
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2730 Session of
2020

INTRODUCED BY THOMAS, DeLUCA, ZIMMERMAN AND FRANKEL,
JULY 30, 2020

REFERRED TO COMMITTEE ON INSURANCE, JULY 30, 2020

AN ACT

1 Providing for short-term limited duration insurance policies,
2 regulations, for fines and penalties and for repeals.

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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 Short-Term
9 Limited Duration Insurance Minimum Requirements 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 "Commissioner." The Insurance Commissioner of the
15 Commonwealth.

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

17 "Enrollee." A policyholder, subscriber, covered person or
18 other individual eligible to receive health care services under
19 a short-term limited duration insurance policy.

20 "Individual market policy." A policy, subscriber contract,
21 certificate or plan issued by an insurer that provides medical
22 or health care coverage for 12 consecutive months to an
23 individual other than in connection with a group plan.

24 "Insurance producer." As defined under section 601-A of the
25 act of May 17, 1921 (P.L.789, No.285), known as The Insurance
26 Department Act of 1921.

27 "Insurer." An entity licensed by the department with
28 accident and health authority to issue a policy, subscriber
29 contract, certificate or plan that provides medical or health
30 care coverage and is offered or governed under any of the

1 following:

2 (1) The act of May 17, 1921 (P.L.682, No.284), known as
3 The Insurance Company Law of 1921, including section 630 and
4 Article XXIV of that act.

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

7 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
8 corporations).

9 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
10 services plan corporations).

11 "Medical loss ratio" or "MLR". The ratio of an insurer's
12 incurred claims to the insurer's earned premiums for a plan
13 year.

14 "Short-term limited duration insurance policy." A policy,
15 subscriber contract, certificate or plan issued by an insurer
16 that provides medical or health care coverage for less than 12
17 consecutive months. In addition to hospital and medical-surgical
18 coverages, the policy may include any of the following
19 coverages:

20 (1) Accident only coverage.

21 (2) Specified disease coverage.

22 (3) Fixed indemnity coverage.

23 The term does not include any of the following:

24 (1) Credit only coverage.

25 (2) Long-term care or disability income coverage.

26 (3) Medicare supplement coverage.

27 (4) A TRICARE policy, including a Civilian Health and
28 Medical Program of the Uniformed Services (CHAMPUS)
29 supplement policy.

30 (5) Dental only coverage.

- 1 (6) Vision only coverage.
- 2 (7) Workers' compensation coverage.
- 3 (8) An automobile medical payment policy under 75
- 4 Pa.C.S. (relating to vehicles).

5 Section 3. Construction of terms.

6 On or after the effective date of this act, the terms
7 "limited benefit policy," "limited benefits" and "excepted
8 benefits," insofar as they may be used in the insurance laws of
9 the Commonwealth to refer to insurance policies, may not be
10 construed to apply to short-term limited duration insurance
11 policies.

12 Section 4. Disclosure requirements.

13 (a) Written disclosure.--In addition to any disclosure
14 requirements prescribed by Federal or State law or regulation,
15 an application and all accompanying materials for a short-term
16 limited duration insurance policy offered or issued or renewed
17 in this Commonwealth must include the following:

18 (1) A written disclosure on a page that contains no
19 other text which is included as the first and last pages of
20 each document, in no less than 14-point font, in the
21 following format, stating verbatim:

22 This is a LIMITED POLICY meant only TO FILL TEMPORARY
23 GAPS between comprehensive major medical health
24 insurance coverages.

25 This policy is NOT COMPREHENSIVE MAJOR MEDICAL HEALTH
26 INSURANCE COVERAGE and may only offer LIMITED
27 PROTECTION if you are deemed to have a pre-existing
28 condition, become sick or sustain an injury. It is
29 essential to READ THE TERMS AND CONDITIONS OF THIS
30 POLICY CAREFULLY to ensure that you understand what

1 this policy does and does not cover.
2 Failure to fully understand the terms and conditions
3 of this policy may result in SIGNIFICANT MEDICAL CARE
4 EXPENSE FOR WHICH YOU ARE RESPONSIBLE.
5 This coverage SHOULD NOT BE PURCHASED AS A SUBSTITUTE
6 FOR COMPREHENSIVE MAJOR MEDICAL HEALTH INSURANCE
7 COVERAGE.

