

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1420 Session of  
2021

INTRODUCED BY THOMAS, FARRY, MIHALEK, SCHLOSSBERG, R. BROWN,  
DRISCOLL, FREEMAN, HILL-EVANS, LABS, McNEILL, N. NELSON,  
POLINCHOCK, SAMUELSON, SAPPEY, SCHROEDER, STEPHENS,  
TOMLINSON, CIRESI, GUZMAN, WEBSTER, MIZGORSKI, T. DAVIS,  
C. WILLIAMS, QUINN, KENYATTA, BERNSTINE, SAINATO AND BOYLE,  
MAY 14, 2021

SENATOR BROWNE, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, JULY 7, 2022

## AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," in general powers and  
4 duties of the Department of Public Welfare, providing for  
5 COVID-19 mental health public awareness campaign; IN PUBLIC <--  
6 ASSISTANCE, FURTHER PROVIDING FOR ELIGIBILITY AND FOR MEDICAL  
7 ASSISTANCE PAYMENTS FOR INSTITUTIONAL CARE AND PROVIDING FOR  
8 RESIDENT CARE AND RELATED COSTS AND FOR PHARMACY BENEFITS  
9 MANAGER AUDIT AND OBLIGATIONS; IN THE AGED, FURTHER PROVIDING  
10 FOR LIFE PROGRAM AND PROVIDING FOR AGENCY WITH CHOICE; IN  
11 CHILDREN AND YOUTH, FURTHER PROVIDING FOR LIMITS ON  
12 REIMBURSEMENTS TO COUNTIES; IN NURSING FACILITY ASSESSMENTS,  
13 FURTHER PROVIDING FOR TIME PERIODS; IN MANAGED CARE  
14 ORGANIZATION ASSESSMENTS, FURTHER PROVIDING FOR ASSESSMENT  
15 AMOUNT; PROVIDING FOR INNOVATIVE HEALTH CARE DELIVERY MODELS;  
16 ABROGATING REGULATIONS; AND MAKING A RELATED REPEAL.

17 The General Assembly of the Commonwealth of Pennsylvania

18 hereby enacts as follows:

19 Section 1. The act of June 13, 1967 (P.L.31, No.21), known  
20 as the Human Services Code, is amended by adding a section to  
21 read:

22 Section 217. COVID-19 Mental Health Public Awareness

1 Campaign.--The secretary shall establish a public awareness  
2 campaign to provide information to the general public concerning  
3 the programs and services available for first responders, health  
4 care workers, other frontline workers and their families  
5 experiencing mental health issues related to the COVID-19  
6 pandemic, including, but not limited to, post-traumatic stress  
7 disorder, anxiety, depression and substance use disorder.

8 (b) The secretary, in establishing the public awareness  
9 campaign, shall develop outreach efforts and provide information  
10 to the general public on:

11 (1) the link between mental health issues and the COVID-19  
12 pandemic, including, but not limited to, post-traumatic stress  
13 disorder, anxiety, depression and substance use disorder;

14 (2) resources for first responders, health care workers,  
15 other frontline workers and their families experiencing mental  
16 health issues related to the COVID-19 pandemic, including, but  
17 not limited to, post-traumatic stress disorder, anxiety,  
18 depression and substance use disorder, including the programs  
19 provided by the department and other Federal, State and local  
20 social services and mental health agencies during the COVID-19  
21 pandemic;

22 (3) any telephone helpline established by the department for  
23 first responders and health care workers experiencing mental  
24 health issues due to their work during the COVID-19 pandemic,  
25 including, but not limited to, post-traumatic stress disorder,  
26 anxiety, depression and substance use disorder; and

27 (4) anxiety-reducing strategies and other methods to manage  
28 stress, depression and other symptoms of post-traumatic stress  
29 disorder during the COVID-19 pandemic.

30 (c) The following shall apply:

1 (1) The public awareness campaign shall target the general  
2 public and first responders, health care workers, other  
3 frontline workers and their families through a variety of media,  
4 including television, radio, print and on the department's  
5 publicly accessible Internet website.

6 (2) The secretary shall provide for the development of  
7 advertisements by signs, billboards, placards, posters and  
8 displays, in English and Spanish, on the public awareness  
9 campaign.

10 (d) As used in this section, the term "COVID-19 pandemic"  
11 shall mean the novel coronavirus as identified in the  
12 proclamation of disaster emergency issued by the Governor on  
13 March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and  
14 any renewal of the state of disaster emergency.

15 SECTION 2. SECTION 432(2)(VI) OF THE ACT IS AMENDED TO READ: <--

16 SECTION 432. ELIGIBILITY.--EXCEPT AS HEREINAFTER OTHERWISE  
17 PROVIDED, AND SUBJECT TO THE RULES, REGULATIONS, AND STANDARDS  
18 ESTABLISHED BY THE DEPARTMENT, BOTH AS TO ELIGIBILITY FOR  
19 ASSISTANCE AND AS TO ITS NATURE AND EXTENT, NEEDY PERSONS OF THE  
20 CLASSES DEFINED IN CLAUSES (1), (2), AND (3) SHALL BE ELIGIBLE  
21 FOR ASSISTANCE:

22 \* \* \*

23 (2) PERSONS WHO ARE ELIGIBLE FOR STATE SUPPLEMENTAL  
24 ASSISTANCE.

