
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1013 Session of
2019

INTRODUCED BY SCHWEYER, DeLUCA, SCHLOSSBERG, FRANKEL, DONATUCCI,
WARREN, ZABEL, HOHENSTEIN, ISAACSON, SAPPEY, McNEILL, RABB,
MADDEN, KULIK, FREEMAN, A. DAVIS, MURT, MULLERY, BARRAR,
HANBIDGE, HILL-EVANS, CALTAGIRONE, GOODMAN, READSHAW,
RAVENSTAHL, KORTZ, NEILSON AND SANCHEZ, APRIL 2, 2019

REFERRED TO COMMITTEE ON INSURANCE, APRIL 2, 2019

AN ACT

1 Providing for health care insurance coverage protections, for
2 duties of the Insurance Department and the Insurance
3 Commissioner, for regulations, for enforcement and for
4 penalties.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Health
9 Insurance Access Protection Act.

10 Section 2. Definitions.

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

14 "Affordable Care Act." Collectively, the Patient Protection
15 and Affordable Care Act (Public Law 111-148, 124 Stat. 119) and
16 the Health Care and Education Reconciliation Act of 2010 (Public
17 Law 111-152, 124 Stat. 1029).

1 "Commissioner." The Insurance Commissioner of the
2 Commonwealth.

3 "Department." The Insurance Department of the Commonwealth.

4 "Enrollee." A policyholder, subscriber, covered person or
5 other individual who is entitled to receive health care services
6 under a health insurance policy.

7 "Grandfathered health plan." Individual or group health
8 insurance coverage in which an individual was enrolled prior to
9 the date of enactment of the Affordable Care Act or as otherwise
10 specified in section 1251 of the Affordable Care Act (42 U.S.C.
11 § 18011).

12 "Group health insurance policy." A policy, subscriber
13 contract, certificate or plan issued by an insurer that provides
14 medical or health care coverage on an annual basis to
15 individuals who obtain health insurance coverage through a
16 group.

17 "Health factor." An element related to an individual's
18 physical or mental makeup, including:

- 19 (1) Health status.
- 20 (2) Medical condition.
- 21 (3) Claims experience.
- 22 (4) Receipt of health care.
- 23 (5) Medical history.
- 24 (6) Genetic information.
- 25 (7) Evidence of insurability, including conditions
26 arising out of acts of domestic violence.
- 27 (8) Disability.

28 "Health insurance policy." A policy, subscriber contract,
29 certificate or plan issued by an insurer that provides medical
30 or health care coverage. The term does not include any of the

1 following:

2 (1) An accident only policy.

3 (2) A credit only policy.

4 (3) A long-term care or disability income policy.

5 (4) A specified disease policy.

6 (5) A Medicare supplement policy.

7 (6) A fixed indemnity policy.

8 (7) A dental only policy.

9 (8) A vision only policy.

10 (9) A workers' compensation policy.

11 (10) An automobile medical payment policy.

12 (11) A policy under which benefits are provided by the
13 Federal Government to active or former military personnel and
14 their dependents.

15 (12) Any other similar policies providing for limited
16 benefits.

17 "Individual health insurance policy." A policy, subscriber
18 contract, certificate or plan issued by an insurer that provides
19 medical or health care coverage on an annual basis to an
20 individual other than in connection with a group.

21 "Individual market." The market for health insurance
22 coverage offered to individuals other than in connection with a
23 group.

24 "Insurer." An entity that offers, issues or renews an
25 individual or group health insurance policy that provides
26 medical or health care coverage by a health care facility or
27 licensed health care provider and that is governed under any of
28 the following:

29 (1) The act of May 17, 1921 (P.L.682, No.284), known as
30 The Insurance Company Law of 1921, including section 630 and

1 Article XXIV of The Insurance Company Law of 1921.

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

4 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
5 corporations).

6 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
7 services plan corporations).

8 "Pre-existing condition." A health condition present before
9 the date of enrollment for coverage, or if coverage is denied,
10 the date of the denial, whether or not any medical advice,
11 diagnosis, care or treatment was recommended or received before
12 that date.

13 "Small group market." The market for health insurance for
14 coverage offered through a group health insurance policy for a
15 group of 2 to 50 individuals, exclusive of their dependents.

16 "Wellness program." A program offered by an employer that is
17 designed to promote health or prevent disease.

18 Section 3. Prohibitions concerning discrimination based on pre-
19 existing conditions or health factors.

20 (a) Prohibition concerning eligibility for and enrollment in
21 health insurance.--An insurer offering, issuing or renewing an
22 individual or group health insurance policy may not impose any
23 rule for initial or continued eligibility of any individual to
24 enroll in or renew a health insurance policy based on any pre-
25 existing condition or health factor in relation to an individual
26 or a dependent of the individual.

27 (b) Prohibition concerning premium rates.--

28 (1) An insurer offering, issuing or renewing an
29 individual or group health insurance policy may not require
30 an individual to pay a premium rate that is greater than the

1 premium rate for a similarly situated individual enrolled in
2 the policy on the basis of any pre-existing condition or
3 health factor in relation to an individual or a dependent of
4 the individual.

5 (2) Nothing in paragraph (1) shall be construed to
6 prevent an insurer offering a group health insurance policy
7 from establishing premium discounts or rebates or modifying
8 otherwise applicable copayments or deductibles in return for
9 adherence to a wellness program. Pending the promulgation of
10 regulations by the department, a wellness program shall be
11 subject to limitations as may be established in Federal law
12 or regulation.