8 (2) A statement of the MLR for the insurer's short-term
9 limited duration insurance policy for the most recent
10 calendar year for which it is calculable, stating verbatim,
11 including values for the bracketed items, the following:

12 [Name of Insurer] had a [%] medical loss ratio on our
13 short-term limited duration insurance product in [year].
14 The medical loss ratio, or MLR, measures the amount of
15 each premium dollar that we spend on medical claims. The
16 amount that is not spent on medical claims is spent on
17 overhead expenses like marketing, salaries and profit.
18 For comparison, an individual plan that is compliant with
19 the Affordable Care Act must have at least an 80% MLR.

20 (3) An outline of coverage that satisfies the
21 requirements of the act of May 18, 1976 (P.L.123, No.54),
22 known as the Individual Accident and Sickness Insurance
23 Minimum Standards Act.

24 (4) Coverage examples, as specified by the department in
25 a notice posted on or before July 1 of each calendar year on
26 the department's publicly accessible Internet website and
27 published in the Pennsylvania Bulletin, that clearly
28 illustrate to an applicant of average intelligence and
29 education the benefits provided under the policy and the
30 policy's coverage for a minimum of six common benefits

1 scenarios, including chronic medical conditions, in
2 accordance with the following:

3 (i) Each benefits scenario will be a hypothetical
4 situation, consisting of a sample treatment plan for a
5 specified medical condition during a specific period of
6 time, based on recognized clinical practice guidelines.

7 (ii) Each coverage example must illustrate benefits
8 and coverage for a particular benefits scenario to
9 provide an estimate of what an individual might expect to
10 pay under the policy. The illustration of benefits
11 provided must take into account any cost sharing,
12 excluded benefits and other limitations on coverage in
13 the policy.

14 (b) Verbal disclosure.--Prior to consummating a sale of a
15 short-term limited duration insurance policy, an insurer's
16 representative or an insurance producer shall verbally explain
17 the parameters and limitations of the coverage provided by the
18 short-term limited duration insurance policy.

19 Section 5. Acknowledgment of disclosures.

20 An insurer or insurance producer that sells a short-term
21 limited duration insurance policy shall maintain a record of a
22 written acknowledgment that contains the following:

23 (1) A description of the verbal disclosure required by
24 section 4(b), the name of the person who provided the verbal
25 disclosure and the date on which it was provided.

26 (2) A signed certification by the person who provided
27 the verbal disclosure required by section 4(b) attesting,
28 pursuant to 18 Pa.C.S. § 4904 (relating to unsworn
29 falsification to authorities), that the verbal disclosure was
30 timely provided to the consumer purchasing the policy.

1 (3) A signed certification by the enrollee purchasing
2 the policy, attesting, pursuant to 18 Pa.C.S. § 4904, that an
3 insurer's representative or an insurance producer provided
4 the verbal disclosure prior to the consummation of the sale
5 of the policy as required by section 4(b).

6 Section 6. Supervision of disclosures.

7 (a) Insurer responsibility.--An insurer offering, issuing or
8 renewing a short-term limited duration insurance policy in this
9 Commonwealth shall establish a supervision system that is
10 reasonably designed to ensure that each sale, whether directly
11 or through a producer, to an enrollee in this Commonwealth
12 complies with the requirements of this act. The insurer's
13 supervision system shall include at least the following:

14 (1) Maintaining written supervision procedures.

15 (2) Conducting regular reviews of disclosure materials
16 used during the solicitation or sale of a short-term limited
17 duration insurance policy.

18 (3) Contacting an enrollee within 10 days of issuing an
19 enrollee's policy to verify that an enrollee's policy is
20 consistent with the representations made to an enrollee
21 during the sale of a policy and with the requirements of this
22 act.

