
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 39 Session of
2009

INTRODUCED BY GREENLEAF, CORMAN, FONTANA, BROWNE, RAFFERTY,
EARLL AND O'PAKE, JANUARY 20, 2009

REFERRED TO BANKING AND INSURANCE, JANUARY 20, 2009

AN ACT

1 Authorizing privately established and operated health insurance
2 purchasing cooperatives; and providing for the regulation of
3 health insurance purchasing cooperatives by the Insurance
4 Department.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pennsylvania
10 Health Insurance Purchasing Cooperative Act.

11 Section 2. Statement of purpose.

12 The General Assembly recognizes that small employers are
13 unable to negotiate health insurance benefits at the same cost
14 as larger employers which makes it unaffordable for them to
15 offer it to their employees. Therefore, the General Assembly
16 seeks to increase the availability, accessibility and
17 affordability of health insurance coverage by allowing small
18 employers to join together through a health insurance purchasing
19 cooperative so that they gain the same administrative
20 efficiencies and purchasing strength as larger employers.

21 Section 3. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Business plan." The plan of operation of a health insurance
26 purchasing cooperative.

27 "Commissioner." The Insurance Commissioner of the
28 Commonwealth.

29 "Department." The Insurance Department of the Commonwealth.

30 "Dependent child." A natural or adopted child of an

1 employee. The term includes a stepchild who resides in an
2 employee's household if the employee has assumed the financial
3 responsibility for the child and another parent is not legally
4 responsible for support for and medical expenses of the child.

5 "Eligible dependent." A spouse of an employee and a
6 dependent child who is under 19 years of age.

7 "Eligible employee." An employee or individual who is a
8 full-time employee of an eligible employer and qualified to
9 enroll in a health benefit plan offered through a health
10 insurance purchasing cooperative or eligible dependent.

11 "Full-time." The status of working at least 30 hours per
12 week for an eligible employer.

13 "Health insurance purchasing cooperative" or "cooperative."
14 A group of small employers and eligible employees who join
15 together to purchase health insurance or health care benefits.

16 "Insurer." An insurer, health maintenance organization,
17 fraternal benefit society, hospital plan or health services plan
18 corporation that offers basic small group insurance plans to
19 small employers.

20 "Small employer." A person, firm, corporation, partnership
21 or association that employed, on at least 50% of its working
22 days during the preceding year, at least two but not more than
23 50 employees.

24 Section 4. Exemption.

25 A health insurance purchasing cooperative shall be exempt
26 from any law in this Commonwealth relating to the establishment
27 of groups for the purchase of insurance.

28 Section 5. Department duties.

29 (a) General rule.--The department shall regulate the
30 establishment and conduct of health insurance purchasing

1 cooperatives.

2 (b) Application procedure.--

3 (1) A health insurance purchasing cooperative may not
4 operate in this Commonwealth without an approved business
5 plan and without obtaining a license from the department.

6 (2) An application for a license must be completed and
7 signed by an authorized representative of the cooperative
8 sponsor and proposed health insurance purchasing cooperative
9 administrator, if applicable. The completed application for a
10 license must be verified and filed with the department.

11 (3) An application shall not be deemed to be filed until
12 all information necessary to properly process the application
13 has been received by the commissioner. Upon filing, the
14 department shall make its determination concerning the
15 application and shall provide notice of the determination to
16 the cooperative.

17 (4) If the application is approved, a copy of the
18 approved license shall be provided to the sponsor of the
19 cooperative. The license shall serve as the cooperative's
20 authorization to operate until the yearly renewal date.

21 (5) Any request for an amendment to the license shall be
22 filed in the same manner as the application and approved by
23 the commissioner before the change proposed by the amendment
24 is effective.

25 (c) Application.--A health insurance purchasing cooperative
26 applying for a license or a renewal of a license or operating in
27 this Commonwealth shall file with the department all of the
28 following information or documents:

29 (1) A business plan for approval by the commissioner.

30 (2) Quarterly financial statements and annual reports on

1 forms approved by the commissioner. Financial statements and
2 annual reports submitted shall provide evidence that allows
3 the commissioner to ensure that the health insurance
4 purchasing cooperative:

5 (i) Is operating in a fiscally sound fashion.

