

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1063 Session of 2011

INTRODUCED BY FARNESE, RAFFERTY, FONTANA, SOLOBAY, BOSCOLA, COSTA, STACK, WILLIAMS, TARTAGLIONE, WASHINGTON, KITCHEN, LEACH AND SCHWANK, MAY 16, 2011

REFERRED TO BANKING AND INSURANCE, MAY 16, 2011

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," in health and accident insurance,  
 12 providing for pregnancy as a preexisting condition and for  
 13 coverage for maternity care; and, in health care insurance  
 14 individual accessibility, further providing for policy choice  
 15 for eligible individuals.

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

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

21 Section 635.6. Pregnancy as a Preexisting Condition.--(a)  
 22 All health insurance policies that are offered, issued or  
 23 renewed on or after the effective date of this section may not  
 24 impose any preexisting condition exclusion that relates to, or

1 includes, a current or a prior pregnancy, complications  
2 regarding a current or prior pregnancy or the performance of a  
3 caesarean section for a prior pregnancy as a preexisting  
4 condition.

5 (b) This section shall not apply to the following types of  
6 policies:

7 (1) Accident only.

8 (2) Fixed indemnity.

9 (3) Limited benefit.

10 (4) Credit.

11 (5) Dental.

12 (6) Vision.

13 (7) Specified disease.

14 (8) Medicare supplement.

15 (9) Civilian Health and Medical Program of the Uniformed  
16 Services (CHAMPUS) supplement.

17 (10) Long-term care or disability income.

18 (11) Workers' compensation.

19 (12) Automobile medical payment.

20 (c) As used in this section:

21 (1) "Attending physician" means the attending obstetrician,  
22 pediatrician or other physician attending the mother of a  
23 newborn child.

24 (2) "Health care provider" means an attending physician,  
25 nurse practitioner or certified nurse midwife.

26 (3) "Health insurance policy" means any individual or group  
27 health or accident insurance policy or subscriber contract,  
28 certificate or plan offered to, issued to or renewed on or after  
29 the effective date of this section by an insurer which is  
30 offered by or subject to any of the following:

1     (i) This act.

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

4     (iii) 40 PaC.S. Ch. 61 (relating to hospital plan  
5 corporations) or 63 (relating to professional health services  
6 plan corporations).

7     (iv) Subarticle (f) of Article IV of the act of June 13,  
8 1967 (P.L.31, No.21), known as the "Public Welfare Code."

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

12     (4) "Insurer" means any entity that issues a health  
13 insurance policy, contract, certificate or plan described under  
14 clause (2) of this subsection.

15     (5) "Preexisting condition" means a condition or disease for  
16 which medical advice or treatment was recommended by or received  
17 from a health care provider prior to the effective date of the  
18 coverage.

19     Section 635.7. Coverage for Maternity Care.--(a) All health  
20 insurance policies shall provide coverage for maternity care as  
21 follows:

22     (1) Prenatal care, which shall include coverage for regular  
23 health care visits and childbirth education in addition to  
24 ongoing assessment of nutritional and other individual needs  
25 consistent with nationally recognized standards and guidelines,  
26 such as those promulgated by the Institute for Clinical Systems  
27 Improvement (ICSI) or the American College of Obstetricians and  
28 Gynecologists (ACOG).

29     (2) Childbirth and postdelivery care as follows:

30     (i) Childbirth care shall include at a minimum coverage for

1 delivery and postdelivery inpatient care for:

2 (A) Forty-eight (48) hours of inpatient care for a mother  
3 and her newborn child following a vaginal delivery.

4 (B) Ninety-six (96) hours of inpatient care for a mother and  
5 her newborn child following a cesarean section.

6 (ii) Any decision to shorten the minimum coverage provided  
7 shall be made by the health care provider in consultation with  
8 the mother. A health insurance policy shall not provide any  
9 compensation or other nonmedical remuneration to encourage a  
10 mother and her newborn child to leave inpatient care before the  
11 expiration of the minimum coverage specified in this section.

12 (iii) When discharge occurs prior to the times stated in  
13 this subsection, coverage shall include at least one home health  
14 care visit within forty-eight (48) hours after discharge by a  
15 health care provider whose scope of practice includes postpartum  
16 care.