23 (b) Independent agency responsibility.--A general agent or
24 independent agency shall adopt a supervision system established
25 by an insurer that meets the requirements under subsection (a)
26 to supervise sales and solicitations of the insurer's short-term
27 limited duration insurance policies to ensure that each sale of
28 a short-term limited duration insurance policy to an enrollee in
29 this Commonwealth complies with the requirements of this act.

30 Section 7. Underwriting requirements.

1 (a) General rule.--Each request for information solicited
2 from an applicant in the course of underwriting short-term
3 limited duration insurance policy coverage must be in the form
4 of a single direct question that permits a direct response of
5 known fact in the form of a "Yes" or "No." A request for
6 information may not be a compound question or declaratory
7 statement. This information may be used for underwriting
8 purposes subject to the following:

9 (1) Specific questions. An application for a short-term
10 limited duration insurance policy may solicit information
11 through questions about a potential enrollee's medical
12 history only if it relates to a specific condition (whether
13 physical or behavioral), regardless of the cause of the
14 specific condition, for which medical advice, diagnosis, care
15 or treatment was recommended or received.

16 (2) Look-back period. Each question about a potential
17 enrollee's medical history on an application for a short-term
18 limited duration insurance policy may only solicit
19 information about specific conditions for which the enrollee
20 received or was recommended medical advice, diagnosis, care
21 or treatment within the five-year period ending on the date
22 that an application is completed.

23 (3) Post-claim submission. When determining whether a
24 submitted claim is payable under a short-term limited
25 duration insurance policy, an issuer may only rely on the
26 enrollee's answers to the issuer's questions included in the
27 application for the policy.

28 (b) Fraud and nondisclosure.--An issuer may not claim that
29 an enrollee has committed fraud or otherwise given ground for
30 the issuer to pursue rescission of the policy unless the issuer

1 demonstrates that an enrollee made a false statement with the
2 intent to deceive the issuer and the false statement materially
3 affected the issuer's acceptance of the risk.

4 Section 8. Waiting period prohibition.

5 A short-term limited duration insurance policy may not
6 establish a waiting period after the enrollee has purchased the
7 policy before the enrollee is eligible to be covered for
8 benefits under the terms of the policy.

9 Section 9. Coverage term limitations.

10 (a) Policy period.--The policy period of a short-term
11 limited duration insurance policy may:

12 (1) be for up to 90 consecutive days, but in no event
13 may it extend beyond the last day of the calendar year in
14 which the policy takes effect;

15 (2) not begin in a different calendar year than the
16 calendar year in which it is offered or issued; and

17 (3) be renewed for consecutive policy periods during the
18 calendar year in which it is offered or issued.

19 (b) Renewability.-- A short-term limited duration insurance
20 policy may be renewed as follows:

21 (1) At the option of the policyholder.

22 (2) For consecutive policy periods consistent with the
23 requirements of subsection (a).

24 Section 10. Free-look period.

25 A short-term limited duration insurance policy must have a
26 notice prominently placed on the cover page of the policy
27 stating that the enrollee must be permitted to return the policy
28 within at least 20 days of the policy's delivery and to have any
29 premium paid refunded if the enrollee is not satisfied with the
30 policy for any reason. Upon return of the policy to the insurer

1 or insurance producer who issued or sold the policy, the policy
2 shall be considered void and the parties shall be in the same
3 position as if no policy had been issued.

4 Section 11. Minimum standards.

5 Short-term limited duration insurance policies must comply
6 with the standards set forth for basic medical-surgical expense
7 coverage and basic hospital expense coverage in the act of May
8 18, 1976 (P.L.123, No.54), known as the Individual Accident and
9 Sickness Insurance Minimum Standards Act.

10 Section 12. Sales limitations.

11 (a) Prohibitions.--The following shall apply:

12 (1) An insurer may not issue more than one short-term
13 limited duration insurance policy per calendar year to an
14 enrollee.

15 (2) An insurance producer may not sell more than one
16 short-term limited duration insurance policy per calendar
17 year to an enrollee.

18 (b) Policy may be renewed.--Notwithstanding subsection (a),
19 a policy issued or sold may be renewed, consistent with section
20 9, during the same calendar year in which the policy is issued
21 or sold.

