

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1409 Session of
2012

INTRODUCED BY ORIE, WARD, BOSCOLA, EARLL, WAUGH AND M. WHITE,
FEBRUARY 2, 2012

REFERRED TO BANKING AND INSURANCE, FEBRUARY 2, 2012

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, providing for nondiscrimination by payers in health
3 care benefit plans.

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

6 Section 1. Part III of Title 40 of the Pennsylvania
7 Consolidated Statutes is amended by adding an article to read:

8 ARTICLE M

9 MISCELLANEOUS PROVISIONS

10 Chapter

11 91. Nondiscrimination by Payers in Health Care Benefit Plans

12 CHAPTER 91

13 NONDISCRIMINATION BY PAYERS

14 IN HEALTH CARE BENEFIT PLANS

15 Sec.

16 9101. Definitions.

17 9102. Discrimination against willing providers prohibited.

18 9103. Construction and application of chapter.

1 § 9101. Definitions.

2 The following words and phrases when used in this chapter
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Health care benefit plan." An insurance policy, contract or
6 plan that provides health care to participants or beneficiaries
7 directly or through insurance, reimbursement or otherwise.

8 "Health care payer." An individual or entity that is
9 responsible for providing or paying for all or part of the cost
10 of health care services covered by a health care benefit plan.
11 The term includes, but is not limited to, an entity subject to:

12 (1) Chapter 61 (relating to hospital plan corporations)
13 or 63 (relating to professional health services plan
14 corporations);

15 (2) the act of May 17, 1921 (P.L.682, No.284), known as
16 The Insurance Company Law of 1921, including:

17 (i) a preferred provider organization subject to
18 section 630 of The Insurance Company Law of 1921; or

19 (ii) a fraternal benefit society subject to Article
20 XXIV of The Insurance Company Law of 1921;

21 (3) the act of December 29, 1972 (P.L.1701, No.364),
22 known as the Health Maintenance Organization Act;

23 (4) an agreement by a self-insured employer or self-
24 insured multiple employer trust to provide health care
25 benefits to employees and their dependents.

26 § 9102. Discrimination against willing providers prohibited.

27 A health care payer shall be required to contract with and to
28 accept as a health care benefit plan participant any willing
29 provider of health care services. A health care payer shall not
30 discriminate against a provider of health care services who:

1 (1) agrees to accept the health care payer's standard
2 payment levels; and

3 (2) meets and agrees to adhere to quality standards
4 established by the health care payer.

5 § 9103. Construction and application of chapter.

6 (a) Construction.--This chapter shall not be construed to
7 prohibit a health care payer from negotiating and paying rates
8 higher than the health care payer's standard payment levels to
9 one or more providers.

10 (b) Application.--This chapter shall:

11 (1) apply to all health care benefit plans that
12 compensate providers on a fee-for-service basis, per diem or
13 other nonrisk basis; and

14 (2) not apply to health care benefit plans regarding
15 products that compensate providers on a capitated basis or
16 under which providers accept significant financial risk in a
17 formal arrangement approved by Federal or State authorities.

18 Section 2. The provisions of this act are severable. If any
19 provision of this act or its application to any person or
20 circumstance is held invalid, the invalidity shall not affect
21 other provisions or applications of this act which can be given
22 effect without the invalid provision or application.

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