

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1613 Session of 2017

INTRODUCED BY CUTLER, PICKETT, MILLARD, RYAN, MACKENZIE, BAKER, DRISCOLL, SCHLOSSBERG, GREINER, A. HARRIS, WARD, KAUFFMAN, ROTHMAN, ZIMMERMAN, GODSHALL, PHILLIPS-HILL, DAY, V. BROWN, KAUFER, STURLA, MENTZER, GROVE, DeLUCA, FABRIZIO, MATZIE, B. MILLER, WHEELAND AND WATSON, JUNE 23, 2017

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 13, 2017

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, providing for the Health Care Cost
3 Containment Council, for its powers and duties, for health
4 care cost containment through the collection and
5 dissemination of data, for public accountability of health
6 care costs and for health care for the indigent and creating <--
7 incentives for hospitals and managed care organizations to
8 improve health care outcomes and to reduce unnecessary and
9 inappropriate services in the Commonwealth's medical
10 assistance program.

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

13 Section 1. Title 35 of the Pennsylvania Consolidated
14 Statutes is amended by adding a part to read:

PART II

REGULATED ENTITIES

17 Chapter

18 33. Health Care Cost Containment

19 35. Health Care Outcomes <--

20 CHAPTER 33

1 HEALTH CARE COST CONTAINMENT

2 Sec.

3 3301. Short title of chapter.

4 3302. Definitions.

5 3303. Health Care Cost Containment Council.

6 3304. Powers and duties of council.

7 3305. Data submission and collection.

8 3306. Data dissemination and publication.

9 3307. Mandated health benefits.

10 3308. Right-to-Know Law and access to council data.

11 3309. Special studies and reports.

12 3310. Enforcement and penalty.

13 3311. Research and demonstration projects.

14 3312. Grievances and grievance procedures.

15 3313. Antitrust provisions.

16 3314. Contracts with vendors.

17 3315. Reporting.

18 3316. Severability.

19 § 3301. Short title of chapter.

20 This chapter shall be known and may be cited as the Health  
21 Care Cost Containment Act.

22 § 3302. Definitions.

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

26 "Allowance." The maximum allowed combined payment from a <--  
27 payor and a patient to a provider for services rendered.

28 "Ambulatory service facility." A facility licensed in this  
29 Commonwealth which is not part of a hospital and which provides  
30 medical, diagnostic or surgical treatment to patients not

1 requiring hospitalization, including ambulatory surgical  
2 facilities, ambulatory imaging or diagnostic centers, birthing  
3 centers, freestanding emergency rooms and any other facilities  
4 providing ambulatory care which charge a separate facility  
5 charge. The term does not include the offices of private  
6 physicians or dentists, whether for individual or group  
7 practices.

8 "Charge" or "rate." The amount billed by a provider for  
9 specific goods or services provided to a patient, prior to any  
10 adjustment for contractual allowances.

11 "Council." The Health Care Cost Containment Council.

12 "Covered services." Any health care services or procedures  
13 connected with episodes of illness or injury that require either  
14 inpatient hospital care or major ambulatory service, including  
15 any initial and follow-up outpatient services associated with  
16 the episode of illness or injury before, during or after  
17 inpatient hospital care or major ambulatory service. The term  
18 does not include routine outpatient services connected with  
19 episodes of illness that do not require hospitalization or major  
20 ambulatory service.

21 "Data." Data collected by the council under section 3305  
22 (relating to data submission and collection). The term includes  
23 raw data.

24 "Data source." The term includes a health care payor data  
25 source and a provider.

26 ~~"Elective health care payor data source." An entity,~~ <--  
27 ~~including:~~

28 ~~(1) An employer, labor union or health and welfare fund~~  
29 ~~jointly or separately administered by an employer or labor~~  
30 ~~union that purchases or self funds a program of health care~~

~~benefits for its Commonwealth resident employees or members  
and their dependents; or~~

~~(2) A health benefit plan offered or administered by or  
on behalf of the Federal Government for Pennsylvania  
residents;~~

~~that elects to participate as a health care payor data source  
under this act.~~

"Health care facility." A general or special hospital,  
including:

(1) Psychiatric hospitals.

(2) Kidney disease treatment centers, including  
freestanding hemodialysis units.

(3) Ambulatory service facilities.

(4) Hospices, including hospices operated by an agency  
of State or local government.

"Health care insurer." A person, corporation or other entity  
that offers administrative, indemnity or payment services for  
health care in exchange for a premium or service charge under a  
program of health care benefits, including, but not limited to:

(1) An insurance company, association or exchange  
issuing health insurance policies in this Commonwealth  
governed by the act of May 17, 1921 (P.L.682, No.284), known  
as The Insurance Company Law of 1921.

(2) A hospital plan corporation as defined in 40 Pa.C.S.  
Ch. 61 (relating to hospital plan corporations).

(3) A professional health service corporation as defined  
in 40 Pa.C.S. Ch. 63 (relating to professional health  
services plan corporations).

(4) A health maintenance organization governed by the  
act of December 29, 1972 (P.L.1701, No.364), known as the

1 Health Maintenance Organization Act.

2 (5) A third-party administrator governed by Article X of  
3 the act of May 17, 1921 (P.L.789, No.285), known as The  
4 Insurance Department Act of 1921.

5 The term does not include employers, labor unions or health and  
6 welfare funds jointly or separately administered by employers or  
7 labor unions that purchase or self-fund a program of health care  
8 benefits for their employees or members and their dependents.

9 "Health care payor data source." The term includes: <--

10 (1) A health care insurer.

11 (2) A government program to provide health care services  
12 to persons in this Commonwealth, whether directly or  
13 indirectly through contract, including any State program  
14 established under Title XIX or Title XXI of the Social  
15 Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.)

16 (3) A health benefit plan offered or administered by or  
17 on behalf of the Commonwealth or an agency or instrumentality  
18 of the Commonwealth.

19 (4) An elective health care payor data source.

20 (5) Any other payor for health care services in the  
21 Commonwealth other than:

22 (i) an individual person; or

23 (ii) an entity that otherwise meets the definition  
24 of an elective health care payor data source except that  
25 the entity does not elect to participate as a health care  
26 payor data source under this act.

27 "Health maintenance organization." An organized system which  
28 combines the delivery and financing of health care and which  
29 provides basic health services to voluntarily enrolled  
30 subscribers for a fixed prepaid fee, as defined in the Health

1 Maintenance Organization Act.

2 "Hospital." An institution licensed in this Commonwealth  
3 which is:

4 (1) A general, mental, chronic disease or other type of  
5 hospital.

6 (2) A kidney disease treatment center, including kidney  
7 disease treatment centers operated by an agency of State or  
8 local government.

9 "Major ambulatory service." Surgical or medical procedures,  
10 including diagnostic and therapeutic radiological procedures,  
11 commonly performed in hospitals or ambulatory service  
12 facilities, which are not of a type commonly performed, or which  
13 cannot be safely performed, in physicians' offices and which  
14 require special facilities such as operating rooms or suites or  
15 special equipment such as fluoroscopic equipment or computed  
16 tomographic scanners, or a postprocedure recovery room or short-  
17 term convalescent room.

18 "Medical procedure incidence variations." The variation in  
19 the incidence in the population of specific medical, surgical  
20 and radiological procedures in any given year, expressed as a  
21 deviation from the norm, as these terms are defined in the  
22 classical statistical definition of "variation," "incidence,"  
23 "deviation" and "norm."

24 "Payment." The payments that providers actually accept for  
25 their services, exclusive of charity care, rather than the  
26 charges they bill.

27 "Payor." Any person or entity, including, but not limited  
28 to, health care insurers and purchasers, that make direct  
29 payments to providers for covered services.

30 "Physician." An individual licensed under the laws of this

1 Commonwealth to practice medicine and surgery within the scope  
2 of the act of October 5, 1978 (P.L.1109, No.261), known as the  
3 Osteopathic Medical Practice Act, or the act of December 20,  
4 1985 (P.L.457, No.112), known as the Medical Practice Act of  
5 1985.

6 "Preferred provider organization." Any arrangement between a  
7 health care insurer and providers of health care services which  
8 specifies rates of payment to such providers which differ from  
9 their usual and customary charges to the general public and  
10 which encourages enrollees to receive health services from such  
11 providers.

12 "Provider." A hospital, a health care facility, an  
13 ambulatory service facility or a physician.

14 "Provider quality." The extent to which a provider renders  
15 care that, within the capabilities of modern medicine, obtains  
16 for patients medically acceptable health outcomes and prognoses,  
17 adjusted for patient severity, and treats patients  
18 compassionately and responsively.

19 "Provider service effectiveness." The effectiveness of  
20 services rendered by a provider, determined by measurement of  
21 the medical outcome of patients grouped by severity receiving  
22 those services.

23 "Purchaser." Corporations, labor organizations or other  
24 entities that purchase benefits which provide covered services  
25 for their employees or members, either through a health care  
26 insurer or by means of a self-funded program of benefits, and a  
27 certified bargaining representative that represents a group or  
28 groups of employees for whom employers purchase a program of  
29 benefits which provide covered services, but excluding any  
30 entity defined in this section as a "health care insurer."

1 "Severity." In any patient, the measureable degree of the  
2 potential for failure of one or more vital organs.

3 § 3303. Health Care Cost Containment Council.

4 (a) Establishment.--The Health Care Cost Containment Council  
5 is established as an independent council.

6 (b) Composition.--The council shall consist of voting  
7 members, composed of and appointed in accordance with the  
8 following:

9 (1) The Secretary of Health.

10 (2) The Secretary of Human Services.

11 (3) The Insurance Commissioner.

12 (4) Six representatives of the business community, at  
13 least one of whom represents small business, who are  
14 purchasers of health care, none of which is primarily  
15 involved in the provision of health care or health insurance,  
16 three of which shall be appointed by the President pro  
17 tempore of the Senate and three of which shall be appointed  
18 by the Speaker of the House of Representatives from a list of  
19 12 qualified persons recommended by the Pennsylvania Chamber  
20 of Business and Industry. Three nominees shall be  
21 representatives of small business.