13 (c) Prohibition concerning benefit coverage.--An insurer
14 offering, issuing or renewing an individual or group health
15 insurance policy may not exclude or deny coverage for any
16 benefit provided for in a policy based on any pre-existing
17 condition or health factor in relation to an individual or a
18 dependent of the individual.

19 Section 4. Limitations on premium rating factors.

20 (a) In general.--With respect to the premium rate charged by
21 an insurer for health insurance coverage offered in the
22 individual or small group market, the premium rate may only vary
23 for a particular plan or coverage based on the following:

24 (1) Family size.

25 (2) Geographic rating area.

26 (3) Age, except that the rate shall not vary by more
27 than 3 to 1 for adults except as provided under subsection
28 (d).

29 (4) Tobacco use, except that the rate shall not vary by
30 more than 1.5 to 1 except as provided under subsection (d).

1 (b) Geographic rating areas.--The department may specify the
2 geographic rating areas by publication on the department's
3 publicly accessible Internet website and submission of a notice
4 to the Legislative Reference Bureau for publication in the
5 Pennsylvania Bulletin. Prior to publication, the department will
6 provide a 30-day comment period and will consult with insurers
7 offering health insurance policies in this Commonwealth.

8 (c) Age bands.--The department may define the permissible
9 age bands for rating purposes by publication on the department's
10 publicly accessible Internet website and submission of a notice
11 to the Legislative Reference Bureau for publication in the
12 Pennsylvania Bulletin. Prior to publication, the department will
13 provide a 30-day comment period and will consult with insurers
14 offering health insurance policies in this Commonwealth.

15 (d) Adjustment of age and tobacco rating variations.--The
16 department may, by regulation, adjust the rating bands for age
17 and tobacco use.

18 Section 5. Single risk pools.

19 (a) Individual market.--An insurer shall consider all
20 enrollees in all health insurance policies offered by the
21 insurer in the individual market, other than grandfathered
22 health plans, to be members of a single risk pool.

23 (b) Small group market.--An insurer shall consider all
24 enrollees in all health insurance policies offered by the
25 insurer in the small group market, other than grandfathered
26 health plans, to be members of a single risk pool.

27 Section 6. Regulations.

28 (a) Authority to promulgate.--The department may promulgate
29 regulations as may be necessary and appropriate to carry out the
30 provisions of this act.

1 (b) Temporary regulations.--

2 (1) Notwithstanding any other provision of law, in order
3 to facilitate the prompt implementation of this act, the
4 department may issue temporary regulations which shall expire
5 no later than two years following publication of the
6 temporary regulations in the Pennsylvania Bulletin. The
7 temporary regulations shall be exempt from the following:

8 (i) Sections 201, 202, 203, 204 and 205 of the act
9 of July 31, 1968 (P.L.769, No.240), referred to as the
10 Commonwealth Documents Law.

11 (ii) Section 204(b) of the act of October 15, 1980
12 (P.L.950, No.164), known as the Commonwealth Attorneys
13 Act.

14 (iii) The act of June 25, 1982 (P.L.633, No.181),
15 known as the Regulatory Review Act.

16 (iv) Section 612 of the act of April 9, 1929
17 (P.L.177, No.175), known as The Administrative Code of
18 1929.

19 (2) The authority of the department to issue temporary
20 regulations under this subsection shall expire two years from
21 the effective date of this section. Regulations adopted after
22 the two-year period shall be promulgated as provided by
23 statute.

24 Section 7. Enforcement.

25 (a) General rule.--Upon satisfactory evidence of the
26 violation of any section of this act by an insurer or any other
27 person, one or more of the following penalties may be imposed at
28 the commissioner's discretion:

29 (1) Suspension or revocation of the license of the
30 offending insurer or other person.

1 (2) Refusal, for a period not to exceed one year, to
2 issue a new license to the offending insurer or other person.

3 (3) A fine of not more than \$5,000 for each violation of
4 this act.

5 (4) A fine of not more than \$10,000 for each willful
6 violation of this act.

7 (b) Limitations.--

8 (1) Fines imposed against an individual insurer under
9 this act may not exceed \$500,000 in the aggregate during a
10 single calendar year.

11 (2) Fines imposed against any other person under this
12 act may not exceed \$100,000 in the aggregate during a single
13 calendar year.

14 (c) Additional remedies.--The enforcement remedies imposed
15 under this section are in addition to any other remedies or
16 penalties that may be imposed under any other applicable law of
17 this Commonwealth, including:

18 (1) The act of July 22, 1974 (P.L.589, No.205), known as
19 the Unfair Insurance Practices Act. Violations of this act
20 shall be deemed to be an unfair method of competition and an
21 unfair or deceptive act or practice under the Unfair
22 Insurance Practices Act.

23 (2) The act of December 18, 1996 (P.L.1066, No.159),
24 known as the Accident and Health Filing Reform Act.

25 (3) The act of June 25, 1997 (P.L.295, No.29), known as
26 the Pennsylvania Health Care Insurance Portability Act.

27 (d) Administrative procedure.--The administrative provisions
28 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
29 (relating to practice and procedure of Commonwealth agencies).
30 A party against whom penalties are assessed in an administrative

1 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.
2 Ch. 7 Subch. A (relating to judicial review of Commonwealth
3 agency action).

4 Section 8. Repeals.

5 All acts and parts of acts are repealed insofar as they are
6 inconsistent with this act.

7 Section 9. Effective date.

8 This act shall take effect immediately.