

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1574 Session of  
2013

INTRODUCED BY KILLION, GROVE, GINGRICH, MICOZZIE, YOUNGBLOOD,  
QUINN AND TAYLOR, JUNE 24, 2013

REFERRED TO COMMITTEE ON COMMERCE, JUNE 24, 2013

AN ACT

1 Amending the act of December 29, 1972 (P.L.1701, No.364),  
2 entitled "An act providing for the establishment of nonprofit  
3 corporations having the purpose of establishing, maintaining  
4 and operating a health service plan; providing for  
5 supervision and certain regulations by the Insurance  
6 Department and the Department of Health; giving the Insurance  
7 Commissioner and the Secretary of Health certain powers and  
8 duties; exempting the nonprofit corporations from certain  
9 taxes and providing penalties," further providing for  
10 purpose, for definitions, for required services, for board of  
11 directors, for contracts with practitioners, hospitals and  
12 insurance companies, for right to serve or benefits when  
13 outside the state, for supervision and for reports and  
14 examinations; and providing for applicability to limited  
15 liability companies.

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

18 Section 1. Section 2 of the act of December 29, 1972  
19 (P.L.1701, No.364), known as the Health Maintenance Organization  
20 Act, amended December 19, 1980 (P.L.1300, No.234), is amended to  
21 read:

22 Section 2. Purpose.--The purpose of this act is to permit  
23 and encourage the formation and regulation of health maintenance  
24 organizations and to authorize the Secretary of Health to

1 provide technical advice and assistance to corporations and  
2 limited liability companies desiring to establish, operate and  
3 maintain a health maintenance organization to the end that  
4 increased competition and consumer choice offered by diverse  
5 health maintenance organizations can constructively serve to  
6 advance the purposes of quality assurance, cost-effectiveness  
7 and access.

8 Section 2. Section 3 of the act, amended December 19, 1980  
9 (P.L.1300, No.234) and repealed in part December 20, 1982  
10 (P.L.1409, No.326), is amended to read:

11 Section 3. Definitions.--As used in this act:

12 "Basic health services" means those health services,  
13 including as a minimum, but not limited to, emergency care,  
14 inpatient hospital and physician care, ambulatory physician  
15 care, and outpatient and preventive medical services.

16 "Commissioner" means the Insurance Commissioner of the  
17 Commonwealth of Pennsylvania.

18 "Direct provider" means an individual who is a direct  
19 provider of health care services under a benefit plan of a  
20 health maintenance organization or an individual whose primary  
21 current activity is the administration of health facilities in  
22 which such care is provided. An individual shall not be  
23 considered a direct provider of health care solely because the  
24 individual is a member of the governing body of a health-related  
25 organization.

26 "Health maintenance organization" means an organized system  
27 which combines the delivery and financing of health care and  
28 which provides basic health services to voluntarily enrolled  
29 subscribers for a fixed prepaid fee.

30 "Limited liability company" means a limited liability company

1 listed under 15 Pa.C.S. § 8911(a)(3) (relating to limited  
2 liability companies)

3 "Secretary" means the Secretary of Health of the Commonwealth  
4 of Pennsylvania.

5 Section 3. Sections 4, 7, 8, 9, 10 and 11 of the act,  
6 amended December 19, 1980 (P.L.1300, No.234), are amended to  
7 read:

8 Section 4. Services Which Shall be Provided.--(a) Any law  
9 to the contrary notwithstanding, any corporation or limited  
10 liability company may establish, maintain and operate a health  
11 maintenance organization upon receipt of a certificate of  
12 authority to do so in accordance with this act.

13 (b) Such health maintenance organizations shall:

14 (1) Provide either directly or through arrangements with  
15 others, basic health services to individuals enrolled;

16 (2) Provide either directly or through arrangements with  
17 other persons, corporations, institutions, associations or  
18 entities, basic health services; and

19 (3) Provide physicians' services (i) directly through  
20 physicians who are employes of such organization, (ii) under  
21 arrangements with one or more groups of physicians (organized on  
22 a group practice or individual practice basis) under which each  
23 such group is reimbursed for its services primarily on the basis  
24 of an aggregate fixed sum or on a per capita basis, regardless  
25 of whether the individual physician members of any such group  
26 are paid on a fee-for-service or other basis or (iii) under  
27 similar arrangements which are found by the secretary to provide  
28 adequate financial incentives for the provision of quality and  
29 cost-effective care.