25 \* \* \*

26 (VI) THE AMOUNTS OF STATE SUPPLEMENTAL ASSISTANCE PAYMENTS  
27 SHALL BE AS FOLLOWS:

28 (A) AFTER THE AMOUNTS OF ASSISTANCE PAYMENTS HAVE BEEN  
29 DETERMINED BY THE DEPARTMENT WITH THE APPROVAL OF THE GOVERNOR  
30 AND GENERAL ASSEMBLY, THE AMOUNTS OF ASSISTANCE PAYMENTS SHALL

1 NOT BE INCREASED, EXCEPT UNDER CLAUSE (B), WITHOUT THE APPROVAL  
2 OF THE GENERAL ASSEMBLY IN ACCORDANCE WITH THE PROCEDURE  
3 ESTABLISHED BY THE ACT OF APRIL 7, 1955 (P.L.23, NO.8) KNOWN AS  
4 THE "REORGANIZATION ACT OF 1955," AND A MESSAGE TO THE GENERAL  
5 ASSEMBLY FROM THE GOVERNOR FOR THE PURPOSES OF EXECUTING SUCH  
6 FUNCTION SHALL BE TRANSMITTED AS IN OTHER CASES UNDER THE  
7 REORGANIZATION ACT.

8 (B) BEGINNING IN STATE FISCAL YEAR 2022-2023, THE MONTHLY  
9 STATE SUPPLEMENTAL ASSISTANCE AMOUNTS FOR RESIDENTS OF A  
10 DOMICILIARY CARE HOME, AS DEFINED IN SECTION 2202-A OF THE ACT  
11 OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS "THE ADMINISTRATIVE  
12 CODE OF 1929," OR A PERSONAL CARE HOME AS DEFINED IN SECTION  
13 1001 SHALL BE AS FOLLOWS:

	<u>INDIVIDUAL</u>	<u>COUPLE</u>	
14			
15	<u>DOMICILIARY CARE HOME</u>	<u>\$634.30</u>	<u>\$1,347.40</u>
16	<u>PERSONAL CARE HOME</u>	<u>\$639.30</u>	<u>\$1,357.40</u>

17 \* \* \*

18 SECTION 3. SECTION 443.1(7)(IV) OF THE ACT IS AMENDED AND  
19 THE PARAGRAPH IS AMENDED BY ADDING A SUBPARAGRAPH TO READ:

20 SECTION 443.1. MEDICAL ASSISTANCE PAYMENTS FOR INSTITUTIONAL  
21 CARE.--THE FOLLOWING MEDICAL ASSISTANCE PAYMENTS SHALL BE MADE  
22 ON BEHALF OF ELIGIBLE PERSONS WHOSE INSTITUTIONAL CARE IS  
23 PRESCRIBED BY PHYSICIANS:

24 \* \* \*

25 (7) AFTER JUNE 30, 2007, PAYMENTS TO COUNTY AND NONPUBLIC  
26 NURSING FACILITIES ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM AS  
27 PROVIDERS OF NURSING FACILITY SERVICES SHALL BE DETERMINED IN  
28 ACCORDANCE WITH THE METHODOLOGIES FOR ESTABLISHING PAYMENT RATES  
29 FOR COUNTY AND NONPUBLIC NURSING FACILITIES SPECIFIED IN THE  
30 DEPARTMENT'S REGULATIONS AND THE COMMONWEALTH'S APPROVED TITLE

1 XIX STATE PLAN FOR NURSING FACILITY SERVICES IN EFFECT AFTER  
2 JUNE 30, 2007. THE FOLLOWING SHALL APPLY:

3 \* \* \*

4 (IV) SUBJECT TO FEDERAL APPROVAL OF SUCH AMENDMENTS AS MAY  
5 BE NECESSARY TO THE COMMONWEALTH'S APPROVED TITLE XIX STATE  
6 PLAN, FOR EACH FISCAL YEAR BEGINNING ON OR AFTER JULY 1, 2011,  
7 THE DEPARTMENT SHALL APPLY A REVENUE ADJUSTMENT NEUTRALITY  
8 FACTOR TO COUNTY AND NONPUBLIC NURSING FACILITY PAYMENT RATES SO  
9 THAT THE ESTIMATED STATEWIDE DAY-WEIGHTED AVERAGE PAYMENT RATE  
10 IN EFFECT FOR THAT FISCAL YEAR IS LIMITED TO THE AMOUNT  
11 PERMITTED BY THE FUNDS APPROPRIATED BY THE GENERAL APPROPRIATION  
12 ACT FOR THE FISCAL YEAR. THE REVENUE ADJUSTMENT NEUTRALITY  
13 FACTOR SHALL REMAIN IN EFFECT UNTIL THE SOONER OF JUNE 30,  
14 [2022] 2026, OR THE DATE ON WHICH A NEW RATE-SETTING METHODOLOGY  
15 FOR MEDICAL ASSISTANCE NURSING FACILITY SERVICES WHICH REPLACES  
16 THE RATE-SETTING METHODOLOGY CODIFIED IN 55 PA. CODE CHS. 1187  
17 (RELATING TO NURSING FACILITY SERVICES) AND 1189 (RELATING TO  
18 COUNTY NURSING FACILITY SERVICES) TAKES EFFECT.

19 (IV.1) NOTWITHSTANDING SUBPARAGRAPH (II) AND SUBJECT TO  
20 FEDERAL APPROVAL AS MAY BE NECESSARY, THE FOLLOWING SHALL APPLY  
21 TO NONPUBLIC AND COUNTY NURSING FACILITY PAYMENT RATES, TO THE  
22 EXTENT FUNDS ARE APPROPRIATED FOR THE PURPOSE OF RATE INCREASES  
23 FOR INCREASED DIRECT RESIDENT CARE REQUIREMENTS AND RESIDENT  
24 CARE AND RELATED COSTS:

25 (A) BEGINNING JANUARY 1, 2023, THE DEPARTMENT SHALL MAKE  
26 CAPITATION PAYMENTS TO MEDICAL ASSISTANCE COMMUNITY  
27 HEALTHCHOICES MANAGED CARE ORGANIZATIONS THAT INCLUDE AMOUNTS  
28 EXCLUSIVELY FOR THE PURPOSE OF MAKING PAYMENTS TO NONPUBLIC  
29 NURSING FACILITIES AND COUNTY NURSING FACILITIES AS PROVIDED  
30 UNDER CLAUSE (B) (I).

