

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 746** Session of  
2007

INTRODUCED BY GREENLEAF, ERICKSON, WASHINGTON AND RHOADES,  
APRIL 9, 2007

REFERRED TO BANKING AND INSURANCE, APRIL 9, 2007

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 insurance coverage  
12 for the surgical treatment of morbid obesity.

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

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known  
16 as The Insurance Company Law of 1921, is amended by adding a  
17 section to read:

18 Section 635.2. Morbid Obesity Surgical Treatment Insurance  
19 Coverage.--(a) Every health insurance policy that is delivered,  
20 issued, executed or renewed in this Commonwealth on or after the  
21 effective date of this section shall offer coverage for the  
22 expenses of surgical treatment for morbid obesity that is:

1 (1) recognized by the National Institutes of Health as  
2 effective for the long-term reversal of morbid obesity; and

3 (2) consistent with guidelines approved by the National  
4 Institutes of Health.

5 (b) An entity subject to this section shall offer the  
6 benefits required under this section to the same extent as for  
7 other medically necessary surgical procedures under the  
8 enrollee's or insured's contract or policy with the entity.

9 (c) Subject to the provisions of subsection (d), the  
10 coverage offered under subsection (a) of this section may impose  
11 the following restrictions:

12 (1) the patient must be 21 years of age or older;

13 (2) the patient must first attempt non-surgical treatment  
14 supervised by a physician or doctor that is unsuccessful, over a  
15 period of at least six (6) consecutive months; and

16 (3) a physician or doctor must determine that the benefits  
17 of surgical treatment of morbid obesity on the patient  
18 substantially outweigh any serious health risks.

19 (d) A patient does not need to meet the qualifications of  
20 subsection (c) if surgical treatment of morbid obesity is of  
21 immediate necessity to save the life of the patient.

22 (e) As used in this section:

23 (1) "Body mass index" means a practical marker that is used  
24 to assess the degree of obesity and is calculated by dividing  
25 the weight in kilograms by the height in meters squared.

26 (2) "Health insurance policy" means all group or individual  
27 health or sickness or accident insurance policies providing  
28 hospital or medical/surgical coverage and all group or  
29 individual subscriber contracts or certificates issued by any  
30 entity subject to one (1) or more of the following:

1     (i) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
2 corporations) or 63 (relating to professional health services  
3 plan corporations).

4     (ii) This act.

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

7     (iv) An employee welfare benefit plan as defined in section  
8 3 of the Employee Retirement Income Security Act of 1974 (Public  
9 Law 93-406, 29 U.S.C. § 1001 et seq.) providing hospital or  
10 medical/surgical coverage.

11     (3) "Morbid obesity" means a body mass index that is either:

12     (i) greater than 40 kilograms per meter squared; or

13     (ii) equal to or greater than 35 kilograms per meter squared

14 with a comorbid medical condition, including hypertension, a

15 cardiopulmonary condition, sleep apnea or diabetes.

16     Section 2. This act shall take effect in 60 days.