30 Section 7. Board of Directors.--A corporation or limited

1 liability company receiving a certificate of authority to  
2 operate a health maintenance organization under the provisions  
3 of this act shall be organized in such a manner that assures  
4 that at least one-third of the membership of the board of  
5 directors or board of managers of the health maintenance  
6 organization will be subscribers of the organization. The board  
7 of directors or board of managers shall be elected in the manner  
8 stated in the corporation's charter or bylaws or in the limited  
9 liability company's operating agreement.

10 Section 8. Contracts with Practitioners, Hospitals,  
11 Insurance Companies, Etc.--(a) Contracts enabling the  
12 [corporation] health maintenance organization to provide the  
13 services authorized under section 4 of this act made with  
14 hospitals and practitioners of medical, dental and related  
15 services shall be filed with the secretary. The secretary shall  
16 have power to require immediate renegotiation of such contracts  
17 whenever he determines that they provide for excessive payments,  
18 or that they fail to include reasonable incentives for cost  
19 control, or that they otherwise substantially and unreasonably  
20 contribute to escalation of the costs of providing health care  
21 services to subscribers, or that they are otherwise inconsistent  
22 with the purposes of this act.

23 (b) A health maintenance organization may reasonably  
24 contract with any individual, partnership, association,  
25 corporation or organization for the performance on its behalf of  
26 other necessary functions including, but not limited to,  
27 marketing, enrollment, and administration, and may contract with  
28 an insurance company authorized to do an accident and health  
29 business in this State or a hospital plan corporation or a  
30 professional health service corporation for the provision of

1 insurance or indemnity or reimbursement against the cost of  
2 health care services provided by the health maintenance  
3 organization as it deems to be necessary. Such contracts shall  
4 be filed with the commissioner.

5 Section 9. Right to Serve or Benefits When Outside the  
6 State.--If a subscriber entitled to services provided by [the  
7 corporation] a health maintenance organization necessarily  
8 incurs expenses for such services while outside the service  
9 area, the health maintenance organization to which the person is  
10 a subscriber may, in its discretion and if satisfied both as to  
11 the necessity for such services and that it was such as the  
12 subscriber would have been entitled to under similar  
13 circumstances in the service area, reimburse the subscriber or  
14 pay on his behalf all or part of the reasonable expenses  
15 incurred for such services. Such decision for reimbursement  
16 shall be subject to review by the commissioner at the request of  
17 a subscriber.

18 Section 10. Supervision.--(a) Except as otherwise provided  
19 in this act, a health maintenance organization operating under  
20 the provisions of this act shall not be subject to the laws of  
21 this State now in force relating to insurance corporations  
22 engaged in the business of insurance nor to any law hereafter  
23 enacted relating to the business of insurance unless such law  
24 specifically and in exact terms applies to such health  
25 maintenance organization. For a health maintenance organization  
26 established, operated and maintained by a corporation or limited  
27 liability company, this exemption shall apply only to the  
28 operations and subscribers of the health maintenance  
29 organization.

30 (b) All health maintenance organizations shall be subject to

1 the following insurance laws:

2 (1) The act of July 22, 1974 (P.L.589, No.205), known as the  
3 "Unfair Insurance Practices Act."

4 (2) Any rehabilitation, liquidation or conservation of a  
5 health maintenance organization shall be deemed to be the  
6 rehabilitation, liquidation or conservation of an insurance  
7 company and shall be conducted under the supervision of the  
8 commissioner pursuant to the law governing the rehabilitation,  
9 liquidation, or conservation of insurance companies.

