PRINTER'S NO. 1872

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1528 Session of 2011

INTRODUCED BY TAYLOR, BARRAR, BRENNAN, BURNS, DeLUCA, FABRIZIO, FLECK, FREEMAN, GEIST, HENNESSEY, HESS, KILLION, KOTIK, REICHLEY, SANTONI, SCAVELLO AND YOUNGBLOOD, MAY 11, 2011

REFERRED TO COMMITTEE ON INSURANCE, MAY 11, 2011

AN ACT

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," providing for certain prescription drug coverage.

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

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

Section 635.6. Prescription Drug Coverage.--(a) No health insurance policy which covers prescription drug benefits shall be issued, amended, delivered or renewed in this Commonwealth if the plan limits or excludes coverage for an oncology drug on the basis that the oncology drug is prescribed for a use that is

different from the use for which that oncology drug has been approved for marketing by the FDA, provided that all of the following conditions have been met:

(1) The oncology drug is approved by the FDA for at least one condition and is therefore not experimental or investigational.

(2) The oncology drug is prescribed by a participating licensed health care professional for cancer treatment.

(3) The oncology drug has been recognized as safe and effective for treatment of that cancer by one of the following:

(i) the National Comprehensive Cancer Network's Drugs and Biologics Compendium;

(ii) Thompson Micromedex's DrugDex;

(iii) Elsevier Gold Standard Clinical Pharmacology; or

(iv) any authoritative compendia as recognized periodically by the Secretary of Health and Human Services or the Commissioner.

(b) Medical literature may be accepted for purposes of this section only if all of the following apply:

(i) Two articles from major peer-reviewed professional medical journals have recognized, based on scientific or medical criteria, the drug's safety and effectiveness for treatment of the indication for which it has been prescribed.

(ii) No article from a major peer-reviewed professional medical journal has concluded, based on scientific or medical criteria, that the drug is unsafe or ineffective or that the drug's safety and effectiveness cannot be determined for the treatment of the indication for which it has been prescribed.

(iii) Each article meets the uniform requirements for manuscripts submitted to biomedical journals established by the

international committee of medical journal editors or is published in a journal specified by the Department of Health and Human Services pursuant to section 1861(t)(2)(B) of the Social Security Act, 107 Stat. 591 (1993), 42 U.S.C. 1395 47(x)(t)(2)(B), as accepted peer reviewed medical literature.

(c) Nothing in this section shall:

(1) require reimbursement or coverage for any drug not included in the drug formulary or list of covered drugs specified in a health insurance policy; or

(2) prohibit a health insurance policy from limiting or excluding coverage of a drug, provided that the decision to limit or exclude coverage of the drug is not based primarily on the coverage of drugs required by this section.

(d) Nothing in this section shall be construed to require:

(1) coverage of a new oncology drug or biological product not otherwise approved for a use by the FDA;

(2) coverage of a disease or condition that is not a covered condition under the policy, subscriber contract or certificate;

(3) aggregate payments in excess of the amounts required to be paid under the policy, subscriber contract or certificate;

(4) modification of any coinsurance or copayment requirements used to manage a formulary; or

(5) coverage for FDA-approved oncology drugs excluded from an enrollee's formulary coverage, except as such drugs may be available through any prior authorization procedures.

(e) Coverage of an oncology drug required by this section shall include coverage of medically necessary services associated with the administration of the drug when the services are covered benefits under the policy.

(f) As used in this section:

(1) "FDA" means the Food and Drug Administration of the Department of Health and Human Services.

(2) "Health insurance policy" means any individual or group health, sickness or accident insurance policy, subscriber contract or certificate issued by any entity subject to:

(i) This act.

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

(iii) The act of act of May 18, 1976 (P.L.123, No.54), known as the "Individual Accident and Sickness Insurance Minimum Standards Act."

(iv) The former act of December 14, 1992 (P.L.835, No.134), known as the "Fraternal Benefit Societies Code."

(v) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations).

(vi) 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations).

Section 2. The addition of section 635.6 of the act shall not apply to accident only, fixed indemnity, limited benefit, credit, dental, vision, specified disease, Medicare supplement, CHAMPUS (Civilian Health and Medical Program of the Uniform Services) supplement, long-term care or disability income, workers' compensation or automobile medical payment insurance.

Section 3. This act shall take effect in 90 days.