
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 132 Session of
2017

INTRODUCED BY BAKER, MILLARD, GREINER, RAPP, MURT, BARRAR,
KAUFFMAN, MENTZER, PHILLIPS-HILL, BOBACK, READSHAW, GROVE,
WARD, MARSICO, WATSON AND GABLER, JANUARY 23, 2017

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 23, 2017

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, in preliminary provisions, providing for foreign
3 health insurance.

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

6 Section 1. Title 40 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 3

9 FOREIGN HEALTH INSURANCE

10 Sec.

11 301. Scope of chapter.

12 302. Definitions.

13 303. Out-of-State carriers' provision of coverage.

14 304. Certificate of authority.

15 305. Required disclosures.

16 306. Powers and duties of commissioner.

17 § 301. Scope of chapter.

18 This chapter relates to foreign health insurance.

1 § 302. 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 "Commissioner." The Insurance Commissioner of the
6 Commonwealth.

7 "Covered person." An individual who is entitled to health
8 care services provided, arranged for, paid for or reimbursed
9 under a health benefits plan.

10 "Domestic health insurer." An insurer licensed to sell,
11 offer or provide health benefits plans in this Commonwealth.

12 "Foreign health insurer." An insurer licensed to sell, offer
13 or provide health benefits plans in any other state.

14 "Hazardous financial condition." A condition in which a
15 foreign health insurer is unlikely to be able to meet
16 obligations to policyholders with respect to known claims or to
17 any other obligations in the normal course of business, based on
18 its present or reasonably anticipated financial status.

19 "Health benefits plan." An arrangement for the delivery of
20 health care, on an individual or group basis, in which a health
21 carrier undertakes to provide, arrange for, pay for or reimburse
22 any of the costs of health care services for a covered person
23 that is offered in accordance with the laws of any state. The
24 term does not include any of the following:

25 (1) Short-term travel, accident only, limited or
26 specified disease or individual conversion policies or
27 contracts.

28 (2) Policies or contracts designed for issuance to
29 persons eligible for coverage under Title XVIII of the Social
30 Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.).

1 (3) Any other coverage, similar to that listed under
2 paragraph (1) or (2), under Federal or State governmental
3 plans.

4 "Provider" or "health care provider." Any hospital,
5 physician, or other person authorized by statute, licensed or
6 certified to furnish health care services.

7 "Resident." An individual whose primary residence is in this
8 Commonwealth and who is present in this Commonwealth for at
9 least six months of the calendar year.

10 § 303. Out-of-State carriers' provision of coverage.

11 Notwithstanding any other law or regulation, a foreign health
12 insurer may sell, offer and provide a health benefits plan to
13 residents in this Commonwealth if that insurer does all of the
14 following:

15 (1) Offers the health benefit plan in its domiciliary
16 state and is in compliance with all applicable laws,
17 regulations and requirements of its domiciliary state.

18 (2) Obtains a certificate of authority to do business as
19 a foreign health insurer in this Commonwealth.

20 (3) Complies with all laws and regulations of this
21 Commonwealth enacted for the benefit of health insurance
22 consumers.

23 (4) Is not required to offer the health benefits
24 mandated by the laws or regulations of this Commonwealth, or
25 comply with any law regarding rate regulation.

26 § 304. Certificate of authority.

27 (a) Application.--A foreign health insurer may apply for a
28 certificate that authorizes the foreign health insurer to do
29 business as a foreign health insurer in this Commonwealth using
30 a form prescribed by the commissioner. Upon application, the

1 commissioner shall issue a certificate to the foreign health
2 insurer unless the commissioner determines that the foreign
3 health insurer meets any of the following:

4 (1) Will not provide a health benefits plan in
5 compliance with the provisions of this chapter.

6 (2) Is in a hazardous financial condition, as determined
7 by an examination by the commissioner conducted in accordance
8 with the Financial Analysis Handbook of the National
9 Association of Insurance Commissioners.

10 (3) Has not adopted procedures to ensure compliance with
11 all applicable laws governing the confidentiality of its
12 records with respect to providers and covered persons.

13 (b) Validity.--A certificate of authority issued under this
14 section shall be valid for three years from the date of issuance
15 by the commissioner. The commissioner shall, by regulation,
16 establish all of the following:

17 (1) Procedures for a foreign health insurer to renew a
18 certificate of authority under this chapter.

19 (2) Certificate of authority application and renewal
20 fees, the amount of which shall be no greater than is
21 reasonably necessary to enable the commissioner to carry out
22 the provisions of this chapter.

23 § 305. Required disclosures.

24 Each health benefits plan and each application for a health
25 benefits plan provided by a foreign health insurer to a resident
26 shall disclose all of the following in plain language:

27 (1) The differences between the benefits of the health
28 benefits plan issued by the foreign health insurer and a
29 health benefits plan issued under the laws of this
30 Commonwealth.

1 (2) The differences that relate to mandated health
2 benefits, underwriting standards, premium rating, preexisting
3 conditions, renewability, portability and cancellation.

4 (3) That the health benefits plan is primarily governed
5 by the laws of the foreign health insurer's domicile and
6 therefore all of the rating laws applicable to individual or
7 group accident and health insurance filed in this
8 Commonwealth do not apply to the health benefits plan, which
9 may result in increases to the insurance premium at the time
10 of renewal that would not be permissible with a health
11 benefits plan governed by the laws of this Commonwealth.

12 (4) That any purchase of health insurance should be
13 considered carefully since future medical conditions may make
14 it impossible to qualify for another health benefits plan.

15 (5) That although the health benefits plan may provide
16 more affordable health coverage, the following apply:

17 (i) The health benefits plan may also provide fewer
18 health benefits than those normally included as State-
19 mandated health insurance policies issued by domestic
20 health insurers.

21 (ii) The insured's insurance agent should be
22 consulted to determine which State-mandated health
23 benefits are excluded under the policy.

24 § 306. Powers and duties of commissioner.

25 (a) Powers.--The commissioner may do all of the following:

26 (1) After notice and opportunity to be heard, deny,
27 revoke or suspend a certificate of authority issued to a
28 foreign health insurer for any violation of this chapter. The
29 commissioner shall provide for an appropriate and timely
30 right of appeal for a foreign health insurer whose

1 certificate of authority is denied, revoked or suspended.

2 (2) Conduct market conduct and solvency examinations of
3 an existing or prospective foreign health insurer. The market
4 conduct and solvency examinations shall be conducted in the
5 same manner and under the same terms and conditions as an
6 examination of an insurer located in this State.

7 (b) Duties.--

8 (1) The commissioner shall establish procedures for the
9 review of claims and grievances filed by a health care
10 provider or a covered individual, marketing materials
11 proposed by a foreign health insurer to market a health
12 benefit plan to residents or employers in this State and the
13 application and health benefit plan of a prospective foreign
14 health insurer.

15 (2) The commissioner shall adopt rules to administer
16 this chapter. The rules shall not do any of the following:

17 (i) Require the foreign health insurer to modify
18 coverage or benefit requirements or restrict underwriting
19 requirements or premium ratings in a manner that
20 conflicts with the laws or regulations of a foreign
21 health insurer's domiciliary state.

22 (ii) Provide for an expansion of the commissioner's
23 authority over foreign health insurers in a way that
24 conflicts with this chapter.

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