17 (iv) Notwithstanding any other provision of this section, a  
18 policy that provides coverage for delivery and postdelivery care  
19 to a mother and her newborn child in the home shall not be  
20 required to provide for a minimum of forty-eight (48) hours and  
21 ninety-six (96) hours, respectively, of inpatient care unless  
22 the inpatient care is determined to be medically necessary by  
23 the health care provider consistent with nationally recognized  
24 treatment standards and guidelines such as those promulgated by  
25 ACOG or the American Academy of Pediatrics (AAP).

26 (3) Postpartum care, which shall be provided consistent with  
27 nationally recognized standards and guidelines, such as those  
28 promulgated by ACOG or AAP.

29 (b) Copayments, coinsurance and deductibles as follows:

30 (1) The coverage required under this section may be subject

1 to any copayment, coinsurance or deductible amount in comparable  
2 amounts to those imposed for similar care.

3 (2) Notwithstanding clause (1), the health insurance policy  
4 shall not include any copayment, coinsurance or deductible  
5 amount for any postdelivery home health care visits required  
6 under subsection (a) (2).

7 (c) An insurer shall not refuse to contract with or  
8 compensate for covered services an otherwise eligible health  
9 care provider or nonparticipating health care provider solely  
10 because the health care provider has in good faith communicated  
11 with one or more of his current, former or prospective patients  
12 regarding the provisions, terms or requirements of the insurer's  
13 products as they relate to the needs of the health care  
14 provider's patients.

15 (d) This section shall not apply to the following types of  
16 policies:

17 (1) Accident only.

18 (2) Fixed indemnity.

19 (3) Limited benefit.

20 (4) Credit.

21 (5) Dental.

22 (6) Vision.

23 (7) Specified disease.

24 (8) Medicare supplement.

25 (9) Civilian Health and Medical Program of the Uniformed  
26 Services (CHAMPUS) supplement.

27 (10) Long-term care or disability income.

28 (11) Workers' compensation.

29 (12) Automobile medical payment.

30 (e) As used in this section:

1 (1) "Attending physician" means the attending obstetrician,  
2 pediatrician or other physician attending to a mother or her  
3 newborn child.

4 (2) "Birth center" means a licensed facility that is not  
5 part of a hospital that provides maternity care to mothers not  
6 requiring hospitalization.

7 (3) "Health care facility" means a hospital, birth center or  
8 health care provider's office.

9 (4) "Health care provider" means an attending physician,  
10 nurse practitioner or certified nurse midwife.

11 (5) "Health insurance policy" means any individual or group  
12 health or accident insurance policy or subscriber contract,  
13 certificate or plan offered to, issued to or renewed on or after  
14 the effective date of this section by an insurer that is offered  
15 by or is subject to any of the following:

16 (i) This act.

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

19 (iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
20 corporations) or 63 (relating to professional health services  
21 plan corporations).

22 (iv) Subarticle (f) of Article IV of the act of June 13,  
23 1967 (P.L.31, No.21), known as the "Public Welfare Code."

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

27 (6) "Hospital" means a facility having an organized medical  
28 staff and providing equipment and services primarily for  
29 inpatient care to persons who require definitive diagnosis or  
30 treatment, or both, for injury, illness, pregnancy or other

1 disability.

2 (7) "Insurer" means an entity that issues individual or  
3 group health insurance policy, contract or plan described under  
4 clause (5) of this subsection.

5 (8) "Maternity care" means prenatal care, childbirth and  
6 postdelivery care, and postpartum care provided at a health care  
7 facility or at the home of a mother.

8 Section 2. Section 1005-A(c) of the act, added November 4,  
9 1997 (P.L.492, No.51), is amended and the section is amended by  
10 adding a subsection to read:

11 Section 1005-A. Policy Choice for Eligible Individuals.--

12 \* \* \*

13 (c) [Nothing] Except as otherwise provided in subsection  
14 (d), nothing in this article shall prohibit an eligible  
15 individual from purchasing a policy which includes a preexisting  
16 condition provision or is not otherwise offered under this  
17 section from a designated insurer or any other insurer.

18 (d) (1) Notwithstanding any other provision of law to the  
19 contrary, a policy offered, issued or renewed on or after the  
20 effective date of this subsection by a designated insurer or any  
21 other insurer shall not impose any preexisting condition  
22 exclusion that relates to, or includes, a current or a prior  
23 pregnancy, complications regarding a current or prior pregnancy  
24 or the performance of a caesarean section for a prior pregnancy.

25 (2) For the purposes of this subsection, "preexisting  
26 condition" shall have the meaning given in section 635.6.

27 Section 3. This act shall take effect in 60 days.