

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 172 Session of 2021

INTRODUCED BY DeLUCA, KINSEY, HILL-EVANS, PASHINSKI, FREEMAN,
T. DAVIS, A. DAVIS, WEBSTER AND CIRESI, JANUARY 14, 2021

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 14, 2021

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," establishing the Office of Consumer Advocate for
22 Health Insurance as an office within the Office of Attorney
23 General and prescribing its powers and duties; and making
24 editorial changes.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Article IX-A of the act of April 9, 1929
28 (P.L.177, No.175), known as The Administrative Code of 1929, is
29 amended by adding a subarticle heading to read:

1 ARTICLE IX-A

2 OFFICE OF CONSUMER ADVOCATE

3 (a) Office of Consumer Advocate for
4 Public Utility Matters

5 Section 2. Section 901-A introductory paragraph of the act
6 is amended to read:

7 Section 901-A. Definitions.--As used in this [article]
8 subarticle:

9 * * *

10 Section 3. Article IX-A of the act is amended by adding a
11 subarticle to read:

12 (b) Office of Consumer Advocate
13 for Health Insurance

14 Section 921-A. Definitions.

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

18 "Consumer." A person who is a named insured, insured or
19 beneficiary of a policy of health insurance or any other person,
20 including employers who purchase insurance for themselves and
21 their employees, who may be affected in any way by the Insurance
22 Department's exercise of or the failure to exercise its
23 authority.

24 "Consumer Advocate." The Consumer Advocate for Health
25 Insurance serving as the head of the Office of Consumer Advocate
26 for Health Insurance under this subarticle.

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

28 "Insurer." Any of the following:

29 (1) A "company," "association" or "exchange" as those
30 terms are defined in section 101 of the act of May 17, 1921

1 (P.L.682, No.284), known as The Insurance Company Law of
2 1921.

3 (2) An entity subject to any of the following:

4 (i) 40 Pa.C.S. Ch. 61 (relating to hospital plan
5 corporations) or 63 (relating to professional health
6 services plan corporations).

7 (ii) Article XXIV of The Insurance Company Law of
8 1921.

9 (iii) The act of December 29, 1972 (P.L.1701,
10 No.364), known as the Health Maintenance Organization
11 Act.

12 Section 922-A. Office of Consumer Advocate for Health
13 Insurance.

14 (a) Office established.--There is hereby established as an
15 office within the Office of Attorney General an Office of
16 Consumer Advocate for Health Insurance to represent the
17 interests of consumers before the department.

18 (b) Consumer Advocate for Health Insurance.--The Office of
19 Consumer Advocate for Health Insurance shall be headed by the
20 Consumer Advocate for Health Insurance. The following apply:

21 (1) The Consumer Advocate shall be appointed by the
22 Attorney General and shall, by reason of training, experience
23 and attainment, be qualified to represent the interests of
24 consumers.

25 (2) The term of the Consumer Advocate shall be for six
26 years.

27 (3) No person shall serve as the Consumer Advocate for
28 more than two terms.

29 (4) Compensation for the Consumer Advocate shall be set
30 by the Executive Board, established under section 204.

1 (c) Conflict of interest.--No individual who serves as the
2 Consumer Advocate shall, while serving in the position, engage
3 in any business, vocation or other employment, or have other
4 interests, inconsistent with the official responsibilities, nor
5 shall the individual seek or accept employment nor render
6 beneficial services for compensation with an insurer subject to
7 the authority of the office during the tenure of the appointment
8 and for a period of two years immediately after the appointment
9 is served or terminated.

10 (d) Restriction.--Neither the Consumer Advocate nor an
11 employee of the Consumer Advocate shall be employed by or be
12 pecuniarily interested in an insurance company, association or
13 exchange, or in an insurance business, other than as a
14 policyholder.

15 (e) Political office.--An individual who is appointed to the
16 position of Consumer Advocate shall not seek election nor accept
17 appointment to a political office during the tenure as Consumer
18 Advocate and for a period of two years after the appointment is
19 served or terminated.

20 Section 923-A. Assistant consumer advocates for health
21 insurance and employees.

22 (a) Authorization.--The Consumer Advocate may:

23 (1) Appoint attorneys as assistant consumer advocates
24 for health insurance and additional clerical, technical and
25 professional staff as may be appropriate.

26 (2) Contract for additional services as shall be
27 necessary for the performance of the duties imposed by this
28 subarticle.

29 (b) Compensation.--The compensation of assistant consumer
30 advocates for health insurance and clerical, technical and

1 professional staff shall be set by the Executive Board.