22 (5) Six representatives of organized labor, three of  
23 which shall be appointed by the President pro tempore of the  
24 Senate and three of which shall be appointed by the Speaker  
25 of the House of Representatives from a list of twelve  
26 qualified persons recommended by the Pennsylvania AFL-CIO.

27 (6) One representative of consumers who is not primarily  
28 involved in the provision of health care or health care  
29 insurance, appointed by the Governor from a list of three  
30 qualified persons recommended jointly by the Speaker of the



1 House of Representatives and the President pro tempore of the  
2 Senate.

3 (7) Two representatives of hospitals, appointed by the  
4 Governor from a list of five qualified hospital  
5 representatives recommended by the Hospital and Health System  
6 Association of Pennsylvania one of whom shall be a  
7 representative of rural hospitals. Each representative under  
8 this paragraph may appoint two additional delegates to act  
9 for the representative only at meetings of committees, as  
10 provided for in subsection (f).

11 (8) Two representatives of physicians, appointed by the  
12 Governor from a list of five qualified physician  
13 representatives recommended jointly by the Pennsylvania  
14 Medical Society and the Pennsylvania Osteopathic Medical  
15 Society. The representative under this paragraph may appoint  
16 two additional delegates to act for the representative only  
17 at meetings of committees, as provided for in subsection (f).

18 (8.1) An individual appointed by the Governor who has  
19 expertise in the application of continuous quality  
20 improvement methods in hospitals.

21 (8.2) One representative of nurses, appointed by the  
22 Governor from a list of three qualified representatives  
23 recommended by the Pennsylvania State Nurses Association.

24 (9) One representative of the Blue Cross and Blue Shield  
25 plans in Pennsylvania, appointed by the Governor from a list  
26 of three qualified persons recommended jointly by the Blue  
27 Cross and Blue Shield plans of Pennsylvania.

28 (10) One representative of commercial insurance  
29 carriers, appointed by the Governor from a list of three  
30 qualified persons recommended by the Insurance Federation of

1 Pennsylvania, Inc.

2 (11) One representative of health maintenance  
3 organizations, appointed by the Governor, from a list of  
4 three qualified persons recommended by the Managed Care  
5 Association of Pennsylvania.

6 (12) Representatives from the General Assembly as  
7 follows:

8 (i) One Senator appointed by the President pro  
9 tempore of the Senate.

10 (ii) One member of the House of Representatives  
11 appointed by the Speaker of the House of Representatives.

12 (13) In the case of each appointment to be made from a  
13 list supplied by a specified organization, it is incumbent  
14 upon that organization to consult with and provide a list  
15 which reflects the input of other equivalent organizations  
16 representing similar interests. Each appointing authority  
17 will have the discretion to request additions to the list  
18 originally submitted. Additional names will be provided not  
19 later than 15 days after such request. Appointments shall be  
20 made by the appointing authority no later than 90 days after  
21 receipt of the original list. If, for any reason, any  
22 specified organization supplying a list should cease to  
23 exist, then the respective appointing authority shall specify  
24 an equivalent organization to fulfill the responsibilities  
25 set forth in this chapter.

26 (c) Chairperson and vice chairperson.--The members shall  
27 annually elect, by a majority vote of the members, a chairperson  
28 and a vice chairperson of the council from among the members the  
29 council.

30 (d) Quorum.--Eleven members, at least four of whom shall be

1 council members under subsection (b) (5) through (12), shall  
2 constitute a quorum for the transaction of any business, and the  
3 act by the majority of the members present at any meeting in  
4 which there is a quorum shall be deemed to be the act of the  
5 council. A quorum may be met by members who are attending by  
6 electronic means under subsection (e) (1).

7 (e) Meetings.--All meetings of the council shall be  
8 advertised and conducted under 65 Pa.C.S. Ch. 7 (relating to  
9 open meetings), unless otherwise provided in this section. The  
10 following apply:

11 (1) The council shall meet at least once every two  
12 months and may provide for special meetings as it deems  
13 necessary. Meeting dates shall be set by a majority vote of  
14 the members of the council or by the call of the chairperson  
15 upon seven days' notice to council members. Attendance at the  
16 meeting may be accomplished by electronic means so long as  
17 each council member attending via electronic means can  
18 communicate in real time with the other members of the  
19 council.

20 (2) All meetings of the council shall be publicly  
21 advertised, as provided for in this subsection, and shall be  
22 open to the public, except that the council, through its  
23 bylaws, may provide for executive sessions of the council on  
24 subjects permitted to be discussed in such sessions under 65  
25 Pa.C.S. Ch. 7. No act of the council shall be taken in an  
26 executive session.

27 (3) The council shall publish a schedule of its meetings  
28 in the Pennsylvania Bulletin and on its publicly accessible  
29 Internet website. The notice shall be published at least once  
30 in each calendar quarter and shall list the schedule of

1 meetings of the council to be held in the subsequent calendar  
2 quarter. The notice shall specify the date, time and place of  
3 the meeting and shall state that the council's meetings are  
4 open to the general public, except that no notice shall be  
5 required for executive sessions of the council.

6 (4) All action taken by the council shall be taken in  
7 open public session, and action of the council shall not be  
8 taken except upon the affirmative vote of a majority of the  
9 members of the council present during meetings at which a  
10 quorum is present.

11 (f) Bylaws.--The council shall adopt bylaws, not  
12 inconsistent with this chapter, and may appoint such committees  
13 or elect such officers subordinate to those provided for in  
14 subsection (c) as it deems advisable.

15 (g) Technical advisory group.--

16 (1) The council shall appoint a technical advisory group  
17 which shall, on an ad hoc basis, respond to issues presented  
18 to it by the council or committees of the council and shall  
19 make recommendations to the council. The technical advisory  
20 group shall include:

21 (i) Physicians.

22 (ii) Researchers.

23 (iii) Biostatisticians.

24 (iv) One representative of the Hospital and  
25 Healthsystem Association of Pennsylvania.

26 (v) One representative of the Pennsylvania Medical  
27 Society.

28 (2) The Hospital and Healthsystem Association of  
29 Pennsylvania and the Pennsylvania Medical Society  
30 representatives shall not be subject to executive committee

1 approval. In appointing other physicians, researchers and  
2 biostatisticians to the technical advisory group, the council  
3 shall consult with and take nominations from the  
4 representatives of:

5 (i) the Hospital Association of Pennsylvania;

6 (ii) the Pennsylvania Medical Society;

7 (iii) the Pennsylvania Osteopathic Medical Society;

8 or

9 (iv) other like organizations.

10 (3) At its discretion and in accordance with this  
11 section, nominations shall be approved by the executive  
12 committee of the council. If the subject matter of any  
13 project exceeds the expertise of the technical advisory  
14 group, physicians in appropriate specialties who possess  
15 current knowledge of the issue under study may be consulted.  
16 The technical advisory group shall also review the  
17 availability and reliability of severity of illness  
18 measurements as they relate to small hospitals and  
19 psychiatric, rehabilitation and children's hospitals and  
20 shall make recommendations to the council based upon this  
21 review. Meetings of the technical advisory group shall be  
22 open to the general public.

23 (h) Payment data advisory group.--

24 (1) In order to assure the technical appropriateness and  
25 accuracy of payment data, the council shall establish a  
26 payment data advisory group to produce recommendations  
27 surrounding the collection of payment data, the analysis and  
28 manipulation of payment data and the public reporting of  
29 payment data. The payment data advisory group shall include  
30 technical experts and individuals knowledgeable in payment

1 systems and claims data. The advisory group shall consist of  
2 the following members appointed by the council:

3 (i) One member representing each plan under 40  
4 Pa.C.S. Chs. 61 (relating to hospital plan corporations)  
5 and 63 (relating to professional health services plan  
6 corporations).

7 (ii) Two members representing commercial insurance  
8 carriers.

9 (iii) Three members representing health care  
10 facilities.

11 (iv) Three members representing physicians.

12 (2) The payment data advisory group shall meet at least  
13 four times a year and may provide for special meetings as may  
14 be necessary.

15 (3) The payment data advisory group shall review and  
16 concur with the technical appropriateness of the use and  
17 presentation of data and report its findings to the council  
18 prior to any vote to publicly release reports. If the council  
19 elects to release a report without addressing the technical  
20 concerns of the advisory group, it shall prominently disclose  
21 this in the public report and include the comments of the  
22 advisory group in the public report.

23 (4) The payment data advisory group shall exercise all  
24 powers necessary and appropriate to carry out its duties,  
25 including advising the council on the following:

26 (i) Collection of payment data by the council.

27 (ii) Manipulation, adjustments and methods used with  
28 payment data.

29 (iii) Public reporting of payment data by the  
30 council.

1 (i) Compensation and expenses.--The members of the council  
2 and any member of an advisory group appointed by the council  
3 shall not receive a salary or per diem allowance for serving as  
4 members or advisors of the council, but shall be reimbursed for  
5 actual and necessary expenses incurred in the performance of  
6 their duties. The expenses may include reimbursement of travel  
7 and living expenses while engaged in council business.

8 (j) Terms of council members.--

9 (1) The terms of the Secretary of Health, the Secretary  
10 of Human Services, the Insurance Commissioner and the  
11 legislative representatives shall be concurrent with their  
12 holding of public office. The council members under  
13 subsection (b) (5) through (12) shall each serve for a term of  
14 four years and shall continue to serve thereafter until their  
15 successors are appointed.

16 (2) Vacancies on the council shall be filled in the  
17 manner designated under subsection (b), within 60 days of the  
18 vacancy, except that, when vacancies occur among the  
19 representatives of business or organized labor, two  
20 nominations shall be submitted by the organization specified  
21 in subsection (b) for each vacancy on the council. If the  
22 officer required in subsection (b) to make appointments to  
23 the council fails to act within 60 days of the vacancy, the  
24 council chairperson may appoint one of the persons  
25 recommended for the vacancy until the appointing authority  
26 makes the appointment.

