
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 993 Session of
2020

INTRODUCED BY BROOKS, SCAVELLO, STREET, MENSCH, HUTCHINSON,
MARTIN, PHILLIPS-HILL, STEFANO, J. WARD, YUDICHAK, COSTA AND
A. WILLIAMS, JANUARY 23, 2020

REFERRED TO BANKING AND INSURANCE, JANUARY 23, 2020

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, in regulation of insurers and related persons
3 generally, providing for association health plans.

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

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

8 CHAPTER 41

9 ASSOCIATION HEALTH PLANS

10 Sec.

11 4101. Definitions.

12 4102. Policy requirements.

13 § 4101. Definitions.

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

17 "Association." As follows:

18 (1) A member-based organization of employer members.

1 (2) The term shall include employers that are:
2 (i) in the same industry, trade or profession; or
3 (ii) domiciled or residing in this Commonwealth or
4 in a metropolitan area that is at least partially within
5 this Commonwealth.

6 "Employee." An individual employed by an employer.

7 "Employee welfare benefit plan." As the term is defined in
8 section 3(1) of ERISA (29 U.S.C. § 1002(1)).

9 "Employer." As follows:

10 (1) As the term is defined in section 3(5) of ERISA (29
11 U.S.C. § 1002(5)).

12 (2) The term shall include an association. For purposes
13 of determining employer size of an association, all of the
14 employees of employer members of the association shall be
15 aggregated and treated as employed by a single employer.

16 "ERISA." The Employee Retirement Income Security Act of 1974
17 (Public Law 93-406, 29 U.S.C. § 1001 et seq.).

18 "Group health plan." An employee welfare benefit plan, to
19 the extent that the plan provides health care service and
20 includes items and services paid for as health care service to
21 employees of an employer, to employees of employer members of an
22 association, to small employers or to any combination of these
23 persons, directly or through insurance, reimbursement or
24 otherwise.

25 "Health care service." A covered treatment, admission,
26 procedure, medical supply or equipment or other service,
27 including behavioral health, prescribed or otherwise provided or
28 proposed to be provided by a health care provider to an insured
29 under a health insurance policy.

30 "Health insurance policy." As follows:

1 (1) An insurance policy, subscriber contract,
2 certificate or plan that provides medical or health care
3 coverage, including emergency services.

4 (2) The term does not include any of the following:

5 (i) An accident only policy.

6 (ii) A credit only policy.

7 (iii) A long-term care or disability income policy.

8 (iv) A specified disease policy.

9 (v) A Medicare supplement policy.

10 (vi) A TRICARE policy, including a Civilian Health
11 and Medical Program of the Uniformed Services (CHAMPUS)
12 supplement policy.

13 (vii) A fixed indemnity policy.

14 (viii) A dental only policy.

15 (ix) A vision only policy.

16 (x) A workers' compensation policy.

17 (xi) An automobile medical payment policy.

18 (xii) A homeowners insurance policy.

19 (xiii) Another similar policy providing for limited
20 benefits.

21 "Insured." As follows:

22 (1) A person on whose behalf an insurer is obligated to
23 pay covered health care expense benefits or provide health
24 care services under a health insurance policy.

25 (2) The term includes a policyholder, certificate
26 holder, subscriber, member, dependent or other individual who
27 is eligible to receive health care services under a health
28 insurance policy.

29 "Insurer." An entity licensed by the department with
30 accident and health authority to issue a health insurance policy

1 that is offered or governed under any of the 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) Chapter 61 (relating to hospital plan corporations)
8 or 63 (relating to professional health services plan
9 corporations).

10 "Large employer." As follows:

11 (1) In connection with a group health plan or health
12 insurance coverage with respect to a calendar year and a plan
13 year, an employer that:

14 (i) employed an average of at least 51 employees on
15 business days during the preceding calendar year; and

16 (ii) employs at least one employee on the first day
17 of the plan year.

18 (2) The term shall include an association that includes
19 at least 51 employees of employer members of the association
20 on the first day of the plan year.

21 "Large group market." The health insurance market under
22 which individuals obtain health insurance coverage, directly or
23 through any arrangement, on behalf of themselves and their
24 dependents through a group health plan maintained by a large
25 employer.

26 "Small employer." As follows:

27 (1) In connection with a group health plan or health
28 insurance coverage with respect to a calendar year and a plan
29 year, an employer that:

30 (i) employed an average of at least one but not more

1 than 50 employees on business days during the preceding
2 calendar year; and

3 (ii) employs at least two employees on the first day
4 of the plan year.

5 (2) The term shall include:

6 (i) An association that includes 50 or fewer
7 employees of employer members of the association on the
8 first day of the plan year.