1 (B) THE DEPARTMENT SHALL ADOPT A MINIMUM PAYMENT RATE FOR  
2 PAYMENTS FOR SERVICES RENDERED TO MEDICAL ASSISTANCE RECIPIENTS  
3 UNDER THE COMMUNITY HEALTHCHOICES PROGRAM, EFFECTIVE WITH DATES  
4 OF SERVICE OF JANUARY 1, 2023, THROUGH DECEMBER 31, 2025, AS  
5 FOLLOWS:

6 (I) COMMUNITY HEALTHCHOICES MANAGED CARE ORGANIZATIONS SHALL  
7 APPLY NO LESS THAN THE MINIMUM PAYMENT RATE TO MAKE PAYMENTS TO  
8 NONPUBLIC NURSING FACILITIES AND COUNTY NURSING FACILITIES FOR  
9 SERVICES RENDERED TO MEDICAL ASSISTANCE RECIPIENTS UNDER THE  
10 COMMUNITY HEALTHCHOICES PROGRAM.

11 (II) THE MINIMUM PAYMENT RATE SHALL BE GREATER THAN OR EQUAL  
12 TO THE FOLLOWING AMOUNTS:

13 (A) FOR NONPUBLIC NURSING FACILITIES, THE NURSING FACILITY  
14 CASE-MIX RATES CALCULATED IN ACCORDANCE WITH 55 PA. CODE CH.  
15 1187 (RELATING TO NURSING FACILITY SERVICES) AND THE  
16 COMMONWEALTH'S APPROVED TITLE XIX STATE PLAN IN EFFECT FOR THE  
17 DATES OF SERVICE.

18 (B) FOR COUNTY NURSING FACILITIES, THE COUNTY NURSING  
19 FACILITY RATES IN ACCORDANCE WITH 55 PA. CODE CH. 1189 (RELATING  
20 TO COUNTY NURSING FACILITY SERVICES) AND THE COMMONWEALTH'S  
21 APPROVED TITLE XIX STATE PLAN IN EFFECT FOR THE DATES OF  
22 SERVICE.

23 \* \* \*

24 SECTION 4. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

25 SECTION 443.13. RESIDENT CARE AND RELATED COSTS.--(A) THE  
26 FOLLOWING APPLIES TO A COUNTY AND NONPUBLIC NURSING FACILITY  
27 ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM:

28 (1) THE COUNTY OR NONPUBLIC NURSING FACILITY SHALL  
29 DEMONSTRATE ON ITS SUBMITTED MA-11 THAT SEVENTY PERCENT OF ITS  
30 TOTAL COSTS, AS REPORTED BY THE FACILITY, ARE RESIDENT CARE

1 COSTS OR OTHER RESIDENT-RELATED COSTS UNDER 55 PA. CODE §  
2 1187.51(E) (1) AND (2) (RELATING TO SCOPE).

3 (2) EXCEPT AS PROVIDED UNDER PARAGRAPH (3), THE DEPARTMENT  
4 SHALL USE THE FOLLOWING METHODOLOGY TO DETERMINE THE FACILITY'S  
5 COMPLIANCE WITH PARAGRAPH (1):

6 (I) ADD THE FACILITY'S UNALLOCATED TOTAL NET OPERATING COSTS  
7 REPORTED AS TOTAL EXPENSES ON THE FACILITY'S SCHEDULE C OF THE  
8 MA-11, PLUS THE FOLLOWING CAPITAL COSTS REPORTED BY THE FACILITY  
9 ON ITS SCHEDULE C, TO DETERMINE THE FACILITY'S TOTAL COSTS:

10 (A) REAL ESTATE TAXES.

11 (B) NURSING FACILITY ASSESSMENT/HAI ASSESSMENT.

12 (C) DEPRECIATION.

13 (D) INTEREST ON CAPITAL INDEBTEDNESS.

14 (E) RENT ON FACILITY.

15 (F) AMORTIZATION CAPITAL COSTS.

16 (II) ADD THE FACILITY'S UNALLOCATED TOTAL RESIDENT CARE  
17 COSTS REPORTED AS TOTAL EXPENSES ON THE FACILITY'S SCHEDULE C  
18 AND THE UNALLOCATED TOTAL OTHER RESIDENT RELATED COSTS REPORTED  
19 AS TOTAL EXPENSES ON THE FACILITY'S SCHEDULE C TO DETERMINE THE  
20 FACILITY'S TOTAL RESIDENT COST OF CARE.

21 (III) DIVIDE THE FACILITY'S TOTAL RESIDENT COST OF CARE  
22 UNDER SUBPARAGRAPH (II) BY THE FACILITY'S TOTAL COSTS UNDER  
23 SUBPARAGRAPH (I) TO DETERMINE THE PERCENTAGE OF TOTAL COSTS  
24 RELATED TO RESIDENT CARE COSTS AND OTHER RESIDENT-RELATED COSTS.

25 (3) WHEN A COUNTY OR NONPUBLIC NURSING FACILITY IS  
26 AFFILIATED WITH A CONTINUING CARE RETIREMENT COMMUNITY, THE  
27 FOLLOWING SHALL APPLY:

28 (I) THE FACILITY SHALL SUBMIT A SUPPLEMENTAL COST REPORT  
29 FORM APPORTIONING THE CAPITAL COSTS RELATED TO THE NURSING  
30 FACILITY, IN A FORM AND MANNER AS PRESCRIBED BY THE DEPARTMENT.