27 (3) Except for the Secretary of Health, the Secretary of  
28 Human Services, the Insurance Commissioner and the  
29 legislative representatives, a member may be removed for just  
30 cause by the appointing authority after recommendation by a

1 vote of at least 14 members of the council.

2 (4) No appointed member under subsection (b) (5) through  
3 (12) shall be eligible to serve more than two full  
4 consecutive terms of four years beginning on the effective  
5 date of this paragraph.

6 (k) Subsequent appointments.--Submission of lists of  
7 recommended persons and appointments of council members for  
8 succeeding terms shall be made in the same manner as prescribed  
9 in subsection (b), except that:

10 (1) Organizations required under subsection (b) to  
11 submit lists of recommended persons shall do so at least 60  
12 days prior to expiration of the council members' terms.

13 (2) The officer required under subsection (b) to make  
14 appointments to the council shall make the appointments at  
15 least 30 days prior to expiration of the council members'  
16 terms. If the appointments are not made within the specified  
17 time, the council chairperson may make interim appointments  
18 from the lists of recommended individuals. An interim  
19 appointment shall be valid only until the appropriate officer  
20 under subsection (b) makes the required appointment. Whether  
21 the appointment is by the required officer or by the  
22 chairperson of the council, the appointment shall become  
23 effective immediately upon expiration of the incumbent  
24 member's term.

25 § 3304. Powers and duties of council.

26 (a) General powers.--The council shall exercise all powers  
27 necessary and appropriate to carry out its duties, including the  
28 following:

29 (1) To employ an executive director, investigators and  
30 other staff necessary to comply with the provisions of this



1 chapter and regulations promulgated thereunder, to employ or  
2 retain legal counsel and to engage professional consultants,  
3 as it deems necessary to the performance of its duties. Any  
4 consultants, other than sole source consultants, engaged by  
5 the council shall be selected in accordance with the  
6 provisions for contracting with vendors set forth in section  
7 3314 (relating to contracts with vendors).

8 (2) To fix the compensation of all employees and to  
9 prescribe their duties. Notwithstanding the independence of  
10 the council under section 3303(a) (relating to Health Care  
11 Cost Containment Council), employees under this paragraph  
12 shall be deemed employees of the Commonwealth for the  
13 purposes of participation in the Pennsylvania Employee  
14 Benefit Trust Fund.

15 (3) To make and execute contracts and other instruments,  
16 including those for purchase of services and purchase or  
17 leasing of equipment and supplies, necessary or convenient to  
18 the exercise of the powers of the council. Any such contract  
19 shall be in accordance with the provision for contracting  
20 with vendors set forth in section 3314. This requirement does  
21 not include the execution of lease agreements for office  
22 space so long as the Commonwealth or a Commonwealth agency  
23 has available office space within a 10-mile radius of  
24 Harrisburg, Pennsylvania, which may be utilized by the  
25 council.

26 (4) To conduct examinations and investigations, to  
27 conduct audits, under the provisions of subsection (c), and  
28 to hear testimony and take proof, under oath or affirmation,  
29 at public or private hearings, on any matter necessary to its  
30 duties.

1           (5) To provide hospitals with individualized data on  
2 patient safety indicators under section 3305(c)(8) (relating  
3 to data submission and collection). The data shall be risk  
4 adjusted and made available to hospitals electronically and  
5 free of charge on a quarterly basis within 45 days of receipt  
6 of the corrected quarterly data from the hospitals. The data  
7 is intended to provide the patient safety committee of each  
8 hospital with information necessary to assist in conducting  
9 patient safety analysis.

10           (6) To do all things necessary to carry out its duties  
11 under the provisions of this chapter.

12           (b) Rules and regulations.--

13           (1) The council may promulgate rules and regulations as  
14 necessary and appropriate to implement this act.

15           (2) Regulations promulgated by the council shall be  
16 promulgated in accordance with the act of June 25, 1982  
17 (P.L.633, No.181), known as the Regulatory Review Act.

18           (3) Rules and regulations in effect prior to the  
19 effective date of this section shall remain in effect.

20           (c) Audit powers.--The council shall have the right to  
21 independently audit all information required to be submitted by  
22 data sources as needed to corroborate the accuracy of the  
23 submitted data, pursuant to the following:

24           (1) Audits of information submitted by providers or  
25 health care insurers shall be performed on a sample and  
26 issue-specific basis, as needed by the council, and shall be  
27 coordinated, to the extent practicable, with audits performed  
28 by the Commonwealth. All health care insurers and providers  
29 are hereby required to make those books, records of accounts  
30 and any other data needed by the auditors available to the

1 council at a convenient location within 30 days of written  
2 notification by the council.

3 (2) Audits of information submitted by purchasers shall  
4 be performed on a sample basis, unless there exists  
5 reasonable cause to audit specific purchasers, but in no case  
6 shall the council have the power to audit financial  
7 statements of purchasers.

8 (3) All audits performed by the council shall be  
9 performed at the expense of the council.

10 (4) The results of audits of providers or health care  
11 insurers shall be provided to the audited providers and  
12 health care insurers on a timely basis, not to exceed 30 days  
13 beyond presentation of audit findings to the council.

14 (d) General duties and functions.--The council is hereby  
15 authorized to and shall perform the following duties and  
16 functions:

17 (1) Develop a computerized system for the collection,  
18 analysis and dissemination of data. The council may contract  
19 with a vendor who will provide data processing services. The  
20 council shall assure that the system will be capable of  
21 processing all data required to be collected under this  
22 chapter. Any vendor selected by the council shall be selected  
23 in accordance with the provisions of section 3314, and the  
24 vendor shall relinquish any and all proprietary rights or  
25 claims to the database created as a result of implementation  
26 of the data processing system.

27 (2) Establish a Pennsylvania Uniform Claims and Billing  
28 Form for all data sources and all providers, which shall be  
29 utilized and maintained by all data sources and all providers  
30 for all services covered under this chapter.

1       (3) Establish a health care payor claims data submission  
2 manual for all health care payor data sources. The manual  
3 shall be utilized by all health care payor data sources to  
4 submit data to be used by the council to establish and  
5 maintain a health care payor claims database.

6       (4) Collect and disseminate data, as specified in  
7 sections 3305 and 3306 (relating to data dissemination and  
8 publication), and other information from data sources to  
9 which the council is entitled, prepared according to formats,  
10 time frames and confidentiality provisions as specified in  
11 sections 3305 and 3308 (relating to Right-to-Know Law and  
12 access to council data), and by the council. The council  
13 shall begin collection of the data identified in paragraph  
14 (3) within 12 months of the effective date of this section.

15       (5) Adopt and implement a methodology to collect and  
16 disseminate data reflecting provider quality, provider  
17 service effectiveness, utilization and the cost of health  
18 care services under sections 3305 and 3306.

19       (6) Subject to the restrictions on access to raw data  
20 set forth in section 3308, issue special reports and make  
21 available raw data to a purchaser requesting it. Sale by a  
22 recipient or exchange or publication by a recipient, other  
23 than a purchaser, of council raw data to other parties  
24 without the express written consent of, and under terms  
25 approved by, the council shall be unauthorized use of data  
26 under section 3308(d).

27       (7) On an annual basis, publish in the Pennsylvania  
28 Bulletin a list of all the raw data reports it has prepared  
29 under section 3308(g) and a description of the data obtained  
30 through each computer-to-computer access it has provided

1 under section 3308(g) and of the names of the parties to whom  
2 the council provided the reports or the computer-to-computer  
3 access during the previous month.

4 (8) Promote competition in the health care and health  
5 insurance markets.

6 (9) Assure that the use of council data does not raise  
7 access barriers to care.

8 (10) Provide information on the allowed and paid costs  
9 of medical services in terminology that may be reasonably  
10 understood by the average individual consumer of health care  
11 services. The council shall present the cost information in  
12 conjunction with information on quality of care delivery, if  
13 quality information is reasonably available to the council,  
14 so that the average individual consumer of health care  
15 services may use the information to inform purchasing  
16 decisions.

17 (11) Make annual reports to the General Assembly on the  
18 rate of increase in the cost of health care in this  
19 Commonwealth, including, but not limited to, the following:

20 (i) The rate of increase in health insurance  
21 premiums in this Commonwealth.

22 (ii) Regional trends in cost of health care and  
23 health insurance premiums.

24 (iii) The effectiveness of the council in carrying  
25 out the legislative intent of this chapter.

26 (iv) The quality and effectiveness of health care  
27 and access to health care for all citizens of this  
28 Commonwealth.

29 (12) In the discretion of the council, make  
30 recommendations on the need for further health care cost

1 containment legislation.

2 (13) Conduct studies and publish reports analyzing the  
3 effects that outpatient, alternative health care delivery  
4 systems have on health care costs. The systems shall include,  
5 but are not limited to, health maintenance organizations  
6 (HMOs); preferred provider organizations (PPOs); primary  
7 health care facilities; home health care; attendant care;  
8 ambulatory service facilities; freestanding emergency  
9 centers; birthing centers; and hospice care. The reports  
10 shall be submitted to the General Assembly and shall be made  
11 available to the public.

12 (14) Conduct studies and make reports concerning the  
13 utilization of experimental and nonexperimental transplant  
14 surgery and other highly technical and experimental  
15 procedures, including costs and mortality rates.

16 § 3305. Data submission and collection.