9 (ii) A sole proprietor to the extent recognized by
10 regulations of the United States Department of Labor in
11 relation to the Employee Retirement Income Security Act
12 of 1974 (Public Law 93-406, 88 Stat. 829).

13 § 4102. Policy requirements.

14 (a) Association policies.--A policy may be issued to an
15 association, in which the association shall be deemed the
16 policyholder, if all of the following requirements are
17 satisfied:

18 (1) The policy is issued by an insurer or a foreign
19 health insurance issuer that is duly licensed in the state in
20 which the foreign health insurance issuer is domiciled as
21 permitted under the laws of this Commonwealth.

22 (2) The association:

23 (i) Has been actively in existence for at least two
24 years.

25 (ii) Has been formed and maintained in good faith
26 for purposes other than obtaining insurance.

27 (iii) Has a constitution and bylaws that provide the
28 following:

29 (A) The association shall hold regular meetings
30 not less than annually to further purposes of the

1 members of the association.

2 (B) The association shall collect dues or
3 solicit contributions from members of the
4 association.

5 (C) The members of the association have voting
6 privileges and representation on the board governing
7 the association.

8 (iv) Does not condition membership in the
9 association on any health-status-related factor relating
10 to an individual or a dependent of the individual.

11 (v) Makes health insurance coverage offered through
12 the association available to all members of the
13 association regardless of any health-status-related
14 factor relating to the members or their dependents.

15 (vi) Does not make health insurance coverage offered
16 through the association available other than in
17 connection with a member of the association.

18 (b) Large group market plans.--If the association described
19 in subsection (a) includes 51 or more employees, the policy
20 issued to the association shall:

21 (1) Be treated as a large group market plan subject to
22 the large group market insurance regulations under the Public
23 Health Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.).
24 The policy shall be guaranteed issue and guaranteed
25 renewable.

26 (2) Be subject to the group health plan coverage
27 requirements under the Patient Protection and Affordable Care
28 Act (Public Law 111-148, 124 Stat. 119), including, but not
29 limited to, the prohibition against denying coverage based on
30 a preexisting condition.

1 (3) Comply with all coverage mandates applicable to a
2 large group market plan offered in this Commonwealth.

3 (4) Provide a level of coverage equal to or greater than
4 60%.

5 (c) Issuer requirements.--The health insurance issuer
6 described in subsection (a)(1) that issues the policy to the
7 association described in subsection (a)(2) shall:

8 (1) Treat all of the employees who are enrolled in
9 coverage under the policy as a single risk pool.

10 (2) Set premiums based on the collective group
11 experience of the employees who are enrolled in coverage
12 under the policy.

13 (3) Vary premiums by age, except that the rate may not
14 vary by more than 5 to 1.

15 (4) Be prohibited from varying premiums based on gender.

16 (5) Except as provided in paragraph (2), be prohibited
17 from varying premiums based on the health status of an
18 employer member or an individual employee of an employer
19 member.

20 (6) Be prohibited from establishing discriminatory rules
21 based on the health status of an employer member or an
22 individual employee of an employer member for eligibility or
23 contribution requirements.

24 (d) Compliance and administration.--

25 (1) The association shall comply with the requirements
26 applicable to a plan sponsor, as that term is defined in
27 section 3(16)(B) of ERISA (29 U.S.C. § 1002(16)(B)).

28 (2) The health plan providing coverage under the policy
29 to employees shall be administered in accordance with the
30 requirements applicable to an employee welfare benefit plan.

1 (e) Governing board.--The association shall establish a
2 governing board to manage and operate the health plan. The
3 following shall apply:

4 (1) At least 75% of the governing board shall be
5 comprised of employees of employer members of the association
6 participating in the health plan, with the remaining
7 percentage being comprised of representatives designated by
8 the association.

9 (2) The employees of employer members of the association
10 participating in the health plan shall nominate and, through
11 an election where each employee is given a vote, elect
12 members to serve on the governing board.

13 (3) The governing board shall be treated as a fiduciary,
14 as that term is described in section 3(21)(A) of ERISA (29
15 U.S.C. § 1002(21)(A)), and the board shall manage and operate
16 the health plan:

17 (i) For the exclusive purpose of all of the
18 following:

19 (A) Providing health benefits to employees
20 enrolled in coverage under the health plan.

21 (B) Defraying expenses relating to
22 administration of the health plan.

23 (ii) With the care, skill, prudence and diligence
24 under the circumstances then prevailing that a prudent
25 person in a similar capacity and familiar with such
26 matters would use in the conduct of an enterprise of a
27 similar character and with similar aims.

28 (f) Coverage.--If an employee of an employer member of the
29 association terminates employment with the employer member and
30 is subsequently reemployed by another employer member of the

1 association, the employee shall remain covered under the policy
2 issued to the association.

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