6 (ii) Is not a risk-bearing entity.

7 (iii) Has sound financial controls and money
8 management.

9 (iv) Has procedures in place to prevent
10 mismanagement or misappropriation of funds either through
11 neglect or malfeasance.

12 (3) Reports of any proposed changes in policy or
13 operations that constitute material changes in the business
14 plan that was the basis of licensure or a renewal of
15 licensure.

16 (4) Any other information deemed relevant by the
17 commissioner.

18 (d) License revocation.--Failure to provide requested
19 information shall be a basis for denial, suspension or
20 revocation of a license issued under this act.

21 (e) Audits.--Financial and performance audits or
22 examinations of the health insurance purchasing cooperative
23 shall be conducted on a regular basis by the commissioner.
24 Failure by a cooperative to meet minimum standards in a
25 financial or performance audit or examination shall be the basis
26 for license denial, suspension or revocation or other action to
27 protect consumers. The commissioner may impose conditions on
28 licensure, including, but not limited to, the removal and
29 replacement of managerial or marketing staff or contractors to
30 remedy compliance or performance problems.

(f) Compliance with business plan.--Failure of a health insurance purchasing cooperative to comply with the business plan approved by the commissioner may constitute a basis for suspension or revocation of the cooperative's license.

Section 6. Business plan.

A health insurance purchasing cooperative shall not receive a license unless the business plan of the cooperative has been reviewed and approved by the commissioner. The business plan submitted for approval shall include the following information:

(1) The steps the sponsor of the cooperative plans to take to advance cost control and quality improvement and to improve access to health insurance or health care services. The business plan shall demonstrate that the cooperative will reduce cost, improve quality and improve access to health insurance or health care services.

(2) The scope of cooperative services that will be offered in the service territory and the resources and expertise that will be used by the sponsor of the cooperative to implement and administer the plan.

(3) The corporate charter, bylaws and other business operation documents of the cooperative. As a condition of licensure, the cooperative must demonstrate to the satisfaction of the commissioner that its corporate governance makes it an appropriate and effective representative of the buyers' interests within the service territory. A cooperative shall, whenever feasible, contract with multiple, unaffiliated insurers to offer health benefit plans and other insurance to its members. A cooperative may selectively contract with insurers based on the quality and cost-effectiveness of services and other factors deemed to be

1 relevant by the cooperative.

2 (4) A list of officers and directors of the cooperative
3 and of the contract administrator, if one is employed, and
4 personal biographical information or firm descriptions for
5 each person named. The officers, directors or contract
6 administrator of a cooperative may not have a prior record of
7 administrative, civil or criminal violation within any
8 financial service industry. The personal biographical
9 information and firm descriptions submitted shall demonstrate
10 by clear and convincing evidence that the persons involved in
11 the cooperative have the expertise, experience and character
12 to effectively and professionally represent buyers in a
13 fiduciary capacity.

14 (5) Information concerning procedures for accounting,
15 deposit, collection, handling and transfer of moneys. Because
16 the cooperative may handle payments or accounting, the
17 cooperative shall demonstrate the presence of adequate
18 financial controls to the satisfaction of the commissioner as
19 a condition of licensure. Failure to have adequate controls
20 or to follow approved procedures may constitute a basis for
21 denial, suspension or revocation of licensure.

22 (6) The market segments and participants to which the
23 cooperative will be marketing. The cooperative shall
24 demonstrate to the satisfaction of the commissioner that the
25 cooperative will extend health insurance purchasing services
26 to a group of buyers not currently served by a cooperative.
27 Failure to achieve this result may constitute a basis for
28 denial of an application to renew a license.

29 (7) Any other information required by the commissioner
30 to verify that the cooperative is qualified to operate in

1 this Commonwealth.

2 Section 7. Membership.

3 (a) No capital stock.--A health insurance purchasing
4 cooperative shall be organized on a membership basis with no
5 capital stock.

6 (b) Voluntary.--Membership in a health insurance purchasing
7 cooperative shall be voluntary.