17 (a) Submission of data.--

18 (1) The council is authorized to collect and data  
19 sources are required to submit, upon request of the council,  
20 all data required in this section, according to uniform  
21 submission formats, coding systems, the health care payor  
22 claims data submission manual and other technical  
23 specifications necessary to render the incoming data  
24 substantially valid, consistent, compatible and manageable  
25 using electronic data processing according to data submission  
26 schedules. The schedules shall avoid, to the extent possible,  
27 submission of identical data from more than one data source.  
28 The uniform submission formats, coding systems and other  
29 technical specifications may be established by the council  
30 pursuant to its authority under section 3304(b) (relating to

1 powers and duties of council). If payor data is requested by  
2 the council, it shall, to the extent possible, be obtained  
3 from primary payor sources. The council shall not require any  
4 data source to contract with any specific vendor for  
5 submission of any specific data elements to the council.

6 (2) In carrying out its responsibilities, the council  
7 shall not require health care facilities to report data  
8 elements which are not included in the manual developed by  
9 the National Uniform Billing Committee. The council shall  
10 publish in the Pennsylvania Bulletin a list of no more than  
11 35 diseases, procedures and medical conditions for which data  
12 under subsections (c) (22) and ~~(e)~~ (D) shall be required. The <--  
13 list shall not represent more than 50% of total hospital  
14 discharges, based upon the previous year's hospital discharge  
15 data. Subsequent to the publication of the list, any data  
16 submission requirements under subsections (c) (22) and ~~(e)~~ (D) <--  
17 previously in effect shall be null and void for diseases,  
18 procedures and medical conditions not found on the list. All  
19 other data elements under subsection (c) shall continue to be  
20 required from data sources. The council shall review the list  
21 and may add no more than a net of three diseases, procedures  
22 or medical conditions per year over a five-year period. The  
23 adjusted list of diseases, procedures and medical conditions  
24 shall at no time be more than 50% of total hospital  
25 discharges.

26 (b) Pennsylvania Uniform Claims and Billing Form.--The  
27 council shall maintain a Pennsylvania Uniform Claims and Billing  
28 Form format. The council shall furnish the claims and billing  
29 form format to all data sources, and the claims and billing form  
30 shall be utilized and maintained by all data sources for all

1 services covered by this chapter. The Pennsylvania Uniform  
2 Claims and Billing Form shall consist of the Uniform Hospital  
3 Billing Form, as developed by the National Uniform Billing  
4 Committee, with additional fields as necessary to provide all of  
5 the data set forth in subsections (c) and (e) and those data <--  
6 elements identified in subsection (d) that, in the council's  
7 discretion, should be included (D). <--

8 (c) Data elements.--For each covered service performed in  
9 this Commonwealth, the council shall be required to collect the  
10 following data elements:

11 (1) uniform patient identifier, continuous across  
12 multiple episodes and providers;

13 (2) patient date of birth;

14 (3) patient sex;

15 (4) patient race, consistent with the method of  
16 collection of race/ethnicity data by the United States Bureau  
17 of the Census and the United States Standard Certificates of  
18 Live Birth and Death;

19 (5) patient zip code number;

20 (6) date of admission;

21 (7) date of discharge;

22 (8) principal and secondary diagnoses by standard code,  
23 including external cause of injury, complication, infection  
24 and childbirth;

25 (9) principal procedure by council-specified standard  
26 code and date;

27 (10) up to three secondary procedures by council-  
28 specified standard codes and dates;

29 (11) uniform health care facility identifier, continuous  
30 across episodes, patients and providers;



1       (12) uniform identifier of admitting physician, by  
2 unique physician identification number established by the  
3 council, continuous across episodes, patients and providers;

4       (13) uniform identifier of consulting physicians, by  
5 unique physician identification number established by the  
6 council, continuous across episodes, patients and providers;

7       (14) total charges of health care facility, segregated  
8 into major categories, including, but not limited to, room  
9 and board, radiology, laboratory, operating room, drugs,  
10 medical supplies and other goods and services according to  
11 guidelines specified by the council;

12       (15) actual payments to health care facility,  
13 segregated, if available, according to the categories  
14 specified in paragraph (14);

15       (16) charges of each physician or professional rendering  
16 service relating to an incident of hospitalization or  
17 treatment in an ambulatory service facility;

18       (17) actual payments to each physician or professional  
19 rendering service under paragraph (16);

20       (18) uniform identifier of primary payor;

21       (19) zip code number of facility where health care  
22 service is rendered;

23       (20) uniform identifier for payor group contract number;

24       (21) patient discharge status; and

25       (22) provider service effectiveness and provider quality  
26 under section 3304(d).

27 ~~(d) Pennsylvania health care payor claims data submission~~ <--  
28 ~~manual.~~

29       ~~(1) The health care payor claims data submission manual~~  
30 ~~shall define the data elements needed to establish and~~

~~maintain a health care payor claims database for all claims paid on behalf of patients receiving health care in this Commonwealth. The health care payor claims database shall not be limited in its data collection by the definition of "covered services" in section 3302 (relating to definitions). A health care payor data source shall comply with the manual to submit data.~~

~~(2) The health care payor claims data submission manual shall use and build upon existing data collection standards and methods, and shall include, for each claim, including each medical, dental and pharmacy claim:~~

~~(i) Each of the uniform identifier data elements set forth in subsection (c).~~

~~(ii) Other eligibility and provider data files associated with the claim as necessary;~~

~~(iii) The billed, allowed and paid amounts; and~~

~~(iv) Other data elements, as identified in the health care payor claims data submission manual, to further the intent of this chapter, including:~~

~~(A) Additional patient and provider identifiers.~~

~~(B) Patient demographic information.~~

~~(C) Data necessary to identify the date and time of service and the location and type of provider and facility, such as a hospital, office or clinic.~~

~~(D) Data describing the nature of health care services provided to the patient, including diagnosis codes.~~

~~(E) Other data relating to health care costs, prices and utilization.~~

~~(e) (D) Provider quality and provider service effectiveness <--~~

1 data elements.--In carrying out its duty to collect data on  
2 provider quality and provider service effectiveness under  
3 subsection (c)(22) and section 3304(d)(5), the council shall  
4 define a methodology to measure provider service effectiveness,  
5 which may include additional data elements to be specified by  
6 the council sufficient to carry out its responsibilities under  
7 section 3304(d)(5). The council shall not require health care  
8 insurers to report on data elements that are not reported to  
9 nationally recognized accrediting organizations, to the  
10 Department of Health, the Department of Human Services or the  
11 Insurance Department, in quarterly or annual reports. The  
12 council shall not require reporting by health care insurers in  
13 different formats than are required for reporting to nationally  
14 recognized accrediting organizations or on quarterly or annual  
15 reports submitted to the Department of Health, the Department of  
16 Human Services or the Insurance Department. The council may  
17 adopt the quality findings as reported to nationally recognized  
18 accrediting organizations. Additional quality data elements must  
19 be defined and released for public comment prior to use.

20 ~~(f)~~ (E) Reserve field utilization and addition or deletion <--  
21 of data elements.--The council shall include in the Pennsylvania  
22 Uniform Claims and Billing Form a reserve field. The council may  
23 utilize the reserve field by adding other data elements beyond  
24 those required to carry out its responsibilities under  
25 subsections (c) and ~~(e)~~ (D) and section 3304(d)(4) and (5), or <--  
26 the council may delete data elements from the Pennsylvania  
27 Uniform Claims and Billing Form only by a majority vote of the  
28 council and only pursuant to the following procedure:

29 (1) The council shall obtain a cost-benefit analysis of  
30 the proposed addition or deletion which shall include the

1 cost to data sources of any proposed additions.

2 (2) The council shall publish notice of the proposed  
3 addition or deletion, along with a copy or summary of the  
4 cost-benefit analysis, in the Pennsylvania Bulletin, and the  
5 notice shall include provision for a 60-day comment period.

6 (3) The council may hold additional hearings or request  
7 such other reports as it deems necessary and shall consider  
8 the comments received during the 60-day comment period and  
9 any additional information gained through the hearings or  
10 other reports in making a final determination on the proposed  
11 addition or deletion.

12 ~~(g)~~ (F) Other data required to be submitted.--Each provider <--  
13 and health care payor data source is hereby required to submit,  
14 and the council is hereby authorized to collect, in accordance  
15 with submission dates and schedules established by the council,  
16 the following additional data in its possession, provided the  
17 data is not available to the council from public records:

18 (1) Audited annual financial reports of all hospitals  
19 and ambulatory service facilities providing covered services  
20 as defined in section 3302.

21 (2) The Medicare cost report for Medical Assistance or  
22 successor forms, including the settled Medicare cost report.

23 (3) Additional data, including, but not limited to, data  
24 which can be used in reports about:

25 (i) the incidence of medical and surgical procedures  
26 in the population for individual providers;

27 (ii) physicians who provide covered services and  
28 accept medical assistance patients;

29 (iii) physicians who provide covered services and  
30 accept Medicare assignment as full payment;

1 (iv) mortality rates for specified diagnoses and  
2 treatments, grouped by severity, for individual  
3 providers;

4 (v) rates of infection for specified diagnoses and  
5 treatments, grouped by severity, for individual  
6 providers;

7 (vi) morbidity rates for specified diagnoses and  
8 treatments, grouped by severity, for individual  
9 providers;

10 (vii) readmission rates for specified diagnoses and  
11 treatments, grouped by severity, for individual  
12 providers;

13 (viii) rate of incidence of postdischarge  
14 professional care for selected diagnoses and procedures,  
15 grouped by severity, for individual providers; and

16 (ix) data from other public sources.

17 (4) Any other data the council requires to carry out its  
18 responsibilities under section 3304(d).

19 ~~(h)~~ (G) Review and correction of data.--The council shall <--  
20 provide a reasonable period for data sources to review and  
21 correct the data submitted under this section which the council  
22 intends to prepare and issue in reports to the General Assembly,  
23 to the general public or in special studies and reports under  
24 section 3309 (relating to special studies and reports). When  
25 corrections are provided, the council shall correct the  
26 appropriate data in its data files and subsequent reports.