1 (II) THE DEPARTMENT SHALL USE THE FOLLOWING METHODOLOGY TO  
2 DETERMINE THE FACILITY'S COMPLIANCE WITH PARAGRAPH (1):

3 (A) ADD THE FACILITY'S UNALLOCATED TOTAL NET OPERATING COSTS  
4 REPORTED AS TOTAL EXPENSES ON THE FACILITY'S SCHEDULE C OF THE  
5 MA-11, PLUS THE FOLLOWING CAPITAL COSTS, REPORTED BY THE  
6 FACILITY ON ITS SUPPLEMENTAL COST REPORT FORM UNDER SUBPARAGRAPH  
7 (I), TO DETERMINE THE FACILITY'S TOTAL COSTS:

8 (I) REAL ESTATE TAXES.

9 (II) NURSING FACILITY ASSESSMENT/HAI ASSESSMENT.

10 (III) DEPRECIATION.

11 (IV) INTEREST ON CAPITAL INDEBTEDNESS.

12 (V) RENT ON FACILITY.

13 (VI) AMORTIZATION CAPITAL COSTS.

14 (B) ADD THE FACILITY'S UNALLOCATED TOTAL RESIDENT CARE COSTS  
15 REPORTED AS TOTAL EXPENSES ON THE FACILITY'S SCHEDULE C AND THE  
16 UNALLOCATED TOTAL OTHER RESIDENT RELATED COSTS REPORTED AS TOTAL  
17 EXPENSES ON THE FACILITY'S SCHEDULE C TO DETERMINE THE  
18 FACILITY'S TOTAL RESIDENT COST OF CARE.

19 (C) DIVIDE THE FACILITY'S TOTAL RESIDENT COST OF CARE UNDER  
20 CLAUSE (B) BY THE FACILITY'S TOTAL COSTS UNDER CLAUSE (A) TO  
21 DETERMINE THE PERCENTAGE OF TOTAL COSTS RELATED TO RESIDENT CARE  
22 AND OTHER RESIDENT-RELATED COSTS.

23 (B) (1) IF IN ANY TWELVE-MONTH COST-REPORTING PERIOD A  
24 COUNTY OR NONPUBLIC NURSING FACILITY ENROLLED IN THE MEDICAL  
25 ASSISTANCE PROGRAM FAILS TO MEET THE RESIDENT CARE PERCENTAGE  
26 UNDER SUBSECTION (A) (1), THE DEPARTMENT MAY IMPOSE A PENALTY ON  
27 THE FACILITY UP TO THE DIFFERENCE BETWEEN THE SEVENTY PERCENT OF  
28 TOTAL COSTS REQUIREMENT UNDER PARAGRAPH (2) AND THE PERCENTAGE  
29 SPENT BY THE FACILITY ON RESIDENT CARE COSTS OR OTHER RESIDENT-  
30 RELATED COSTS, BUT NO MORE THAN FIVE PERCENT.



1 (2) THE FORMULA FOR DETERMINING THE MAXIMUM PENALTY AMOUNT  
2 IS AS FOLLOWS:

3 (I) DETERMINE THE PERCENTAGE DIFFERENCE FROM THE SEVENTY  
4 PERCENT RESIDENT CARE REQUIREMENT BY SUBTRACTING THE PERCENTAGE  
5 OF TOTAL COSTS RELATED TO RESIDENT CARE AND OTHER RESIDENT-  
6 RELATED COSTS UNDER SUBSECTION (A) (2) (III) OR (3) (II) (C) FROM  
7 SEVENTY PERCENT.

8 (II) DETERMINE THE PENALTY AMOUNT AS FOLLOWS:

9 (A) USE THE LESSER OF THE FOLLOWING:

10 (I) FIVE.

11 (II) THE DIFFERENCE UNDER SUBPARAGRAPH (I).

12 (B) MULTIPLY THE LOWEST NUMERAL UNDER CLAUSE (A) BY ONE  
13 HUNDREDTH (.01).

14 (C) MULTIPLY THE PRODUCT UNDER CLAUSE (B) BY THE COUNTY OR  
15 NONPUBLIC NURSING FACILITY'S FEE-FOR-SERVICE PER DIEM PAYMENT  
16 RATE AS OF JUNE 30, 2022.

17 (D) MULTIPLY THE PRODUCT UNDER CLAUSE (C) BY THE TOTAL MA  
18 RESIDENT DAYS OF CARE ON THE FACILITY'S MA-11.

19 (3) A PENALTY IMPOSED UNDER THIS SECTION SHALL BE  
20 TRANSMITTED BY THE FACILITY TO THE DEPARTMENT FOR DEPOSIT IN THE  
21 NURSING FACILITY QUALITY IMPROVEMENT FUND, ESTABLISHED UNDER  
22 SUBSECTION (C).

23 (4) THE DEPARTMENT SHALL ENFORCE THE PENALTY PROVISIONS  
24 UNDER THIS SUBSECTION AGAINST FULL TWELVE-MONTH COST REPORTS  
25 WITH REPORTING PERIODS THAT BEGIN ON OR AFTER JANUARY 1, 2023,  
26 AFTER MAKING THE FIRST PAYMENT OF THE INCREASED COUNTY AND  
27 NONPUBLIC NURSING FACILITY RATES, UNDER BOTH THE FEE-FOR-SERVICE  
28 PROGRAM AND THE COMMUNITY HEALTHCHOICES PROGRAM, BEGINNING  
29 JANUARY 1, 2023. IF THE FIRST PAYMENT OF THE INCREASED COUNTY  
30 AND NONPUBLIC NURSING FACILITY RATES, INCLUDING PAYMENTS UNDER

1 BOTH THE FEE-FOR-SERVICE PROGRAM AND THE COMMUNITY HEALTHCHOICES  
2 PROGRAM, IS AFTER JUNE 30, 2023, THE ENFORCEMENT OF THE PENALTY  
3 PROVISIONS OF THIS SUBSECTION SHALL COMMENCE WITH THE FIRST FULL  
4 TWELVE-MONTH COST REPORT AFTER PAYMENT OF THE INCREASED COUNTY  
5 AND NONPUBLIC NURSING FACILITY RATES.

