application
29 is not filed by the last day of the month following the month
30 during which the entity makes the determination referred to in

1 subparagraph (i), such last day.

2 "Qualified entity." Any of the following:

3 (1) Any physician, osteopath or dentist.

4 (2) A nurse practitioner or nurse midwife.

5 (3) A hospital.

6 (4) An entity that:

7 (i) is eligible for payments under this article; and

8 (ii) provides health care services and items covered under
9 this article.

10 (5) An entity that is authorized to determine eligibility
11 of:

12 (i) a child to participate in the program under the Head
13 Start Act (Public Law 97-35, 42 U.S.C. § 9831 et seq.);

14 (ii) a child to receive child care services for which
15 financial assistance is provided under the Child Care and
16 Development Block Grant Act of 1990 (Public Law 101-508, 42
17 U.S.C. § 9858 et seq.);

18 (iii) an infant or child to receive assistance under the
19 Child Nutrition Act of 1966 (Public Law 89-642, 42 U.S.C. § 1771
20 et seq.);

21 (iv) a child for medical assistance;

22 (v) a child under this article; or

23 (vi) an individual to receive Federal funds under a program
24 of public or assisted housing, including any program under
25 section or other provision of the United States Housing Act of
26 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.).

27 (6) A county domestic relations section.

28 (7) A child care information services worker.

29 (8) An organization that provides emergency food and shelter
30 under a grant under the Stewart B. McKinney Homeless Assistance

1 Act (Public Law 100-77, 101 Stat. 482).

2 (9) An elementary or secondary school as defined in section
3 14101 of the Elementary and Secondary Education Act of 1965
4 (Public Law 89-10, 20 U.S.C. § 8801).

5 (10) An entity determined by the Insurance Department to be
6 capable of making the determinations under clause (5).

7 * * *

8 Section 2. Section 2312 of the act, added June 17, 1998
9 (P.L.464, No.68), is amended to read:

10 Section 2312. Outreach.--(a) The Insurance Department, in
11 consultation with appropriate Commonwealth agencies, shall
12 coordinate the development of an outreach plan to inform
13 potential contractors, providers and enrollees regarding
14 eligibility and available benefits. The plan shall include
15 provisions for reaching special populations, including nonwhite
16 and non-English-speaking children and children with
17 disabilities; for reaching different geographic areas, including
18 rural and inner-city areas; for publicizing the program under
19 section 2314, by means of signs, posters and other means; and
20 for assuring that special efforts are coordinated within the
21 overall outreach activities throughout this Commonwealth.

22 (b) The council shall review the outreach activities and
23 recommend changes as it deems in the best interests of the
24 children to be served.

25 Section 3. The act is amended by adding a section to read:

26 Section 2314. Presumptive Eligibility.--(a) Notwithstanding
27 any provision of law to the contrary, medical assistance and
28 insurance with respect to health care items and services covered
29 under this article shall be available to a child during the
30 presumptive eligibility period subject to availability of

Federal funding under Titles XIX and XXI of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq. and 1397aa et seq.). Presumptive eligibility for medical assistance and for free and subsidized health care services under this article shall be determined by qualified entities at their option, except that the Department of Public Welfare shall determine presumptive eligibility for free and subsidized health care services under this article when determining eligibility for financial assistance for child day care.

(b) A qualified entity may determine presumptive eligibility for free and subsidized health care services under this article when determining eligibility for the school lunch program under the Child Nutrition Act of 1966 (Public Law 89-642, 42 U.S.C. §1771 et seq.).

(c) A child shall be eligible for one presumptive eligibility period during each twelve-month period.

(d) Qualified entities shall follow up with applicants in writing to ensure to the extent possible that the application process is complete so that an eligibility determination can be made. If a qualified entity determines that a child is presumptively eligible under subsection (a), the qualified entity shall do all of the following:

(1) At the time of the determination, notify the parent or guardian of the child of the determination and of the presumptive eligibility period.

(2) Within five (5) business days of making the determination, notify the Insurance Department of the determination.

(3) Issue a temporary identification card supplied by the Insurance Department.

1 (e) A parent or guardian of a child may apply for health
2 insurance under this article during the presumptive eligibility
3 period. Application must be made on a form provided by the
4 Insurance Department to qualified entities and allowing joint
5 application for medical assistance and for insurance under this
6 article. The form shall require all of the following:

7 (1) Name of applicant and child.

8 (2) Residence and mailing address of applicant and child.

9 (3) Child's birth date; citizenship status; and, if there is
10 one, Social Security number.

11 (4) Name and place of employment of each adult residing in
12 the same household as the child.

13 (5) Income, child care and support payments of the applicant
14 and the child. Income verification may be waived for those
15 applicants who provide documentation that they are receiving
16 benefits under a State program of assistance for low-income
17 individuals, including, but not limited to, the Federal
18 Supplemental Program for Women, Infants and Children or food
19 stamp, child care or energy assistance.

20 (6) Applicant's certification, under penalty of law, that
21 the information provided by the applicant is true and complete
22 to the best of knowledge, information and belief.

23 (7) Applicant's certification, under penalty of law, that
24 the child has no health insurance at the time of application.

25 (8) Applicant's engagement to repay the cost of treatment or
26 medical services if treatment or medical services are obtained
27 on the basis of knowing misrepresentation by the applicant.

28 (9) A child who has received medical treatment under this
29 article prior to the beginning of the presumptive eligibility
30 period is not ineligible under this section if the child

1 otherwise qualifies.

2 (f) The department shall make a determination on the
3 application within thirty (30) days of filing. If the time
4 period set forth in this subsection is not met, the application
5 shall be deemed approved.

6 (g) Reimbursement to the qualified entity shall be at the
7 rate established under medical assistance or this article, as
8 applicable. If services have been provided by a qualified entity
9 and the child is ultimately determined to be ineligible, the
10 qualified entity is entitled to reimbursement in accordance with
11 Federal law. The Insurance Department shall reimburse qualified
12 entities for reasonable and necessary administrative expenses,
13 including, but not limited to, personnel-related costs, training
14 expenses, office supplies and mailing costs, incurred in
15 carrying out the provisions of this section. Qualified entities
16 that receive Federal or State funds for the administration of
17 public assistance programs are not eligible for reimbursement
18 under this subsection.

19 (h) If the department finds that an individual filed an
20 application under this section with knowledge that the child is
21 not eligible under this section, the department may order the
22 individual to reimburse the Commonwealth for the cost of the
23 services and for the cost of investigation. An order under this
24 subsection is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to
25 practice and procedure of Commonwealth agencies) and 7 Subch. A
26 (relating to judicial review of Commonwealth agency action).

27 (i) The Insurance Department, in conjunction with the
28 Department of Health and the Department of Public Welfare, shall
29 establish a program to train qualified entities in making
30 eligibility determinations under this section. The training

1 program shall include, but not be limited to, special training
2 efforts directed to the following:

3 (1) Maternity personnel.

4 (2) Hospital emergency room personnel.

5 (3) Other qualified entities that are not experienced in
6 processing applications for free and subsidized health care
7 services under this article or for Medicaid.

8 Section 4. This act shall take effect in 90 days.