27 ~~(i)~~ (H) Allowance for clarification or dissents.--The <--  
28 council shall maintain a file of written statements submitted by  
29 data sources who wish to provide an explanation of data that  
30 they feel might be misleading or misinterpreted. The council

1 shall provide access to the file to any person and shall, where  
2 practical, in its reports and data files indicate the  
3 availability of such statements. When the council agrees with  
4 such statements, it shall correct the appropriate data and  
5 comments in its data files and subsequent reports.

6 ~~(j)~~ (I) Allowance for correction.--The council shall verify <--  
7 the patient safety indicator data submitted by hospitals under  
8 subsection (c)(8) within 60 days of receipt. The council may  
9 allow hospitals to make changes to the data submitted during the  
10 verification period. After the verification period, but within  
11 45 days of receipt of the adjusted hospital data, the council  
12 shall risk adjust the information and provide reports to the  
13 patient safety committee of the relevant hospital.

14 ~~(k)~~ (J) Availability of data.--Nothing in this chapter shall <--  
15 prohibit a purchaser from obtaining from its health care  
16 insurer, nor relieve the health care insurer from the obligation  
17 of providing the purchaser, on terms consistent with past  
18 practices, data previously provided or additional data not  
19 currently provided to the purchaser by the health care insurer  
20 pursuant to any existing or future arrangement, agreement or  
21 understanding.

22 § 3306. Data dissemination and publication.

23 (a) Public reports.--Subject to the restrictions on access  
24 to council data set forth in section 3308 (relating to Right-to-  
25 Know Law and access to council data) and utilizing the data  
26 collected under section 3305 (relating to data submission and  
27 collection), as well as other data, records and matters of  
28 record available to it, the council shall prepare and issue  
29 reports to the General Assembly and to the general public  
30 according to the following provisions:

1           (1) The council shall, for every provider of both  
2 inpatient and outpatient services within this Commonwealth  
3 and within appropriate regions and subregions, prepare and  
4 issue reports on provider quality and service effectiveness  
5 on diseases or procedures that, when ranked by volume, cost,  
6 payment and high variation in outcome, represent the best  
7 opportunity to improve overall provider quality, improve  
8 patient safety and provide opportunities for cost reduction.  
9 These reports shall provide comparative information on the  
10 following:

11           (i) Differences in mortality rates; differences in  
12 length of stay; differences in complication rates;  
13 differences in readmission rates; differences in  
14 infection rates; and other comparative outcome measures  
15 the council may develop that will allow purchasers,  
16 providers and consumers to make purchasing and quality  
17 improvement decisions based upon quality patient care and  
18 to restrain costs.

19           (ii) The incidence rate of selected medical or  
20 surgical procedures, the quality and service  
21 effectiveness and the payments received for those  
22 providers, identified by the name and type or specialty,  
23 for which these elements vary significantly from the  
24 norms for all providers.

25           (2) In preparing its reports under paragraph (1), the  
26 council shall ensure that factors which have the effect of  
27 either reducing provider revenue or increasing provider costs  
28 and other factors beyond a provider's control which reduce  
29 provider competitiveness in the marketplace are explained in  
30 the reports. The council shall also ensure that any

1 clarifications and dissents submitted by individual providers  
2 under section ~~3305(i)~~ 3305(H) are noted in any reports that <--  
3 include release of data on that individual provider.

4 (b) Raw data reports and computer access to council data.--

5 The council shall provide special reports derived from raw data  
6 and a means for computer-to-computer access to its raw data to a  
7 purchaser under section 3308(g). The council shall provide the  
8 reports and computer-to-computer access, at its discretion, to  
9 other parties under section 3308(i). The council shall provide  
10 these special reports and computer-to-computer access in as  
11 timely a fashion as the council's responsibilities to publish  
12 the public reports required in this section will allow. Any  
13 provision of special reports or computer-to-computer access by  
14 the council shall be made only subject to the restrictions on  
15 access to raw data set forth in section 3308(c) and only after  
16 payment for costs of preparation or duplication under section  
17 3308(g) or (i).

18 § 3307. Mandated health benefits.

19 In relation to current law or proposed legislation, the  
20 council shall, upon the request of the appropriate committee  
21 chairman in the Senate and in the House of Representatives or  
22 upon the request of the Secretary of Health or the Secretary of  
23 Human Services, provide information on the proposed mandated  
24 health benefit pursuant to the following:

25 (1) The General Assembly hereby declares that proposals  
26 for mandated health benefits or mandated health insurance  
27 coverage should be accompanied by adequate, independently  
28 certified documentation defining the social and financial  
29 impact and medical efficacy of the proposal. To that end, the  
30 council, upon receipt of such requests, is hereby authorized



1 to conduct a preliminary review of the material submitted by  
2 both proponents and opponents concerning the proposed  
3 mandated benefit. If, after this preliminary review, the  
4 council is satisfied that both proponents and opponents have  
5 submitted sufficient documentation necessary for a review  
6 under paragraphs (3) and (4), the council is directed to  
7 contract with individuals, pursuant to the selection  
8 procedures for vendors set forth in section 3314 (relating to  
9 contracts with vendors), who will constitute a Mandated  
10 Benefits Review Panel to review mandated benefits proposals  
11 and provide independently certified documentation, as  
12 provided for in this section.

13 (2) The panel shall consist of the following senior  
14 researchers, each of whom shall be a recognized expert:

15 (i) one in health research;

16 (ii) one in biostatistics;

17 (iii) one in economic research;

18 (iv) one, a physician, in the appropriate specialty  
19 with current knowledge of the subject being proposed as a  
20 mandated benefit; and

21 (v) one with experience in insurance or actuarial  
22 research.

23 (3) The Mandated Benefits Review Panel shall have the  
24 following duties and responsibilities:

25 (i) To review documentation submitted by a person  
26 proposing or opposing mandated benefits within 90 days of  
27 submission of the documentation to the panel.

28 (ii) To report to the council, pursuant to the  
29 council's review under subparagraph (i), the following:

30 (A) Whether or not the documentation is complete

1 as defined in paragraph (4).

2 (B) Whether or not the research cited in the  
3 documentation meets professional standards.

4 (C) Whether or not all relevant research  
5 respecting the proposed mandated benefit has been  
6 cited in the documentation.

7 (D) Whether or not the conclusions and  
8 interpretations in the documentation are consistent  
9 with the data submitted.

10 (4) A person proposing or opposing legislation mandating  
11 benefits coverage should, to provide the Mandated Benefits  
12 Review Panel with sufficient information to carry out the  
13 Mandated Benefits Review Panel's duties and responsibilities  
14 under paragraph (3), submit documentation to the council,  
15 pursuant to the procedure established under paragraph (5),  
16 which demonstrates the following:

17 (i) The extent to which the proposed benefit and the  
18 services the proposed benefit would provide are needed  
19 by, available to and utilized by the population of this  
20 Commonwealth.

21 (ii) The extent to which insurance coverage for the  
22 proposed benefit already exists or, if no coverage  
23 exists, the extent to which the lack of coverage results  
24 in inadequate health care or financial hardship for the  
25 population of this Commonwealth.

26 (iii) The demand for the proposed benefit from the  
27 public and the source and extent of opposition to  
28 mandating the benefit.

29 (iv) All relevant findings bearing on the social  
30 impact of the lack of the proposed benefit.

1           (v) If the proposed benefit mandates coverage of a  
2 particular therapy, the results of at least one  
3 professionally accepted, controlled trial comparing the  
4 medical consequences of the proposed therapy, alternative  
5 therapies and no therapy.

6           (vi) If the proposed benefit mandates coverage of an  
7 additional class of practitioners, the results of at  
8 least one professionally accepted, controlled trial  
9 comparing the medical results achieved by the additional  
10 class of practitioners and those practitioners already  
11 covered by benefits.

12           (vii) The results of any other relevant research.

13           (viii) Evidence of the financial impact of the  
14 proposed legislation, including at least the following:

15           (A) The extent to which the proposed benefit  
16 would increase or decrease cost for treatment or  
17 service.

18           (B) The extent to which similar mandated  
19 benefits in other states have affected charges, costs  
20 and payments for services.

21           (C) The extent to which the proposed benefit  
22 would increase the appropriate use of the treatment  
23 or service.

24           (D) The impact of the proposed benefit on  
25 administrative expenses of health care insurers.

26           (E) The impact of the proposed benefits on  
27 benefits costs of purchasers.

28           (F) The impact of the proposed benefits on the  
29 total cost of health care within this Commonwealth.

30           (5) The procedure for review of documentation shall be

1 as follows:

2 (i) A person wishing to submit information on  
3 proposed legislation mandating insurance benefits for  
4 review by the panel must submit the documentation  
5 specified under paragraph (4) to the council.

6 (ii) The council shall, within 30 days of receipt of  
7 the documentation:

8 (A) Publish in the Pennsylvania Bulletin notice  
9 of receipt of the documentation, a description of the  
10 proposed legislation, provision for a period of 60  
11 days for public comment and the time and place at  
12 which a person may examine the documentation.

13 (B) Submit copies of the documentation to the  
14 Secretary of Health, the Secretary of Human Services  
15 and the Insurance Commissioner, who shall review and  
16 submit comments to the council on the proposed  
17 legislation within 30 days.

18 (C) Submit copies of the documentation to the  
19 panel, which shall review the documentation and issue  
20 their findings, subject to paragraph (3), within 90  
21 days.

22 (iii) Upon receipt of the comments of the Secretary  
23 of Health, the Secretary of Human Services and the  
24 Insurance Commissioner and of the findings of the panel,  
25 under subparagraph (ii), but no later than 120 days  
26 following the publication required in subparagraph (ii),  
27 the council shall submit the comments and findings,  
28 together with the council's recommendations respecting  
29 the proposed legislation, to the Governor, the President  
30 pro tempore of the Senate, the Speaker of the House of

1 Representatives, the Secretary of Health, the Secretary  
2 of Human Services, the Insurance Commissioner and the  
3 person who submitted the information under subparagraph  
4 (i).