6 (5) PARAGRAPH (4) SHALL EXPIRE DECEMBER 31, 2025.

7 (C) (1) THE NURSING FACILITY QUALITY IMPROVEMENT FUND IS  
8 ESTABLISHED AS A SEPARATE FUND IN THE STATE TREASURY AND SHALL  
9 BE ADMINISTERED BY THE DEPARTMENT.

10 (2) ALL INTEREST EARNED FROM THE INVESTMENT OR DEPOSIT OF  
11 MONEYS ACCUMULATED IN THE FUND SHALL BE DEPOSITED INTO THE FUND  
12 FOR THE SAME USE.

13 (3) MONEYS IN THE FUND SHALL BE EXPENDED BY THE DEPARTMENT  
14 FOR THE FOLLOWING PURPOSES:

15 (I) TO ADMINISTER AND ENFORCE THIS SECTION.

16 (II) TO PROVIDE FUNDING FOR NURSING FACILITY QUALITY  
17 IMPROVEMENT.

18 (D) THE DEPARTMENT MAY PROMULGATE GUIDELINES, AS NECESSARY,  
19 TO IMPLEMENT THIS SECTION. THE GUIDELINES SHALL BE TRANSMITTED  
20 TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE  
21 PENNSYLVANIA BULLETIN. PRIOR TO PUBLICATION OF THE GUIDELINES,  
22 THE DEPARTMENT SHALL CONSULT INTERESTED PARTIES. THE GUIDELINES  
23 UNDER THIS SECTION SHALL NOT BE SUBJECT TO:

24 (1) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT OF JULY  
25 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH  
26 DOCUMENTS LAW.

27 (2) SECTIONS 204(B) AND 301(10) OF THE ACT OF OCTOBER 15,  
28 1980 (P.L.950, NO.164), KNOWN AS THE "COMMONWEALTH ATTORNEYS  
29 ACT."

30 (3) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE

1 "REGULATORY REVIEW ACT."

2 (E) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
3 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS  
4 THE CONTEXT CLEARLY INDICATES OTHERWISE:

5 "HAI" MEANS HOSPITAL ACQUIRED INFECTION.

6 "MA-11" MEANS THE MEDICAL ASSISTANCE FINANCIAL AND  
7 STATISTICAL REPORT FOR NURSING FACILITIES AND SERVICES SUBMITTED  
8 TO THE DEPARTMENT BY EITHER A COUNTY NURSING FACILITY OR A  
9 NONPUBLIC NURSING FACILITY FOR A TWELVE-MONTH COST REPORT  
10 PERIOD.

11 "SCHEDULE C" MEANS THE COMPUTATION AND ALLOCATION OF  
12 ALLOWABLE COSTS SCHEDULE.

13 "TOTAL MA RESIDENT DAYS OF CARE" MEANS THE NURSING FACILITY  
14 MA FEE-FOR-SERVICE DAYS OF CARE AND THE NURSING FACILITY MA  
15 COMMUNITY HEALTHCHOICES DAYS OF CARE, AS REPORTED ON THE MA-11.

16 SECTION 449.2. PHARMACY BENEFITS MANAGER AUDIT AND  
17 OBLIGATIONS.--(A) THE DEPARTMENT OF THE AUDITOR GENERAL MAY  
18 CONDUCT AN AUDIT AND REVIEW OF A PHARMACY BENEFITS MANAGER THAT  
19 PROVIDES PHARMACY BENEFITS MANAGEMENT TO A MEDICAL ASSISTANCE  
20 MANAGED CARE ORGANIZATION UNDER CONTRACT WITH THE DEPARTMENT.  
21 THE DEPARTMENT OF THE AUDITOR GENERAL MAY REVIEW ALL PREVIOUS  
22 AUDITS COMPLETED BY THE DEPARTMENT AND SHALL HAVE ACCESS TO ALL  
23 DOCUMENTS IT DEEMS NECESSARY TO COMPLETE THE REVIEW AND AUDIT.

24 (B) INFORMATION DISCLOSED OR PRODUCED BY A PHARMACY BENEFITS  
25 MANAGER OR A MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION FOR  
26 THE USE OF THE DEPARTMENT OR THE DEPARTMENT OF THE AUDITOR  
27 GENERAL UNDER THIS SECTION SHALL NOT BE SUBJECT TO THE ACT OF  
28 FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE "RIGHT-TO-KNOW  
29 LAW."

30 (C) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES

1 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

2 "MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION" MEANS A  
3 MEDICAID MANAGED CARE ORGANIZATION AS DEFINED IN SECTION 1903(M)  
4 (1) (A) OF THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. §  
5 1396B(M) (1) (A)) THAT IS A PARTY TO A MEDICAID MANAGED CARE  
6 CONTRACT WITH THE DEPARTMENT.

7 "PHARMACY BENEFITS MANAGEMENT" MEANS ANY OF THE FOLLOWING:

8 (1) PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED  
9 CONTRACTED RATE FOR DISTRIBUTION WITHIN THIS COMMONWEALTH TO  
10 COVERED INDIVIDUALS.

