

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 877 Session of
2007

INTRODUCED BY EARLL, ERICKSON, SCARNATI, PILEGGI, BROWNE,
CORMAN, COSTA, BOSCOLA, FOLMER, MUSTO, ORIE, RAFFERTY,
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MELLOW, WAUGH, MADIGAN, VANCE, D. WHITE AND PICCOLA,
MAY 21, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, MAY 21, 2007

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in public assistance,
4 adding definitions; and further providing for prepayment for
5 contracted medical services and for established drug
6 regimens.

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

9 Section 1. Section 402 of the act of June 13, 1967 (P.L.31,
10 No.21), known as the Public Welfare Code, is amended by adding
11 definitions to read:

12 Section 402. Definitions.--As used in this article, unless
13 the content clearly indicates otherwise:

14 * * *

15 "Behavioral health care services." Services provided to
16 recipients in inpatient or outpatient settings to diagnose,
17 treat or otherwise manage mental health or substance abuse
18 diagnoses and disorders.

1 * * *

2 "Managed care contractor." A managed care organization
3 providing managed care services relating to physical health care
4 to recipients under one or more contracts with the Department of
5 Public Welfare for the provision of mandatory managed care or
6 voluntary managed care.

7 "Managed care organization." A public or private
8 organization that is a federally qualified health maintenance
9 organization or meets the State plan's definition of a health
10 maintenance organization or otherwise qualifies as a managed
11 care plan as defined in Article XXI of the act of May 17, 1921
12 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

13 "Mandatory managed care." The Commonwealth's HealthChoices
14 Program, which provides mandatory managed health care to
15 recipients in specified areas of this Commonwealth through
16 contracts with managed care organizations.

17 "Medicaid." The program authorized by Subchapter XIX of the
18 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.),
19 and subject to regulations promulgated under that act.

20 "Medical assistance." The Commonwealth program authorized by
21 Subchapter XIX of the Social Security Act (49 Stat. 620, 42
22 U.S.C. § 1396 et seq.), and authorized in this Commonwealth
23 under this act and subject to regulations promulgated under
24 Subchapter XIX of the Social Security Act and this act. The term
25 includes any successor program implemented by either the Federal
26 Government or the Commonwealth, to the extent a contractor
27 provides services with respect to the program.

28 * * *

29 "Physical health care services." Services provided to
30 recipients by contractors including, but not limited to, primary

1 care, preventive health, specialty physician, outpatient,
2 inpatient and pharmacy services. The term does not include
3 behavioral health care services.

4 * * *

5 "Recipient." An individual eligible to receive health care
6 or health-related services under the medical assistance program.

7 * * *

8 "State plan." The document prepared by the Commonwealth in
9 the manner required by section 1396a(a) of the Social Security
10 Act (49 Stat. 620, 42 U.S.C. § 1396a(a)), as approved by the
11 Centers for Medicare and Medicaid Services, that describes the
12 nature, scope and operation of the medical assistance program
13 and gives assurances that the Commonwealth will administer the
14 program in compliance with Federal requirements. The term shall
15 include waivers granted by the Centers for Medicare and Medicaid
16 Services not otherwise included in the plan submitted by the
17 Commonwealth for Centers for Medicare and Medicaid Services
18 approval.

19 * * *

20 "Voluntary managed care." The Commonwealth's program, which
21 provides voluntary managed care to recipients in specified areas
22 of the Commonwealth through contracts with managed care
23 organizations.

24 "Waiver." A determination made by the Centers for Medicare
25 and Medicaid Services under Subchapter XIX of the Social
26 Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.), and
27 regulations promulgated under that act, which allows the
28 Commonwealth to make modifications in its operation of the
29 medical assistance program.

30 * * *

1 Section 2. Section 443.5 of the act, added July 15, 1976
2 (P.L.993, No.202), is amended to read:

3 Section 443.5. Prepayment for Contracted Medical Services.--

4 (a) For categorically needy or medically needy persons eligible
5 for medical assistance, prepaid capitation payments or insurance
6 premiums for services under the medical assistance State plan
7 may be made on behalf of eligible persons through competitive
8 bidding with profit or non-profit contractors, insurers, or
9 health maintenance organizations. Profit and non-profit insurers
10 must be approved under applicable State laws. Prepaid capitation
11 or premium payments made under such contracts shall not exceed
12 payments made to other third party payers for comparable
13 services and similar benefit conditions. Capitation payments
14 charged for anticipated medical assistance eligible persons
15 under a contract may be prepaid by the Commonwealth subject to
16 monthly, quarterly, and annual adjustment by the department
17 based on actual enrollment and fixed capitation rates.

18 (b) The department shall administer a program of mandatory
19 managed care for physical health care services in this
20 Commonwealth in geographic areas that include:

21 (1) The Southeast.

22 (2) The Southwest.

23 (3) The Lehigh and Capital areas.

24 (c) (1) The department shall also administer a program of
25 voluntary managed care for recipients residing outside the
26 geographic areas described in subsection (b). The department
27 shall contract with no more than five managed care
28 organizations to serve each county covered by the voluntary
29 managed care program if managed care contractors are willing
30 to participate and meet departmental criteria.

1 (2) Managed care contractors participating in the
2 voluntary managed care program shall provide substantially
3 the same physical health care benefits as are made available
4 to recipients under the mandatory managed care program.

5 (3) The department shall allow recipients to voluntarily
6 participate in a managed care plan and notify the recipients
7 of their choices among contractors or fee-for-service
8 Medicaid.

9 (d) The delivery of medical assistance services through a
10 system of mandatory managed care or voluntary managed care as
11 provided in subsections (b) and (c) shall be maintained by the
12 department, unless termination of either of these programs of
13 services is approved by the General Assembly.

14 (e) The chairman and minority chairman of the Public Health
15 and Welfare Committee of the Senate and the chairman and
16 minority chairman of the Health and Human Services Committee of
17 the House of Representatives shall be notified and provided a
18 copy of any State plan amendment and any waiver request along
19 with any supporting documents, no later than forty-eight hours
20 prior to submission of the Commonwealth's State plan amendment
21 or waiver request to the Centers for Medicare and Medicaid
22 Services.

23 Section 3. Section 459 of the act, added July 7, 2005
24 (P.L.177, No.42), is amended to read:

25 Section 459. Established Drug Regimens.--(a) When
26 determining prior authorization criteria for a preferred drug
27 class, the department shall consider the potential destabilizing
28 effect on the recipient's health by any change in the
29 recipient's established drug regimen, including, but not limited
30 to, prescription drugs for human immunodeficiency virus (HIV),

1 acquired immune deficiency syndrome (AIDS), behavioral health,
2 hemophilia, hepatitis C, biologic drugs, immunosuppressants and
3 anticonvulsants.

4 (b) The department shall consider pharmaceutical services a
5 covered benefit under both mandatory managed care and voluntary
6 managed care which shall be provided and continued under
7 contracts with managed care contractors.

8 Section 4. This act shall take effect immediately.