5 § 3308. Right-to-Know Law and access to council data.

6 (a) Public access.--The information and data received by the  
7 council shall be utilized by the council for the benefit of the  
8 public and public officials. Subject to the specific limitations  
9 set forth in this section and section 3101.1 of the act of  
10 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,  
11 the council shall make determinations on requests for  
12 information in favor of access.

13 (b) Outreach programs.--The council shall develop and  
14 implement outreach programs designed to make the council's  
15 information understandable and usable to purchasers, providers,  
16 other Commonwealth agencies and the general public. The programs  
17 shall include efforts to educate through pamphlets, booklets,  
18 seminars and other appropriate measures and to facilitate making  
19 more informed health care choices.

20 (c) Limitations on access.--Unless specifically provided for  
21 under this chapter, neither the council nor any contracting  
22 system vendor shall release and no data source, person, member  
23 of the public or other user of any data of the council shall  
24 gain access to:

25 (1) Any raw data of the council which could reasonably  
26 be expected to reveal the identity of an individual patient.

27 (2) Any raw data of the council which could reasonably  
28 be expected to reveal the identity of any purchaser, other  
29 than a purchaser requesting data on the purchaser's own group  
30 or an entity entitled to the purchaser's data under

1 subsection (g).

2 (3) Any raw data disclosing discounts or allowances  
3 between identified payors and providers which is prejudicial  
4 to an individual payor or provider.

5 (d) Unauthorized use of data.--A person who knowingly  
6 releases council data violating raw data safeguards under this  
7 section to an unauthorized person commits a misdemeanor of the  
8 first degree and shall, upon conviction, be sentenced to pay a  
9 fine of \$10,000 or to imprisonment for not more than five years,  
10 or both. An unauthorized person who knowingly receives or  
11 possesses the data commits a misdemeanor of the first degree.

12 (e) Unauthorized access to data.--If person inadvertently or  
13 by council error gains access to data that violates the  
14 safeguards under this section, the data must immediately be  
15 returned, without duplication, to the council with proper  
16 notification.

17 (f) Public access to records.--Each public report prepared  
18 by the council shall be a public record and shall be available  
19 to the public for a reasonable fee. Copies shall be provided,  
20 upon request of the chair, to the Health and Human Services  
21 Committee of the Senate and the Health Committee and Human  
22 Services Committee of the House of Representatives.

23 (g) Access to council raw data by purchasers.--Pursuant to  
24 sections 3304(d)(6) (relating to powers and duties of council)  
25 and 3306(b) (relating to data dissemination and publication) and  
26 subject to the limitations on access under subsection (c), the  
27 council shall provide access to the council's raw data to  
28 purchasers, excluding purchasers that provide covered services  
29 other than through the purchase of fully funded insurance from a  
30 health care insurer but that are not elective health care payor

1 data sources, in accordance with the following procedure:

2 (1) Special reports derived from raw data of the council  
3 shall be provided by the council to the purchaser requesting  
4 such reports.

5 (2) A means to enable computer-to-computer access by the  
6 purchaser to raw data of the council shall be developed,  
7 adopted and implemented by the council. The council shall  
8 provide the access to the council's raw data to a purchaser  
9 upon request.

10 (3) If an employer obtains from the council, under  
11 paragraph (1) or (2), data pertaining to the employer's  
12 employees and the employees' dependents for whom the employer  
13 purchases or otherwise provides covered services and who are  
14 represented by a certified collective bargaining  
15 representative, the collective bargaining representative  
16 shall be entitled to the data, after payment of fees under  
17 paragraph (4). If a certified collective bargaining  
18 representative obtains from the council, under paragraph (1)  
19 or (2), data pertaining to the employer's members and the  
20 member's dependents who are employed by and for whom covered  
21 services are purchased or otherwise provided by an employer,  
22 the employer shall be entitled to the data, after payment of  
23 fees under paragraph (4).

24 (4) In providing for access to its raw data, the council  
25 shall charge the purchasers which originally obtained the  
26 access a fee sufficient to cover the council's costs to  
27 prepare and provide special reports requested under paragraph  
28 (1) or to provide computer-to-computer access to its raw data  
29 requested under paragraph (2). If a second or subsequent  
30 party requests the information under paragraph (3), the

1 council shall charge the party a reasonable fee.

2 (h) Access to council raw data by State agencies.--The  
3 council shall develop and execute memoranda of understanding  
4 with any State agency upon request of that agency, including the  
5 Insurance Department, the Department of Health and the  
6 Department of Human Services, to allow the agency access to the  
7 data.

8 (i) Access to council raw data by other parties.--Subject to  
9 the limitations on access to council raw data under subsection  
10 (c), the council may provide special reports derived from the  
11 council's raw data or computer-to-computer access to parties  
12 other than purchasers provided access under subsection (g). The  
13 council may publish regulations that set forth the criteria and  
14 the procedure the council shall use in making determinations on  
15 the access, pursuant to the powers vested in the council under  
16 section 3304. In providing the access, the council shall charge  
17 the party requesting the access a reasonable fee.

18 § 3309. Special studies and reports.

19 (a) Special studies.--A Commonwealth agency, the Senate or  
20 the House of Representatives may direct the council to publish  
21 or contract for publication of special studies, including, but  
22 not limited to, a special study on diseases and the cost of  
23 health care related to particular diseases in this Commonwealth.  
24 A special study published under this subsection shall become a  
25 public document.

26 (b) Special reports.--

27 (1) A Commonwealth agency, the Senate or the House of  
28 Representative may study and issue a report on the special  
29 medical needs, demographic characteristics, access or lack  
30 thereof to health care services and need for financing of



1 health care services of:

2 (i) Senior citizens, particularly low-income senior  
3 citizens, senior citizens who are members of minority  
4 groups and senior citizens residing in low-income urban  
5 or rural areas.

6 (ii) Low-income urban or rural areas.

7 (iii) Minority communities.

8 (iv) Women.

9 (v) Children.

10 (vi) Unemployed workers.

11 (vii) Veterans.

12 (2) The reports under paragraph (1) shall include  
13 information on the current availability of services to the  
14 targeted parts of the population under paragraph (1), whether  
15 access to the services has increased or decreased over the  
16 past 10 years and specific recommendations for the  
17 improvement of the primary care and health delivery systems  
18 of targeted parts of the population under paragraph (1),  
19 including disease prevention and comprehensive health care  
20 services. The agency may study and report on the effects of  
21 using prepaid, capitated or health maintenance organization  
22 health delivery systems as ways to promote the delivery of  
23 primary health care services to the underserved segments of  
24 the population enumerated above.

25 (3) The agency may study and report on the short-term  
26 and long-term fiscal and programmatic impact on the health  
27 care consumer of changes in ownership of hospitals from  
28 nonprofit to profit, whether through purchase, merger or the  
29 like. The agency may study and report on factors which have  
30 the effect of either reducing provider revenue or increasing

1 provider cost and other factors beyond a provider's control  
2 which reduce provider competitiveness in the marketplace.

3 § 3310. Enforcement and penalty.

4 (a) Compliance enforcement.--The council shall have standing  
5 to bring an action in law or in equity through private counsel  
6 in any court of common pleas to enforce compliance with any  
7 provision of this chapter, except section 3309 (relating to  
8 special studies and reports), or any requirement or appropriate  
9 request of the council made under this chapter. The Attorney  
10 General is authorized and shall bring an enforcement action in  
11 aid of the council in a court of common pleas at the request of  
12 the council and in the name of the Commonwealth.

13 (b) Penalty.--

14 (1) Any person who fails to supply data under section  
15 3305 (relating to data submission and collection) may be  
16 assessed a civil penalty not to exceed \$1,000 for each day  
17 the data is not submitted.

18 (2) Any person who knowingly submits inaccurate data  
19 under section 3305 commits a misdemeanor of the third degree  
20 and shall, upon conviction, be sentenced to pay a fine of  
21 \$1,000 or to imprisonment for not more than one year, or  
22 both.

23 § 3311. Research and demonstration projects.

24 The council shall actively encourage research and  
25 demonstrations to design and test improved methods of assessing  
26 provider quality, provider service effectiveness, efficiency and  
27 cost containment. If no data submission requirements in a  
28 mandated demonstration exceed the current reserve field on the  
29 Pennsylvania Uniform Claims and Billing Form or the data  
30 submission requirements of the Pennsylvania health care payor

1 claims data submission manual, the council may:

2 (1) Authorize contractors engaged in health services  
3 research selected by the council, under section 3314  
4 (relating to contracts with vendors), to have access to the  
5 council's raw data files, if the entity assumes a contractual  
6 obligation imposed by the council to assure patient identity  
7 confidentiality.

8 (2) Place data sources participating in research and  
9 demonstrations on different data submission requirements from  
10 other data sources in this Commonwealth.

11 (3) Require data source participation in research and  
12 demonstration projects if this is the only testing method the  
13 council determines is promising.

14 § 3312. Grievances and grievance procedures.

15 (a) Procedures and requirements.--Pursuant to its powers to  
16 publish regulations under section 3304 (relating to powers and  
17 duties of council) and with the requirements of this section,  
18 the council may establish procedures and requirements for the  
19 filing, hearing and adjudication of grievances against the  
20 council of a data source. The procedures and requirements shall  
21 be published in the Pennsylvania Bulletin pursuant to law.

22 (b) Claims and hearings.--Grievance claims of a data source  
23 shall be submitted to the council or to a third party designated  
24 by the council. The council or the designated third party shall  
25 convene a hearing, if requested, and adjudicate the grievance.

26 § 3313. Antitrust provisions.

27 A person or entity required or permitted to submit data or  
28 information under this chapter or receiving data or information  
29 from the council in accordance with this chapter are declared to  
30 be acting pursuant to State requirements embodied in this

1 chapter and shall be exempt from antitrust claims or actions  
2 grounded upon submission or receipt of the data or information.  
3 § 3314. Contracts with vendors.