11 (2) ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG  
12 BENEFITS PROVIDED BY A COVERED ENTITY FOR THE BENEFIT OF COVERED  
13 INDIVIDUALS.

14 (3) ADMINISTRATION OF PHARMACY BENEFITS, INCLUDING:

15 (I) OPERATING A MAIL-SERVICE PHARMACY.

16 (II) CLAIMS PROCESSING.

17 (III) MANAGING A RETAIL PHARMACY NETWORK MANAGEMENT.

18 (IV) PAYING CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS  
19 DISPENSED TO COVERED INDIVIDUALS BY A RETAIL, SPECIALTY OR MAIL-  
20 ORDER PHARMACY.

21 (V) DEVELOPING AND MANAGING A CLINICAL FORMULARY,  
22 UTILIZATION MANAGEMENT AND QUALITY ASSURANCE PROGRAMS.

23 (VI) REBATE CONTRACTING AND ADMINISTRATION.

24 (VII) MANAGING A PATIENT COMPLIANCE, THERAPEUTIC  
25 INTERVENTION AND GENERIC SUBSTITUTION PROGRAM.

26 (VIII) OPERATING A DISEASE MANAGEMENT PROGRAM.

27 (IX) SETTING PHARMACY REIMBURSEMENT PRICING AND  
28 METHODOLOGIES, INCLUDING MAXIMUM ALLOWABLE COST, AND DETERMINING  
29 SINGLE OR MULTIPLE SOURCE DRUGS.

30 "PHARMACY BENEFITS MANAGER" MEANS A PERSON, BUSINESS OR OTHER

1 ENTITY THAT PERFORMS PHARMACY BENEFITS MANAGEMENT. THE TERM  
2 SHALL INCLUDE AN AFFILIATED OWNERSHIP OF A MEDICAL ASSISTANCE  
3 MANAGED CARE ORGANIZATION THAT PERFORMS PHARMACY BENEFITS  
4 MANAGEMENT.

5 SECTION 5. SECTION 602 (A), (B) AND (C) OF THE ACT ARE  
6 AMENDED TO READ:

7 SECTION 602. LIFE PROGRAM.--(A) INFORMATIONAL MATERIALS AND  
8 DEPARTMENT CORRESPONDENCE USED BY THE DEPARTMENT AND THE  
9 INDEPENDENT ENROLLMENT BROKER TO EDUCATE OR NOTIFY AN ELIGIBLE  
10 INDIVIDUAL ABOUT LONG-TERM CARE SERVICES AND SUPPORTS, INCLUDING  
11 AN INDIVIDUAL'S RIGHTS, RESPONSIBILITIES AND CHOICE OF MANAGED  
12 CARE ORGANIZATION TO COVER LONG-TERM CARE SERVICES AND SUPPORTS,  
13 SHALL INCLUDE THE FOLLOWING:

14 (1) A DESCRIPTION OF THE LIFE PROGRAM.

15 (2) A STATEMENT THAT AN ELIGIBLE INDIVIDUAL HAS THE OPTION  
16 TO ENROLL IN THE LIFE PROGRAM OR A MANAGED CARE ORGANIZATION  
17 UNDER THE COMMUNITY HEALTH CHOICES PROGRAM.

18 (3) CONTACT INFORMATION FOR LIFE PROVIDERS.

19 (B) THE DEPARTMENT SHALL CONTINUE TO PROVIDE TRAINING TO THE  
20 INDEPENDENT ENROLLMENT BROKER ON THE LIFE PROGRAM THROUGH THE  
21 INDEPENDENT ENROLLMENT BROKER LIFE MODULE TO BETTER EDUCATE THE  
22 INDEPENDENT ENROLLMENT BROKER AND TO REQUIRE THAT THE LIFE  
23 PROGRAM IS OFFERED EQUALLY TO ELIGIBLE INDIVIDUALS.

24 (C) AT THE END OF EACH QUARTER, THE DEPARTMENT SHALL ISSUE A  
25 REPORT TO THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE HEALTH  
26 AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE CHAIRPERSON  
27 AND MINORITY CHAIRPERSON OF THE HUMAN SERVICES COMMITTEE OF THE  
28 HOUSE OF REPRESENTATIVES THAT TRACKS BY COUNTY THE ENROLLMENT OF  
29 ELIGIBLE INDIVIDUALS IN LONG-TERM CARE SERVICE PROGRAMS BY THE  
30 INDEPENDENT ENROLLMENT BROKER, INCLUDING MANAGED CARE

1 ORGANIZATIONS AND LIFE PROGRAMS. THE REPORT SHALL ALSO INCLUDE  
2 DOCUMENTATION OF COMPLIANCE WITH SUBSECTIONS (A) AND (B).

3 \* \* \*

4 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:  
5 SECTION 603. AGENCY WITH CHOICE.--THE DEPARTMENT SHALL NOT  
6 ADMINISTER OR CONTRACT WITH A SINGLE STATEWIDE ENTITY TO  
7 ADMINISTER THE AGENCY WITH CHOICE FINANCIAL MANAGEMENT SERVICES  
8 MODEL OF SERVICE DELIVERY TO BENEFICIARIES OF PROGRAMS  
9 ADMINISTERED BY THE OFFICE OF LONG-TERM LIVING FOR AT LEAST  
10 TWELVE MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION.

11 SECTION 7. SECTION 709.3 OF THE ACT IS AMENDED BY ADDING A  
12 SUBSECTION TO READ:

13 SECTION 709.3. LIMITS ON REIMBURSEMENTS TO COUNTIES.--\* \* \*  
14 (F) MONEY APPROPRIATED FOR COMMUNITY-BASED FAMILY CENTERS  
15 MAY NOT BE CONSIDERED AS PART OF THE BASE FOR CALCULATION OF A  
16 COUNTY'S CHILD WELFARE NEEDS-BASED BUDGET FOR A FISCAL YEAR.