10 (c) All rates charged subscribers or groups of subscribers  
11 by a health maintenance organization and the form and content of  
12 all contracts between a health maintenance organization and its  
13 subscribers or groups of subscribers, all rates of payment to  
14 hospitals made by a health maintenance organization pursuant to  
15 contracts provided for in this act, budgeted acquisition costs  
16 in connection with the solicitation of subscribers, and the  
17 certificates issued by a health maintenance organization  
18 representing its agreements with subscribers shall, at all  
19 times, be on file with the commissioner and be deemed approved  
20 unless explicitly rejected within sixty days of filing. Filings  
21 shall be made to the commissioner in such form, and shall set  
22 forth such information as the commissioner may require to carry  
23 out the provisions of this act. Any disapproval of a filing by  
24 the commissioner may be appealed in accordance with Title 2 of  
25 the Pennsylvania Consolidated Statutes (relating to  
26 administrative law and procedure).

27 (d) Solicitors or agents compensated directly or indirectly  
28 by [any corporation] a health maintenance organization subject  
29 to the provisions of this act shall meet such prerequisites as  
30 the commissioner by regulation shall require.

1 (e) A health maintenance organization shall establish and  
2 maintain a grievance resolution system satisfactory to the  
3 secretary, whereby the complaints of its subscribers may be  
4 acted upon promptly and satisfactorily.

5 (f) If a health maintenance organization offers eye care  
6 which is within the scope of the practice of optometry, it shall  
7 make optometric care available to its subscribers, and shall  
8 make the same reimbursement whether the service is provided by  
9 an optometrist or a physician.

10 Section 11. Reports and Examinations.--(a) The  
11 [corporation] health maintenance organization shall, on or  
12 before the first of March of every year, file with the  
13 commissioner a statement verified by at least two of the  
14 principal officers of the [corporation] health maintenance  
15 organization summarizing its financial activities during the  
16 calendar or fiscal year immediately preceding, and showing its  
17 financial condition at the close of business on December 31 of  
18 that year, or the [corporation's] health maintenance  
19 organization's fiscal year. Such statement shall be in such form  
20 and shall contain such matter as the commissioner prescribes.  
21 The financial affairs and status of every [such corporation]  
22 health maintenance organization shall be examined by the  
23 commissioner or his agents not less frequently than once in  
24 every three years and for this purpose the commissioner and his  
25 agents shall be entitled to the aid and cooperation of the  
26 officers and employes of the [corporation] health maintenance  
27 organization and shall have convenient access to all books,  
28 records, papers, and documents that relate to the financial  
29 affairs of the [corporation] health maintenance organization.  
30 They shall have authority to examine under oath or affirmation

1 the officers, agents, employes and subscribers for the health  
2 services of the [corporation] health maintenance organization,  
3 and all other persons having or having had substantial part in  
4 the work of the [corporation] health maintenance organization in  
5 relation to its affairs, transactions and financial condition.  
6 The Insurance Commissioner may at any time, without making such  
7 examination, call on [any such corporation] a health maintenance  
8 organization for a written report authenticated by at least two  
9 of its principal officers concerning the financial affairs and  
10 status of the [corporation] health maintenance organization.

11 (b) A [corporation] health maintenance organization shall  
12 maintain its financial records in such manner that the revenues  
13 and expenses associated with the establishment, maintenance and  
14 operation of its prepaid health care delivery system under this  
15 act are identifiable and distinct from other activities it may  
16 engage in which are not directly related to the establishment,  
17 maintenance and operation of its prepaid health care delivery  
18 system under this act.

19 (c) The secretary or his agents shall have free access to  
20 all the books, records, papers and documents that relate to the  
21 business of the [corporation] health maintenance organization,  
22 other than financial.

23 Section 4. The act is amended by adding a section to read:

24 Section 14.1. Applicability to Limited Liability  
25 Companies.--This act and regulations promulgated under this act  
26 shall apply to a limited liability company as follows:

27 (1) The board of managers of a limited liability company  
28 shall be treated in the same manner as the board of directors of  
29 a corporation.

30 (2) The members of a limited liability company shall be



1 treated in the same manner as the shareholders of a corporation.

2 Section 5. This act shall take effect in 60 days.