4 A contract with a vendor other than a sole source vendor for  
5 purchase of services or for purchase or lease of supplies and  
6 equipment related to the council's powers and duties shall be  
7 let only after a public bidding process and only in accordance  
8 with the following provisions:

9 (1) The council shall prepare specifications fully  
10 describing the services to be rendered or equipment or  
11 supplies to be provided by a vendor and shall make the  
12 specifications available for inspection by a person at the  
13 council's offices during normal working hours and at other  
14 places and other times as the council deems advisable.

15 (2) The council shall publish notice of invitations to  
16 bid in the Pennsylvania Bulletin and on the council's  
17 publicly accessible Internet website. The notice shall  
18 include at least the following:

19 (i) The deadline for submission of bids by  
20 prospective vendors, which shall be no sooner than 30  
21 days following the latest publication of the notice as  
22 prescribed under this paragraph.

23 (ii) The locations, dates and times during which  
24 prospective vendors may examine the specifications  
25 required under paragraph (1).

26 (iii) The date, time and place of the meeting or  
27 meetings of the council at which bids will be opened and  
28 accepted.

29 (iv) A statement to the effect that any person is  
30 eligible to bid.

1           (3) Bids shall be accepted as follows:

2           (i) A council member who is affiliated in any way  
3 with a bidder may not vote on the awarding of a contract  
4 for which the bidder has submitted a bid. A council  
5 member who has an affiliation with a bidder shall state  
6 the nature of the affiliation prior to a vote of the  
7 council.

8           (ii) Bids shall be opened and reviewed by the  
9 appropriate council committee, which shall make  
10 recommendations to the council on approval. Bids shall be  
11 accepted and the acceptance shall be announced only at a  
12 public meeting of the council as defined in section  
13 3303(e) (relating to Health Care Cost Containment  
14 Council). A bid may not be accepted at an executive  
15 session of the council.

16           (iii) The council may require that a certified  
17 check, in an amount determined by the council, accompany  
18 every bid. If required, a bid may not be accepted unless  
19 accompanied by a certified check.

20           (4) In order to prevent a party from deliberately  
21 underbidding contracts in order to gain or prevent access to  
22 council data, the council may award a contract at the  
23 council's discretion, regardless of the amount of the bid, as  
24 follows:

25           (i) A bid accepted must reasonably reflect the  
26 actual cost of services provided.

27           (ii) A vendor selected by the council under this  
28 paragraph must be found by the council to be of the  
29 character and integrity as to assure, to the maximum  
30 extent possible, adherence to this chapter in the

1 provision of contracted services.

2 (iii) The council may require the selected vendor to  
3 furnish, within 20 days after the contract has been  
4 awarded, a bond with suitable and reasonable requirements  
5 guaranteeing the services to be performed with sufficient  
6 surety in an amount determined by the council. If the  
7 bond is not furnished within the time specified, the  
8 previous award shall be void.

9 (5) The council shall make efforts to assure that the  
10 council's vendors have established affirmative action plans  
11 to assure equal opportunity policies for hiring and promoting  
12 employees.

13 § 3315. Reporting.

14 The council shall provide an annual report of its financial  
15 expenditures to the Appropriations Committee and Public Health  
16 and Welfare Committee of the Senate and the Appropriations  
17 Committee, the Health Committee and the Human Services Committee  
18 of the House of Representatives. Failure to issue a timely  
19 report will result in a prohibition on money being distributed  
20 from the General Fund to the council for the following fiscal  
21 year. Each appropriation from the General Fund to the council  
22 shall be held until 60 days after compliance with this section.

23 § 3316. Severability.

24 The provisions of this chapter are severable. If a provision  
25 of this chapter or the provision's application to a person or  
26 circumstance is held invalid, the invalidity shall not affect  
27 other provisions or applications of this chapter which can be  
28 given effect without the invalid provision or application.

29 CHAPTER 35

30 HEALTH CARE OUTCOMES

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1 Subchapter

2 A. Preliminary Provisions

3 B. Medicaid Outcomes Based Payment Programs

4 C. Hospital Outcomes Program

5 D. Managed Care Outcomes Program

6 SUBCHAPTER A

7 PRELIMINARY PROVISIONS

8 Sec.

9 3501. Definitions.

10 § 3501. Definitions.

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

14 "All Patient Refined Diagnosis Related Groups." A version of  
15 Diagnosis Related Groups that further subdivide the Diagnosis  
16 Related Groups into four severity of illness and four risk of  
17 mortality subclasses within each Diagnosis Related Groups.

18 "Department." The Department of Human Services of the  
19 Commonwealth.

20 "Diagnosis Related Groups." A classification system that  
21 uses patient discharge information to classify patients into  
22 clinically meaningful groups.

23 "Hospital." A public or private institution licensed as a  
24 hospital under the laws of this Commonwealth that participates  
25 in the Medicaid program.

26 "Managed care organization." A licensed managed care  
27 organization with whom the department has contracted to provide  
28 or arrange for services to a Medicaid recipient.

29 "Medicaid program." The Commonwealth's Medicaid program.

30 "Potentially avoidable admission." An admission of an

~~1 individual to a hospital or long term care facility that may  
2 have reasonably been prevented with adequate access to  
3 ambulatory care or health care coordination.~~

~~4 "Potentially avoidable complication." A harmful event or  
5 negative outcome with respect to an individual, including an  
6 infection or surgical complication, that:~~

~~7 (1) occurs after the person's admission to a hospital or  
8 long term care facility; and~~

~~9 (2) may have resulted from the care, lack of care or  
10 treatment provided during the hospital or long term care  
11 facility stay rather than from a natural progression of an  
12 underlying disease.~~

~~13 "Potentially avoidable emergency visit." Treatment of an  
14 individual in a hospital emergency room or freestanding  
15 emergency medical care facility for a condition that may not  
16 require emergency medical attention because the condition could  
17 be or could have been treated or prevented by a physician or  
18 other health care provider in a nonemergency setting.~~

~~19 "Potentially avoidable event." Any of the following:~~

~~20 (1) A potentially avoidable admission.~~

~~21 (2) A potentially avoidable ancillary service.~~

~~22 (3) A potentially avoidable complication.~~

~~23 (4) A potentially avoidable emergency visit.~~

~~24 (5) A potentially avoidable readmission.~~

~~25 (6) A combination of the events listed under this  
26 definition.~~

~~27 "Potentially avoidable readmission." A return  
28 hospitalization of an individual within a period specified by  
29 the department that may have resulted from a deficiency in the  
30 care or treatment provided to the individual during a previous~~



1 ~~hospital stay or from a deficiency in post hospital discharge~~  
2 ~~follow up. The term does not include a hospital readmission~~  
3 ~~necessitated by the occurrence of unrelated events after the~~  
4 ~~discharge. The term includes the readmission of an individual to~~  
5 ~~a hospital for:~~

6 ~~(1) The same condition or procedure for which the~~  
7 ~~individual was previously admitted.~~

8 ~~(2) An infection or other complication resulting from~~  
9 ~~care previously provided.~~

10 ~~(3) A condition or procedure that indicates that a~~  
11 ~~surgical intervention performed during a previous admission~~  
12 ~~was unsuccessful in achieving the anticipated outcome.~~

13 ~~SUBCHAPTER B~~

14 ~~MEDICAID OUTCOMES BASED PAYMENT PROGRAMS~~

15 ~~Sec.~~

16 ~~3511. Establishment.~~

17 ~~3512. Selection of potentially avoidable event methodology.~~

18 ~~3513. Statewide analysis of Medicaid system waste.~~

19 ~~§ 3511. Establishment.~~

20 ~~The department shall establish the following linked Medicaid~~  
21 ~~outcomes based payment programs:~~

22 ~~(1) A Hospital Outcomes Program designed to provide a~~  
23 ~~hospital with information and incentives to reduce~~  
24 ~~potentially avoidable events and reduce waste in Medicaid~~  
25 ~~hospital services.~~

26 ~~(2) A Managed Care Organization Outcomes Program~~  
27 ~~designed to provide a Medicaid managed care organization with~~  
28 ~~information and incentives to reduce potentially avoidable~~  
29 ~~events and reduce waste in Medicaid managed care programs.~~

30 ~~§ 3512. Selection of potentially avoidable event methodology.~~

~~1 The department shall select a methodology for identifying  
2 potentially avoidable events and the costs associated with the  
3 events and for measuring hospital and managed care organization  
4 performance with respect to the events. The following shall  
5 apply:~~

~~6 (1) The department shall develop parameters for each of  
7 the potentially avoidable events in accordance with the  
8 selected methodology.~~

~~9 (2) To the extent possible, the methodology shall be one  
10 that has been used by a State program under Title XIX of the  
11 Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.)  
12 or by a commercial payer in health care outcomes performance  
13 measurement and in outcome based payment programs.~~

~~14 (3) The methodology shall be open, transparent and  
15 available for review by the public.~~

~~16 § 3513. Statewide analysis of Medicaid system waste.~~

~~17 The department shall conduct a comprehensive analysis of  
18 relevant State databases to identify waste in the Medicaid  
19 system. The following shall apply:~~

~~20 (1) The analysis shall identify instances of potentially  
21 avoidable events in the Medicaid system and the costs  
22 associated with these cases.~~

~~23 (2) The overall estimate of waste shall be broken down  
24 into actionable categories, including, but not limited to,  
25 regions, hospitals, managed care organizations, physicians,  
26 service lines, Diagnosis Related Groups, medical conditions  
27 and procedures, patient characteristics, provider  
28 characteristics and Medicaid program type.~~

~~29 (3) Information collected from the potentially avoidable  
30 event study shall be utilized in the Hospital Outcomes~~