17 SECTION 8. SECTIONS 815-A AND 803-I(B) OF THE ACT ARE  
18 AMENDED TO READ:

19 SECTION 815-A. TIME PERIODS.--THE ASSESSMENT AUTHORIZED IN  
20 THIS ARTICLE SHALL BE IMPOSED JULY 1, 2003, THROUGH JUNE 30,  
21 [2022] 2026.

22 SECTION 803-I. ASSESSMENT AMOUNT.

23 \* \* \*

24 (B) FIXED FEE.--[BEGINNING JULY 1, 2016, AND ENDING JUNE 30,  
25 2020] EXCEPT AS PROVIDED UNDER SUBSECTIONS (C) AND (D), THE  
26 MANAGED CARE ORGANIZATION SHALL BE ASSESSED A FIXED FEE OF  
27 [\$13.48] \$24.95 FOR EACH UNDUPLICATED MEMBER FOR EACH MONTH THE  
28 MEMBER IS ENROLLED FOR ANY PERIOD OF TIME WITH THE MANAGED CARE  
29 ORGANIZATION BEGINNING JULY 1, 2020, AND ENDING JUNE 30, 2025.

30 \* \* \*

1 SECTION 9. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

2 ARTICLE VIII-J

3 INNOVATIVE HEALTH CARE DELIVERY MODELS

4 SECTION 801-J. REQUIRED CRITERIA FOR OPERATION OF OED.

5 (A) REQUIREMENTS OF AN OED.--AN ELIGIBLE PROVIDER LOCATION  
6 FOR MEDICAL ASSISTANCE REIMBURSEMENT THAT INTENDS TO OPERATE AN  
7 OED SHALL MEET THE FOLLOWING CRITERIA:

8 (1) THE MAIN LICENSED HOSPITAL OF AN OED SHALL OFFER  
9 GENERAL ACUTE CARE SERVICES.

10 (2) THE OED SHALL BE INCLUDED AS AN OUTPATIENT LOCATION  
11 UNDER THE LICENSE OF THE HOSPITAL AND LOCATED WITHIN A  
12 THIRTY-FIVE-MILE RADIUS OF THE MAIN LICENSED HOSPITAL.

13 (3) AT THE TIME THE OED BEGINS OPERATING, THE OED SHALL  
14 HAVE A CATCHMENT AREA THAT IS NO LESS THAN THIRTY-FIVE MILES  
15 OF TRAVEL DISTANCE ESTABLISHED BY ROADWAYS TO A MAIN LICENSED  
16 HOSPITAL OR A CAMPUS THAT OFFERS EMERGENCY SERVICES AND IS  
17 NOT UNDER COMMON LEGAL OWNERSHIP WITH THE OED OR ANOTHER OED  
18 THAT IS NOT UNDER COMMON LEGAL OWNERSHIP.

19 (4) THE HOSPITAL SHALL CONTINUE TO MEET THE STATUTORY  
20 DEFINITION OF A "HOSPITAL" AS DEFINED IN SECTION 802.1 OF THE  
21 ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE "HEALTH  
22 CARE FACILITIES ACT."

23 (5) THE HOSPITAL, INCLUDING THE OED, SHALL MAINTAIN FULL  
24 OR SUBSTANTIAL COMPLIANCE WITH THE PROVISIONS OF 28 PA. CODE  
25 PT. IV SUBPT. B (RELATING TO GENERAL AND SPECIAL HOSPITALS).

26 (B) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
27 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
28 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

29 "CAMPUS" MEANS A CLINICAL FACILITY THAT OFFERS INPATIENT  
30 SERVICES AND IS INCLUDED UNDER THE LICENSE OF THE MAIN LICENSED

1 HOSPITAL BUT NOT LOCATED ON THE GROUNDS OF THE MAIN LICENSED  
2 HOSPITAL.

3 "CATCHMENT AREA" MEANS THE AREA SURROUNDING AN OED.

4 "HOSPITAL" MEANS THE MAIN LICENSED HOSPITAL, ITS CAMPUSES AND  
5 OUTPATIENT LOCATIONS, UNDER COMMON LEGAL OWNERSHIP.

6 "MAIN LICENSED HOSPITAL OF THE OED" MEANS THE LOCATION WHERE  
7 A HOSPITAL LICENSE IS HELD.

8 "OUTPATIENT EMERGENCY DEPARTMENT" OR "OED" MEANS AN  
9 OUTPATIENT LOCATION OF A HOSPITAL UNDER COMMON LEGAL OWNERSHIP  
10 THAT OFFERS EMERGENCY SERVICES AND IS NOT LOCATED ON THE GROUNDS  
11 OF THE MAIN LICENSED HOSPITAL.

12 "OUTPATIENT LOCATION" MEANS A LOCATION OFFERING ONLY  
13 OUTPATIENT SERVICES THAT ARE INCLUDED UNDER THE LICENSE OF A  
14 MAIN LICENSED HOSPITAL BUT NOT LOCATED ON THE GROUNDS OF THE  
15 MAIN LICENSED HOSPITAL.

16 SECTION 10. REGULATIONS ARE ABROGATED AS FOLLOWS:

17 (1) THE FOLLOWING PROVISIONS OF 55 PA. CODE ARE  
18 ABROGATED:

19 (I) SECTION 1153.14(1) (RELATING TO NONCOVERED  
20 SERVICES).

21 (II) SECTION 1223.14(2) (RELATING TO NONCOVERED  
22 SERVICES).