8 (c) Eligibility.--A health insurance purchasing cooperative
9 shall accept for membership in the cooperative any small
10 employers and eligible employees or dependents which agree to
11 pay the membership fee and any premium for coverage through the
12 cooperative and which abide by the bylaws and rules of the
13 cooperative.

14 (d) Additional membership.--A health insurance purchasing
15 cooperative may, at its option, accept for membership in the
16 cooperative any otherwise eligible employer that does not
17 qualify as a small employer because it employed more than 50
18 eligible employees during 50% or more of its working days during
19 the previous calendar quarter.

20 (e) Sole proprietor.--A health insurance purchasing
21 cooperative may, at its option, accept for membership in the
22 cooperative any otherwise eligible employer that does not
23 qualify as a small employer because it is an individual or sole
24 proprietor. If a cooperative chooses to accept such employers,
25 the cooperative may not discriminate in the acceptance process
26 based on health status.

27 Section 8. Health care benefits.

28 (a) Benefit plans.--A health insurance purchasing
29 cooperative shall provide to its members clear, standardized
30 information on each health care benefit plan or other coverage

1 offered by insurers through the cooperative to its members,
2 including information on price, enrollee costs, quality, patient
3 satisfaction, enrollment and enrollee responsibility and
4 obligations and shall provide health benefit plan and other
5 insurance comparison sheets as may be required by the
6 department.

7 (b) Discrimination.--A health insurance purchasing
8 cooperative may not:

9 (1) Vary conditions of eligibility, including premium
10 rates and membership fees, for any employer meeting the
11 membership requirements of the cooperative.

12 (2) Vary conditions of eligibility for any eligible
13 employee to qualify for a health benefit plan offered by the
14 cooperative to eligible employers and their employees.

15 (c) Open enrollment.--A health insurance purchasing
16 cooperative shall provide for an annual open enrollment period
17 of 30 calendar days during which members of the cooperative may
18 change the coverage option in which members are enrolled. A
19 cooperative shall, whenever feasible, contract with multiple,
20 unaffiliated insurers to offer health benefit plans and other
21 insurance to its members. A cooperative may selectively contract
22 with insurers based on quality and cost-effectiveness of
23 services and other factors deemed to be relevant by the
24 cooperative.

25 (d) Waiver of State mandates.--A health insurance purchasing
26 cooperative may provide a health benefit plan in whole or in
27 part that does not offer or provide State-mandated health
28 benefits. A cooperative that offers a health benefit plan
29 without such mandates must also offer at least one benefit plan
30 that includes coverage for all State-mandated health benefits.

1 (e) Notice requirements.--In each sale of a health benefit
2 plan to a proposed eligible employer through a health insurance
3 purchasing cooperative in which the cooperative offers an option
4 to an eligible employer to obtain a health benefit plan that,
5 either in whole or in part, does not provide State-mandated
6 health benefits, the cooperative, after the employer has
7 selected its health benefit plan, shall provide to each eligible
8 employee of the employer a written notice, in a form and manner
9 prescribed by rule or regulation promulgated by the
10 commissioner, that one or more mandated benefits are not
11 included in the health benefit plan.

12 (f) Licensed insurers.--A health benefit plan offered
13 through a health insurance purchasing cooperative shall be
14 underwritten by an insurer that is licensed or otherwise
15 regulated under State law and meets all applicable State
16 standards relating to consumer protection, including, but not
17 limited to, State solvency and market conduct.

18 Section 9. Insurance risk.

19 A health insurance purchasing cooperative shall not bear
20 insurance risk. The cooperative shall facilitate the purchase of
21 insurance and health care services.

22 Section 10. Disclosure and confidentiality.

23 (a) Right to preclude repurchase.--

24 (1) A health insurance purchasing cooperative may elect
25 to preclude a participant who leaves the cooperative from
26 returning to the cooperative to purchase health insurance or
27 health care benefits for a period of time.

28 (2) This subsection shall not be construed to authorize
29 discrimination against high-risk participants.