~~Program and Managed Care Organization Outcomes Program.~~

~~SUBCHAPTER C~~

~~HOSPITAL OUTCOMES PROGRAM~~

~~Sec.~~

~~3521. Procedure.~~

~~3522. Phase 1 hospital performance reporting.~~

~~3523. Hospital outcomes information sharing.~~

~~3524. Phase 2 hospital financial incentives.~~

~~3525. Rate adjustment.~~

~~3526. Hospital Medicaid contract.~~

~~3527. Hospital Outcomes Program budget neutrality.~~

~~§ 3521. Procedure.~~

~~The Hospital Outcomes Program shall:~~

~~(1) Target reduction of potentially avoidable readmissions and complications.~~

~~(2) Apply to each State acute care hospital participating in the Medicaid program, except that program adjustments may be made for certain types of hospitals.~~

~~(3) Be implemented in two phases:~~

~~(i) Phase 1, performance reporting.~~

~~(ii) Phase 2, the addition of outcomes based financial incentives.~~

~~§ 3522. Phase 1 hospital performance reporting.~~

~~The department shall develop and maintain a reporting system to provide each hospital with regular confidential reports regarding the hospital's performance with respect to potentially avoidable readmissions and potentially avoidable complications.~~

~~The department shall:~~

~~(1) Conduct ongoing analyses of relevant State claims databases to identify instances of potentially avoidable~~

~~1 complications and readmissions and the expenditures~~  
~~2 associated with the cases.~~

~~3 (2) Create or locate State complications and~~  
~~4 readmissions norms.~~

~~5 (3) Measure actual to expected hospital performance~~  
~~6 compared to State norms.~~

~~7 (4) Compare hospitals with the hospitals' peers using~~  
~~8 risk adjustment procedures that account for the severity of~~  
~~9 illness of each hospital's patients.~~

~~10 (5) Distribute reports to hospitals to provide them with~~  
~~11 actionable information to create policies, contracts and~~  
~~12 programs designed to improve target outcomes.~~

~~13 (6) Foster collaboration among hospitals in sharing best~~  
~~14 practices.~~

~~15 § 3523. Hospital outcomes information sharing.~~

~~16 A hospital may share the information contained in the outcome~~  
~~17 performance reports with physicians and other health care~~  
~~18 providers providing services at the hospital to foster~~  
~~19 coordination and cooperation in the hospital's outcome~~  
~~20 improvement and waste reduction initiatives.~~

~~21 § 3524. Phase 2 hospital financial incentives.~~

~~22 Beginning 12 months after implementation of Phase 1~~  
~~23 performance reporting, the department shall establish financial~~  
~~24 incentives to motivate hospitals to improve on rates of reducing~~  
~~25 avoidable complications and readmissions.~~

~~26 § 3525. Rate adjustment.~~

~~27 The department shall adjust the reimbursement that the~~  
~~28 hospital receives under the All Patient Refined Diagnosis~~  
~~29 Related Groups inpatient prospective payment system based on the~~  
~~30 hospital's performance with respect to exceeding or failing to~~

1 ~~achieve outcome results based on the rates of potentially~~  
2 ~~avoidable readmissions and complications. The methodology for~~  
3 ~~determining a hospital's inpatient base rate adjustment shall:~~

4 ~~(1) Apply to each hospital discharge.~~

5 ~~(2) Determine a hospital specific potentially avoidable~~  
6 ~~outcome adjustment factor based on the hospital's actual~~  
7 ~~versus expected risk adjusted performance compared to the~~  
8 ~~State average or best practice norm.~~

9 ~~(3) Be based on a retrospective analysis of performance~~  
10 ~~prospectively applied.~~

11 ~~(4) Include both rewards and penalties.~~

12 ~~(5) Be communicated to the hospitals in a clear and~~  
13 ~~transparent manner.~~

14 ~~§ 3526. Hospital Medicaid contract.~~

15 ~~The department shall amend contracts with the department's~~  
16 ~~participating hospitals as necessary to incorporate the~~  
17 ~~financial incentives established under the Hospital Outcomes~~  
18 ~~Program.~~

19 ~~§ 3527. Hospital Outcomes Program budget neutrality.~~

20 ~~The Hospital Outcomes Program shall be implemented in a~~  
21 ~~budget neutral manner with respect to aggregate Medicaid~~  
22 ~~hospital expenditures.~~

23 ~~SUBCHAPTER D~~

24 ~~MANAGED CARE OUTCOMES PROGRAM~~

25 ~~Sec.~~

26 ~~3531. Procedure.~~

27 ~~3532. Phase 1 managed care organization performance reporting.~~

28 ~~3533. Managed care organization outcomes information sharing.~~

29 ~~3534. Phase 2 managed care organization financial incentives.~~

30 ~~3535. Premium adjustment.~~

1 ~~3536. Managed care organization Medicaid contracts.~~

2 ~~3537. Managed Care Organization Outcomes Program budget~~  
3 ~~neutrality.~~

4 ~~§ 3531. Procedure.~~

5 ~~The Managed Care Organization Outcomes Program shall:~~

6 ~~(1) Target reduction of avoidable admissions,~~  
7 ~~readmissions and emergency visits.~~

8 ~~(2) Apply to each managed care organizations~~  
9 ~~participating in the Medicaid program.~~

10 ~~(3) Be implemented in two phases:~~

11 ~~(i) Phase 1, performance reporting.~~

12 ~~(ii) Phase 2, the addition of outcomes based~~  
13 ~~financial incentives.~~

14 ~~§ 3532. Phase 1 managed care organization performance~~  
15 ~~reporting.~~

16 ~~The department shall develop and maintain a reporting system~~  
17 ~~to provide each managed care organization with regular~~  
18 ~~confidential reports regarding the managed care organization's~~  
19 ~~performance with respect to potentially avoidable admissions,~~  
20 ~~readmissions and emergency visits. The department shall:~~

21 ~~(1) Conduct ongoing analyses of relevant State claims~~  
22 ~~databases to identify instances of potentially avoidable~~  
23 ~~admissions, readmissions and emergency visits with potential~~  
24 ~~excess expenditures associated with the cases.~~

25 ~~(2) Create or locate State norms for admissions,~~  
26 ~~readmissions and emergency visits.~~

27 ~~(3) Measure actual to expected managed care organization~~  
28 ~~performance compared to State norms.~~

29 ~~(4) Compare managed care organizations with the managed~~  
30 ~~care organizations' peers using risk adjustment procedures~~

1 ~~that account for the chronic illness burden of each plan's~~  
2 ~~enrollees.~~

3 ~~(5) Distribute reports to managed care organizations to~~  
4 ~~provide the managed care organizations with actionable~~  
5 ~~information to create policies, contracts and programs~~  
6 ~~designed to improve target outcomes.~~

7 ~~§ 3533. Managed care organization outcomes information sharing.~~

8 ~~A managed care organization may share the information~~  
9 ~~contained in the outcome performance reports with the managed~~  
10 ~~care organization's participating providers to foster~~  
11 ~~coordination and cooperation in the managed care organization's~~  
12 ~~outcome improvement and waste reduction initiatives.~~

13 ~~§ 3534. Phase 2 managed care organization financial incentives.~~

14 ~~Beginning 12 months after implementation of Phase 1~~  
15 ~~performance reporting, the department shall establish financial~~  
16 ~~incentives to motivate the department's managed care~~  
17 ~~organizations to improve on rates of reducing avoidable~~  
18 ~~admissions, readmissions and emergency visits.~~

19 ~~§ 3535. Premium adjustment.~~

20 ~~The department shall adjust each managed care organization's~~  
21 ~~capitation rate based on the managed care organization's~~  
22 ~~performance with respect to exceeding or failing to achieve~~  
23 ~~outcome results based on the rates of potentially avoidable~~  
24 ~~readmissions, admissions and emergency visits. The methodology~~  
25 ~~for determining a managed care organization's capitation rate~~  
26 ~~adjustment shall:~~

27 ~~(1) Apply to the plan's annual capitation rate.~~

28 ~~(2) Determine a plan's specific potentially avoidable~~  
29 ~~outcome adjustment factor based on the plan's actual versus~~  
30 ~~expected risk adjusted performance compared to the State~~

1 ~~average or a best practice norm.~~

2 ~~(3) Be based on a retrospective analysis of performance~~  
3 ~~and prospectively applied.~~

4 ~~(4) Contain both rewards and penalties.~~

5 ~~(5) Include risk corridors.~~

6 ~~(6) Be communicated to the managed care organizations in~~  
7 ~~a clear and transparent manner.~~

8 ~~§ 3536. Managed care organization Medicaid contracts.~~

9 ~~The department shall amend contracts with the department's~~  
10 ~~participating managed care organizations as necessary to~~  
11 ~~incorporate the financial incentives established under the~~  
12 ~~Managed Care Organization Outcomes Program.~~

13 ~~§ 3537. Managed Care Organization Outcomes Program budget~~  
14 ~~neutrality.~~

15 ~~The Managed Care Organization Outcomes Program shall be~~  
16 ~~implemented in a budget neutral manner with respect to aggregate~~  
17 ~~Medicaid managed care expenditures.~~

18 Section 2. The following apply:

19 (1) Actions taken by the Health Care Cost Containment  
20 Council from the period from June 30, 2014, to the effective  
21 date of this section are validated.

22 (2) New positions on the Health Care Cost Containment  
23 Council created under 35 Pa.C.S. Ch. 33 shall be filled in  
24 the manner designated under 35 Pa.C.S. § 3303(b) no later  
25 than 60 days after the effective date of this section.  
26 Organizations required under 35 Pa.C.S. § 3303(b) to submit  
27 lists of recommended persons to fill new positions on the  
28 council shall do so no later than 30 days after the effective  
29 date of this section.

30 (3) There shall be no lapse in the employment



1 relationship for employees of the Health Care Cost  
2 Containment Council, including salary, seniority, benefits  
3 and retirement eligibility of the employees.  
4 Section 3. This act shall take effect immediately.