

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2113 Session of 2018

INTRODUCED BY OBERLANDER, ROTHMAN, MILLARD, JAMES, CORR,
 PASHINSKI, ZIMMERMAN, CHARLTON, WATSON, HARPER, DIAMOND,
 KORTZ, FARRY, MURT, DiGIROLAMO, NELSON, SONNEY AND COX,
 FEBRUARY 26, 2018

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 26, 2018

AN ACT

1 Amending the act of July 22, 1974 (P.L.589, No.205), entitled
 2 "An act relating to unfair insurance practices; prohibiting
 3 unfair methods of competition and unfair or deceptive acts
 4 and practices; and prescribing remedies and penalties,"
 5 further providing for unfair methods of competition and
 6 unfair or deceptive acts or practices defined.

7 The General Assembly of the Commonwealth of Pennsylvania
 8 hereby enacts as follows:

9 Section 1. Section 5(a) of the act of July 22, 1974
 10 (P.L.589, No.205), known as the Unfair Insurance Practices Act,
 11 is amended by adding a paragraph to read:

12 Section 5. Unfair Methods of Competition and Unfair or
 13 Deceptive Acts or Practices Defined.--(a) "Unfair methods of
 14 competition" and "unfair or deceptive acts or practices" in the
 15 business of insurance means:

16 * * *

17 (15) Altering the coverage provided by a health insurance
 18 policy, including, but not limited to, raising the premium,
 19 copayment, coinsurance or deductible or denying or otherwise

1 failing to provide continued coverage for a health care benefit
2 that was included in the insured's health insurance policy and
3 when the insured has already received the health care benefit.

4 The following shall apply:

5 (i) This paragraph shall not apply to health care benefits
6 obtained by an insured through fraudulent or criminal activity
7 or subject to:

8 (A) a statement issued by the United States Food and Drug
9 Administration (FDA) calling into question the clinical safety
10 of the benefit; or

11 (B) a notice provided by the manufacturer of a prescription
12 drug to the FDA related to a manufacturing discontinuance or
13 potential discontinuance of the drug.

14 (ii) In addition to any other penalties authorized by this
15 act, a violation of this paragraph shall be deemed a violation
16 of the act of December 17, 1968 (P.L.1224, No.387), known as the
17 "Unfair Trade Practices and Consumer Protection Law." Nothing in
18 this act shall preclude an insured from exercising any right
19 provided under the "Unfair Trade Practices and Consumer
20 Protection Law" and the following shall apply:

21 (A) The Office of Attorney General shall accept complaints
22 from an insured pursuant to this section. An insured may file a
23 complaint with the Bureau of Consumer Protection of the Office
24 of Attorney General.

25 (B) In addition to any other penalty under this act, a civil
26 penalty of up to \$1,000 shall be imposed on a health insurer who
27 violates this paragraph.

28 (iii) As used in this paragraph:

29 (A) "Biological product" shall have the same meaning as
30 "biological product" in the Public Health Service Act (58 Stat.

1 682, 42 U.S.C. § 201 et seq.).

2 (B) "Health care benefits" means all products, services,
3 procedures, treatments and prescription drugs for which coverage
4 is provided under a health insurance policy offered by a health
5 insurer.

6 (C) (I) "Health insurance policy" means a group or
7 individual health or sickness or accident insurance policy,
8 subscriber contract or certificate issued by an entity subject
9 to any one of the following:

10 (a) The act of May 17, 1921 (P.L.682, No.284), known as "The
11 Insurance Company Law of 1921," including section 630 and
12 Article XXIV of that act.

13 (b) The act of December 29, 1972 (P.L.1701, No.364), known
14 as the "Health Maintenance Organization Act."

15 (c) 40 Pa.C.S. Ch. 61 (relating to hospital plan
16 corporations) or 63 (relating to professional health services
17 plan corporations).

18 (II) The term does not include accident only, fixed
19 indemnity, limited benefit, credit, dental, vision, specified
20 disease, Medicare supplement, Civilian Health and Medical
21 Program of the Uniformed Services (CHAMPUS) supplement, long-
22 term care or disability income, workers' compensation or
23 automobile medical payment insurance.

24 (D) "Health insurer" means an entity licensed by the
25 department with accident and health authority to issue a policy,
26 subscriber contract, certificate or plan that provides medical
27 or health care coverage that is offered or governed under any of
28 the following:

29 (I) The "Insurance Company Law of 1921," including section
30 630 and Article XXIV of that act.

1 (II) The "Health Maintenance Organization Act."

2 (III) 40 Pa.C.S. Chs. 61 or 63.

3 (E) "Insured" means a person who receives coverage under a
4 health insurance policy and has paid all premiums due under the
5 contract or policy. As used in this paragraph, the term shall
6 include all individuals named in a health insurance policy
7 issued by a health insurer.

8 (F) "Prescription drug" means a controlled substance, other
9 drug, including a biological product, or device for medication
10 dispensed by order of an appropriately licensed medical
11 professional.

12 (iv) This paragraph shall not be interpreted to impact or
13 inhibit the applicability of any provision of act of November
14 24, 1976 (P.L.1163, No.259), referred to as the Generic
15 Equivalent Drug Law.

16 (v) Nothing in this paragraph shall be construed to prohibit
17 a health insurer from adding health care benefits during the
18 term of a health insurance policy.

19 * * *

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