23 (III) SECTION 5230.55(C) (RELATING TO SUPERVISION)  
24 TO THE EXTENT THAT IT REQUIRES A FACE-TO-FACE MEETING.

25 (IV) SECTION 1121.53(C) (RELATING TO LIMITATIONS ON  
26 PAYMENT) TO THE EXTENT THAT PAYMENT FOR PRESCRIPTIONS IS  
27 LIMITED TO A 34-DAY SUPPLY OR 100 UNITS.

28 (V) TO THE EXTENT PERMITTED UNDER FEDERAL LAW:

29 (A) SECTION 1123.2 (RELATING TO DEFINITIONS) TO  
30 THE EXTENT THAT THE DEFINITION OF "SHOE INSERTS"



1 LIMITS THE PRESCRIPTIONS FOR AN ORTHOTIC DEVICE TO A  
2 PRESCRIPTION FROM A PHYSICIAN.

3 (B) SECTION 1249.52 (A) (1) (RELATING TO PAYMENT  
4 CONDITIONS FOR VARIOUS SERVICES) AND SECTION  
5 1249.53 (A) (1) (RELATING TO PAYMENT CONDITIONS FOR  
6 SKILLED NURSING CARE) TO THE EXTENT THAT HOME HEALTH  
7 SERVICES ARE ONLY COVERED AND REIMBURSABLE UNDER THE  
8 MEDICAL ASSISTANCE PROGRAM IF A PHYSICIAN ORDERS THE  
9 SERVICES AND ESTABLISHES THE PLAN OF TREATMENT.

10 (C) SECTION 1249.54 (A) (3) (RELATING TO PAYMENT  
11 CONDITIONS FOR HOME HEALTH AIDE SERVICES) TO THE  
12 EXTENT THAT A HOME HEALTH AIDE SERVICE IS ONLY  
13 COVERED AND REIMBURSABLE UNDER THE MEDICAL ASSISTANCE  
14 PROGRAM IF A PHYSICIAN ESTABLISHES THE WRITTEN PLAN  
15 OF TREATMENT AND, IF SKILLED CARE IS NOT REQUIRED,  
16 CERTIFIES THAT THE PERSONAL CARE SERVICES ARE  
17 MEDICALLY NECESSARY.

18 (D) SECTION 1249.55 (A) (RELATING TO PAYMENT  
19 CONDITIONS FOR MEDICAL SUPPLIES) TO THE EXTENT  
20 SUPPLIES MAY ONLY BE REIMBURSED IF PRESCRIBED BY A  
21 PHYSICIAN.

22 (2) THE FOLLOWING PROVISIONS OF 55 PA. CODE, RELATING TO  
23 PHYSICIAN OR CERTIFIED REGISTERED NURSE PRACTITIONER  
24 NOTIFICATION REQUIREMENTS, ARE ABROGATED TO THE EXTENT THEY  
25 APPLY TO INDIVIDUALS WITH SYMPTOMS OF COVID-19:

26 (I) SECTION 3270.137 (RELATING TO CHILDREN WITH  
27 SYMPTOMS OF DISEASE).

28 (II) SECTION 3270.153 (RELATING TO FACILITY PERSONS  
29 WITH SYMPTOMS OF DISEASE).

30 (III) SECTION 3280.137 (RELATING TO CHILDREN WITH

1 SYMPTOMS OF DISEASE).

2 (IV) SECTION 3280.153 (RELATING TO FACILITY PERSONS  
3 WITH SYMPTOMS OF DISEASE).

4 (V) SECTION 3290.137 (RELATING TO CHILDREN WITH  
5 SYMPTOMS OF DISEASE).

6 (VI) SECTION 3290.153 (RELATING TO FACILITY PERSONS  
7 WITH SYMPTOMS OF DISEASE).

8 SECTION 11. REPEALS ARE AS FOLLOWS:

9 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER  
10 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE AMENDMENT OF  
11 SECTION 803-I(B) OF THE ACT.

12 (2) SECTION 1601-O OF THE ACT OF APRIL 9, 1929 (P.L.343,  
13 NO.176), KNOWN AS THE FISCAL CODE, IS REPEALED.

14 SECTION 12. THE AMENDMENT OF SECTION 803-I(B) OF THE ACT IS  
15 A CONTINUATION OF SECTION 1601-O OF THE ACT OF APRIL 9, 1929  
16 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE. EXCEPT AS OTHERWISE  
17 PROVIDED IN THE AMENDMENT OF SECTION 803-I(B) OF THE ACT, ALL  
18 ACTIVITIES INITIATED UNDER SECTION 1601-O OF THE FISCAL CODE  
19 SHALL CONTINUE AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE  
20 COMPLETED UNDER THE AMENDMENT OF SECTION 803-I(B) OF THE ACT.  
21 ORDERS, REGULATIONS, RULES AND DECISIONS WHICH WERE MADE UNDER  
22 SECTION 1601-O OF THE FISCAL CODE AND WHICH ARE IN EFFECT ON THE  
23 EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN FULL FORCE AND  
24 EFFECT UNTIL REVOKED, VACATED OR MODIFIED UNDER THE AMENDMENT OF  
25 SECTION 803-I(B) OF THE ACT. CONTRACTS, OBLIGATIONS AND  
26 COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO UNDER SECTION  
27 1601-O OF THE FISCAL CODE ARE NOT AFFECTED NOR IMPAIRED BY THE  
28 REPEAL OF SECTION 1601-O OF THE FISCAL CODE.

29 SECTION 13. THE AMENDMENT OF SECTIONS 443.1(7)(IV) AND 815-A  
30 OF THE ACT SHALL APPLY RETROACTIVE TO JUNE 29, 2022.

1 Section 2 14. This act shall take effect immediately.

<--