30 (b) Access to information.--

1 (1) Except as provided in paragraph (2), and subject to
2 review and approval by the commissioner, a health insurance
3 purchasing cooperative may restrict access to information in
4 its possession that is essential to the operation of the
5 cooperative.

6 (2) Restriction of access to information shall be
7 allowed for the following reasons:

8 (i) To induce voluntary participation in the
9 cooperative.

10 (ii) To protect the privacy of participants.

11 (iii) To protect the negotiating strategy of the
12 cooperative from disclosure to contractors or
13 competitors.

14 (iv) To protect proprietary information in like
15 circumstances as those that are applicable to insurers.

16 Section 11. Merger and consolidation.

17 (a) Legal entity.--A health insurance purchasing cooperative
18 shall be a legal entity that operates on behalf of its sponsor
19 or participants.

20 (b) Disclosure.--A health insurance purchasing cooperative
21 shall disclose its total administrative cost in its annual
22 report to the commissioner in the same manner and on the same
23 basis as insurers.

24 (c) Prior approval.--A change in control, a merger or an
25 acquisition of a health insurance purchasing cooperative is
26 subject to the prior review and approval of the commissioner on
27 the same terms as a change in control, a merger or an
28 acquisition of a Pennsylvania domestic insurance company.

29 Section 12. Conflict of interest.

30 (a) Sponsors.--Health care providers or insurers that offer

1 competing products within the same service territory may not
2 participate in a health insurance purchasing cooperative as
3 sponsors.

4 (b) Affiliations.--A sponsor of a health insurance
5 purchasing cooperative may not be an employee of, be affiliated
6 with or be a subsidiary of a health care provider or insurer
7 that offers competing products within the same service
8 territory.

9 Section 13. Grounds for denial, nonrenewal, suspension or
10 revocation.

11 The following grounds constitute a basis for denial,
12 nonrenewal, suspension or revocation of an application or
13 existing license, following notice and an opportunity for
14 hearing:

15 (1) Failure to comply with any provisions of this act or
16 rules or regulations adopted pursuant to this act.

17 (2) Failure to disclose preexisting oral or written
18 agreement during the cooperative application process.

19 (3) Failure to fairly offer, market and sell all of the
20 health benefit plan designs offered through a cooperative
21 that are sold or offered to small employers to all
22 participants.

23 (4) Failure to comply with a lawful order of the
24 commissioner.

25 (5) Committing an unfair or deceptive act or practice as
26 defined under section 5 of the act of July 22, 1974 (P.L.589,
27 No.205), known as the Unfair Insurance Practices Act.

28 (6) Filing any necessary form with the department which
29 contains fraudulent information or omission.

30 (7) Misappropriating, converting, illegally withholding

1 or refusing to pay over on proper demand any moneys that
2 belong to a person or health care insurer or any organized
3 delivery system or to which the cooperative is otherwise not
4 entitled and that have been entrusted to the cooperative in
5 its fiduciary capacity.

6 Section 14. Hearing and appeal.

7 Prior to denying an application for a license or an
8 application for renewal of a license or suspending or revoking a
9 license issued under this act, a license holder shall be
10 provided with written notice of the commissioner's decision and
11 provided an opportunity for a hearing and a right to appeal.

12 Section 15. Solvency.

13 If a health insurance purchasing cooperative becomes
14 insolvent, the commissioner shall maintain jurisdiction of the
15 cooperative for the purposes of protecting the interests of the
16 health insurance purchasing cooperative's participants and
17 health insurance carriers and health benefit plans.

18 Section 16. Annual report.

19 The commissioner shall submit an annual report to the General
20 Assembly no later than February 1 of each year. The report shall
21 include a description of the operations of all health insurance
22 purchasing cooperatives and a review of the success of
23 cooperatives in improving the quality, access or affordability
24 of health insurance. The commissioner may require cooperatives
25 to provide information in a uniform format for use in preparing
26 this report and for other public purposes.

27 Section 17. Rules and regulations.

28 The commissioner may promulgate any rules or regulations
29 necessary to implement the provisions of this act.

30 Section 18. Effective date.

1 This act shall take effect in 60 days.