22 (c) Association or trust.--If a short-term limited duration
23 insurance policy is issued to, or offered through, an
24 association or a trust or trustees of a trust that is
25 established or participated in by one or more associations, to
26 insure association members or spouses or dependents of members,
27 the association must meet the bona fide association requirements
28 in section 621.2 of the act of May 17, 1921 (P.L.682, No.284),
29 known as The Insurance Company Law of 1921, and the coverage
30 provided by the policy must be in compliance with all

1 requirements of the laws of this Commonwealth.

2 Section 13. Compliance.

3 An insurer or insurance producer may not advertise, market,
4 solicit, sell or otherwise represent to the public a short-term
5 limited duration insurance policy that does not comply with this
6 act.

7 Section 14. Enforcement.

8 (a) General rule.--Upon satisfactory evidence of a violation
9 of this act by an insurer, insurance producer or other person,
10 the commissioner may, in the commissioner's discretion, pursue
11 any of the following courses of action:

12 (1) Suspend, revoke or refuse to renew the license of
13 the offending insurer or insurance producer.

14 (2) Enter a cease and desist order.

15 (3) Impose a civil penalty of not more than \$5,000 for
16 each action in violation of this act.

17 (4) Impose a civil penalty of not more than \$10,000 for
18 each action in willful violation of this act.

19 (b) Responsibility for violation.--The following shall
20 apply:

21 (1) An insurer may be held independently responsible for
22 an insurance producer's violation of this act.

23 (2) A general agent or independent agency may be held
24 independently responsible for an insurance producer's
25 violation of this act.

26 (c) Limitation.--The following shall apply:

27 (1) Penalties imposed against an insurance producer for
28 actions in violation of this act shall not exceed \$25,000 in
29 one calendar year.

30 (2) Penalties imposed against an insurer for actions in

1 violation of this act shall not exceed \$500,000 in one
2 calendar year.

3 (d) Remedies not exclusive.--The enforcement remedies
4 imposed under this section are in addition to any other remedies
5 or penalties that may be imposed under any other applicable law
6 of this Commonwealth, including:

7 (1) Article VI-A of the act of May 17, 1921 (P.L.789,
8 No.285), known as The Insurance Department Act of 1921.

9 (2) The act of July 22, 1974 (P.L.589, No.205), known as
10 the Unfair Insurance Practices Act. Violations of this act
11 shall be deemed to be an unfair method of competition and an
12 unfair or deceptive act or practice under the Unfair
13 Insurance Practices Act.

14 (3) The act of May 18, 1976 (P.L.123, No.54), known as
15 the Individual Accident and Sickness Insurance Minimum
16 Standards Act.

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

19 (e) Administrative procedure.--The administrative provisions
20 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
21 (relating to practice and procedure of Commonwealth agencies). A
22 party against whom penalties are assessed in an administrative
23 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.
24 Ch. 7 Subch. A (relating to judicial review of Commonwealth
25 agency action).

26 Section 15. Regulations.

27 The department may promulgate regulations as may be necessary
28 and appropriate to carry out the provisions of this act.

29 Section 16. Agency coordination.

30 (a) Investigative materials.--The department may provide to

1 the Office of Attorney General any investigative materials it
2 receives pursuant to this act.

3 (b) Construction.--Nothing in this act shall be construed to
4 limit the ability of the department or the Office of Attorney
5 General from using information received under this act in the
6 course of their regulatory or law enforcement duties under any
7 other law.

8 Section 17. Applicability.

9 (a) General rule.--This act applies to all short-term
10 limited duration insurance policies offered, issued or renewed
11 in this Commonwealth on or after the effective date of this act.

12 (b) Compliance.--Notwithstanding any provision of law to the
13 contrary, and without regard to the entity that issues the
14 policy or is covered by the policy, a short-term limited
15 duration insurance policy offered, issued or renewed must comply
16 with all requirements of the act of May 17, 1921 (P.L.682,
17 No.284), known as The Insurance Company Law of 1921.

18 Section 18. Repeal.

19 All acts and parts of acts are repealed insofar as they are
20 inconsistent with this act.

21 Section 19. Effective date.

22 This act shall take effect immediately.