2 (c) Limitation.--No assistant consumer advocate for health
3 insurance or other staff employee shall, while serving in the
4 position, engage in a business, vocation or other employment, or
5 have other interests, inconsistent with official
6 responsibilities.

7 Section 924-A. Powers and duties of Consumer Advocate for
8 Health Insurance.

9 (a) Representation of consumer interests.--In addition to
10 other authority conferred by this subarticle, the Consumer
11 Advocate is authorized to and shall, in carrying out the
12 responsibilities under this subarticle, represent the interests
13 of consumers as a party, or otherwise participate for the
14 purpose of representing an interest of consumers, before the
15 department in a matter properly before the department, and
16 before a court or agency, initiating proceedings if, in the
17 judgment of the Consumer Advocate, the representation may be
18 necessary, in connection with a matter involving regulation by
19 the department or the corresponding regulatory agency of the
20 United States, whether on appeal or otherwise initiated.

21 (b) Exercise of discretion.--The Consumer Advocate may
22 exercise discretion in determining the interests of consumers
23 that will be advocated in a particular proceeding and in
24 determining whether to participate in or initiate a particular
25 proceeding. The following apply:

26 (1) In making a determination, the Consumer Advocate
27 shall consider the public interest, the resources available
28 and the substantiality of the effect of the proceeding on the
29 interests of consumers.

30 (2) The Consumer Advocate may refrain from intervening

1 when, in the judgment of the Consumer Advocate, intervention
2 is not necessary to represent adequately the interests of
3 consumers.

4 (c) Grants.--The Consumer Advocate shall apply for all grant
5 money available from the Federal Government and may expend all
6 the money obtained from grant awards.

7 (d) Action on petition.--In addition to other authority
8 conferred by this subarticle, the Consumer Advocate is
9 authorized to represent an interest of consumers that is
10 presented for consideration upon petition in writing by a
11 substantial number of persons who are consumers of an insurer
12 subject to regulation by the department. The following apply:

13 (1) The Consumer Advocate shall notify the principal
14 sponsors of the petition within a reasonable time after
15 receipt of the petition of the action taken or intended to be
16 taken with respect to the interests of consumers presented in
17 that petition.

18 (2) If the Consumer Advocate declines or is unable to
19 represent the interests, written notification and the reasons
20 for the action shall be given to the sponsors.

21 (e) Name in which action is brought.--An action brought by
22 the Consumer Advocate before a court or an agency of this
23 Commonwealth shall be brought in the name of the Consumer
24 Advocate. The Consumer Advocate may name a consumer or group of
25 consumers in whose name the action may be brought or may join
26 with a consumer or group of consumers in bringing the action.

27 (f) Public statement.--At a time that the Consumer Advocate
28 determines, in accordance with applicable time limitations, to
29 initiate, intervene or otherwise participate in a department,
30 agency or court proceeding, the Consumer Advocate shall issue

1 publicly a written statement, a copy of which shall be filed in
2 the proceeding in addition to a required entry of appearance,
3 stating concisely the specific interests of consumers to be
4 protected.

5 Section 925-A. Duties of department.

6 In dealing with a proposed action that may substantially
7 affect the interests of consumers, including a proposed change
8 of rates and the adoption of rules, regulations, guidelines,
9 orders, standards or final policy decisions, the department
10 shall:

11 (1) Notify the Consumer Advocate when notice of the
12 proposed action is given to the public or at a time fixed by
13 agreement between the Consumer Advocate and the department in
14 a manner to assure that the Consumer Advocate has reasonable
15 notice and adequate time to determine whether to intervene in
16 the matter.

17 (2) Consistent with its other statutory
18 responsibilities, take action with due consideration to the
19 interests of consumers.

20 Section 926-A. Reports.

21 (a) Transmittal and availability.--The Consumer Advocate
22 shall annually transmit to the Governor and to the chairperson
23 and minority chairperson of the Banking and Insurance Committee
24 of the Senate and the chairperson and minority chairperson of
25 the Insurance Committee of the House of Representatives, and
26 shall make available to the public, an annual report on the
27 conduct of the Office of Consumer Advocate.

28 (b) Recommendations.--The Consumer Advocate shall make
29 recommendations as may from time to time be necessary or
30 desirable to protect the interests of consumers.

1 Section 927-A. Savings provision and construction.

2 (a) No bar to action.--Nothing contained in this subarticle
3 shall limit the right of a consumer to bring a proceeding before
4 either the department or a court.

5 (b) No impairment to department.--Nothing contained in this
6 subarticle shall be construed to impair the statutory authority
7 or responsibility of the department to regulate insurers in the
8 public interest.

9 Section 4. This act shall take effect in 60 days.