
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 214 Session of
2021

INTRODUCED BY DeLUCA AND PISCIOTTANO, JANUARY 22, 2021

REFERRED TO COMMITTEE ON HEALTH, JANUARY 22, 2021

AN ACT

1 Providing for prohibition on health care provider self-referral.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Prohibition
6 on Health Care Provider Self-referral Act.

7 Section 2. Definitions.

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

11 "Compensation arrangement." An arrangement involving
12 remuneration, direct or indirect, between a provider or a member
13 of a provider's immediate family and a person or entity.

14 "Designated health service." The following goods or
15 services:

16 (1) clinical laboratory services;

17 (2) physical therapy, occupational therapy or speech
18 language pathology;

- 1 (3) chiropractic;
- 2 (4) radiation oncology;
- 3 (5) psychometric services;
- 4 (6) home health services; or
- 5 (7) diagnostic imaging.

6 "Financial interest." An ownership or investment interest or
7 a compensation arrangement.

8 "Health care provider." A person, corporation, facility or
9 institution licensed or otherwise authorized by the
10 Commonwealth to provide health care services, including a
11 physician, coordinated care organization, hospital, health care
12 facility, dentist, nurse, optometrist, podiatrist, physical
13 therapist, psychologist, chiropractor or pharmacist and an
14 officer, employee or agent of the person acting in the course
15 and scope of employment or agency related to health care
16 services.

17 "Immediate family member." Husband or wife, birth or
18 adoptive parent, child or sibling, stepparent, stepchild,
19 stepbrother or stepsister, father-in-law, mother-in-law, son-in-
20 law, daughter-in-law, brother-in-law or sister-in-law,
21 grandparent or grandchild and spouse of a grandparent or
22 grandchild.

23 "Ownership or investment interest." A direct or indirect
24 ownership or investment interest through equity, debt or other
25 means that includes an interest in an entity that holds an
26 ownership or investment interest in an entity that furnishes
27 designated health services. An ownership or investment interest
28 includes, stock, stock options, partnership shares, limited
29 liability company memberships and loans, bonds or other
30 financial instruments that are secured with an entity's property

1 or revenue or a portion of that property or revenue.

2 "Referral." As follows:

3 (1) The term includes:

4 (i) The request by a health care provider for, or
5 ordering of, or the certifying or recertifying of the
6 need for a designated health service, including a request
7 for a consultation with another health care provider and
8 a test or procedure ordered by or to be performed by, or
9 under the supervision of, that other health care
10 provider, but not including a designated health service
11 personally performed or provided by the referring health
12 care provider. A designated health service is not
13 personally performed or provided by the referring health
14 care provider if it is performed or provided by another
15 person, including the referring health care provider's
16 employees, independent contractors or group practice
17 members.

18 (ii) A request by a health care provider that
19 includes the provision of a designated health service,
20 the establishment of a plan of care by a health care
21 provider that includes the provision of the designated
22 health service or the certifying or recertifying of the
23 need for the designated health service, but not including
24 a designated health service personally performed or
25 provided by the referring health care provider. A
26 designated health service is not personally performed or
27 provided by the referring health care provider if it is
28 performed or provided by another person, including the
29 referring health care provider's employees, independent
30 contractors or group practice members.

1 (2) The term does not include a request by a pathologist
2 for clinical diagnostic laboratory tests and pathological
3 examination services by a radiologist for diagnostic
4 radiology services and by a radiation oncologist for
5 radiation therapy or ancillary services necessary for, and
6 integral to, the provision of radiation therapy, if:

7 (i) the request results from a consultation
8 initiated by another whether the request for a
9 consultation was made to a particular pathologist,
10 radiologist or radiation oncologist or to an entity with
11 which the pathologist, radiologist or radiation
12 oncologist is affiliated; and

13 (ii) the tests or services are furnished by or under
14 the supervision of the pathologist, radiologist or
15 radiation oncologist or under the supervision of a
16 pathologist, radiologist or radiation oncologist,
17 respectively, in the same group practice as the
18 pathologist, radiologist or radiation oncologist.

19 (3) A referral may be in any form, including written,
20 oral or electronic.

21 "Secretary." The Secretary of Health of the Commonwealth.

22 Section 3. Unprofessional conduct.

23 (a) Referrals.--

24 (1) A health care provider may not refer a person for a
25 designated health service if the health care provider or an
26 immediate family member of the health care provider has a
27 financial interest with the person or entity that receives
28 the referral.

29 (2) A health care provider may not enter into an
30 arrangement or scheme, such as a cross-referral arrangement,

1 which the health care provider knows or should know has a
2 principal purpose of assuring referrals of designated health
3 services by a health care provider to a particular entity
4 which, if the health care provider directly made referrals to
5 the entity, would be in violation of this act.

6 (b) Limitation on billing.--A claim for payment may not be
7 presented by an entity to an individual, third-party payer or
8 other entity for a designated health service furnished under a
9 referral prohibited under this section.

10 (c) Denial of payment.--

11 (1) Except as provided in paragraph (2), a payment may
12 not be made by a payer for a designated health service that
13 is furnished under a prohibited referral.

14 (2) Payment may be made to an entity that submits a
15 claim for a designated health service if the entity did not
16 have actual knowledge of, and did not act in reckless
17 disregard or deliberate ignorance of, the identity of the
18 health care provider who made the referral of the designated
19 health service to the entity.

20 (d) Exceptions.--The provisions of subsections (a), (b) and
21 (c) shall not apply to the following:

22 (1) Referrals permitted under the Safe Harbor
23 regulations promulgated under section 1128B(b) (1) and (2) of
24 the Social Security Act (49 Stat. 620, 42 U.S.C. § 1320a-7b)
25 currently published at 42 CFR 1001.952 (relating to
26 exceptions).

27 (2) Referrals permitted under the exceptions to the
28 Stark amendments to the Medicare Act (42 U.S.C. § 1395nn) of
29 the Social Security Act and the regulations promulgated
30 thereunder, currently published at 42 CFR Pt. 411 Subpt. J

1 (relating to financial relationships between physicians and
2 entities furnishing designated health services).

3 (3) Referrals permitted by the secretary through
4 regulations upon a determination that the referrals do not
5 pose a risk of program or patient abuse.

6 (e) Prohibition.--An individual, third-party payer or other
7 entity may not deny payment to a health care provider involved
8 in a transaction or referral described in subsection (d).

9 Section 4. Penalties.

10 (a) Requiring refunds for certain claims.--If a person
11 collects amounts billed in violation of section 3(a), the person
12 shall be liable to the individual, payer or other entity for the
13 collected amounts and shall refund on a timely basis to the
14 individual, payer or other entity the collected amounts.

15 (b) Civil penalty for improper claims.--A person that
16 presents or causes to be presented a bill or a claim for a
17 service that the person knows is for a service for which payment
18 may not be made under section 3(a) or for which a refund has not
19 been made under subsection (a) or otherwise violates this act
20 shall be subject to a civil penalty of not more than \$15,000 for
21 each service.

22 (c) Civil penalty for circumvention schemes.--A health care
23 provider or other entity that enters into an arrangement or
24 scheme, such as a cross-referral arrangement which the health
25 care provider or entity knows or should know has a principal
26 purpose of assuring referrals by the health care provider to a
27 particular entity which, if the health care provider directly
28 made referrals to the entity, would be in violation of this act,
29 shall be subject to a civil penalty of not more than \$100,000
30 for each arrangement or scheme.

1 Section 5. Effective date.

2 This act shall take effect in 60 days.