

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1654 Session of 2021

INTRODUCED BY KRAJEWSKI, DALEY, FIEDLER, KINSEY, SANCHEZ,  
SCHLOSSBERG, HOWARD, SIMS, LEE, ROZZI, CIRESI, ISAACSON,  
SAMUELSON, OTTEN, SHUSTERMAN, KINKEAD, DELLOSO, D. WILLIAMS,  
FRANKEL AND RABB, JUNE 16, 2021

REFERRED TO COMMITTEE ON INSURANCE, JUNE 16, 2021

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," in casualty insurance, providing  
12 for enrolled dependents right to confidentiality for health  
13 care services received.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. The act of May 17, 1921 (P.L.682, No.284), known  
17 as The Insurance Company Law of 1921, is amended by adding a  
18 section to read:

19 Section 635.8. Enrolled Dependents Right to Confidentiality  
20 for Health Care Services Received.--(a) A health insurance  
21 policy or government program that is offered, issued or renewed  
22 in this Commonwealth shall include policies and procedures that

1 comply with Federal and State law to ensure that all  
2 identifiable information regarding receipt of health care  
3 services by a protected enrolled dependent is adequately  
4 protected and remains confidential.

5 (b) A health insurer shall develop a standardized  
6 confidential communications request form, in an easily readable  
7 and understandable format as approved by the department, to  
8 permit a protected enrolled dependent to request an alternative  
9 method for receiving confidential communication related to the  
10 receipt of health care services. The following shall apply:

11 (1) A health insurer shall permit any protected enrolled  
12 dependent to submit a confidential communications request.

13 (2) A request by a protected enrolled dependent exercising  
14 the option for confidential communication shall be submitted in  
15 writing using the standardized form.

16 (3) The availability of the standardized form shall be  
17 disseminated in a health insurance policy or government program.

18 (c) Confidential communications subject to the requirements  
19 of this section include the following:

20 (1) explanation of benefits;

21 (2) information related to an appointment for health care  
22 services;

23 (3) a claim denial;

24 (4) a request for additional information related to a claim;

25 (5) a notice of a contested claim.

26 (6) the name and address of a provider, a description of  
27 services provided and other visit information; and

28 (7) any written, oral or electronic communication from a  
29 carrier that contains protected health information.

30 (d) Alternative methods of receiving confidential

1 communication shall include, but not be limited to:

2 (1) sending a paper form to an alternate address as  
3 requested by the protected enrolled dependent;

4 (2) sending electronic communication to an alternate  
5 electronic address as requested by the protected enrolled  
6 dependent; or

7 (3) withholding confidential communication as requested by  
8 the protected enrolled dependent until an alternate method of  
9 receiving communication is requested subsequently at a later  
10 date by the protected enrolled dependent. A protected enrolled  
11 dependent shall be permitted to submit a subsequent request  
12 orally in-person or by telephone, or by paper or electronic  
13 written communication.

14 (e) In the event that a protected enrolled dependent has no  
15 liability for payment for a procedure or service, a health  
16 insurance policy or government program shall permit a protected  
17 enrolled dependent to request suppression of all confidential  
18 communications, in which case the explanation of benefits, or  
19 any confidential communication covered under this section, shall  
20 not be issued.

21 (f) A health insurer or government program shall ensure that  
22 requests for confidential communication required under  
23 subsection (b) are implemented not later than three business  
24 days after receipt of a request. A health insurer shall  
25 acknowledge receipt of a protected enrolled dependent's  
26 confidential communications request form by providing notice to  
27 the protected enrolled dependent through the alternative method  
28 of communication as requested by the protected enrolled  
29 dependent.

30 (g) The department, in collaboration with the Department of

1 Health, may develop and implement a plan to educate health care  
2 providers and consumers regarding the rights of protected  
3 enrolled dependents and the responsibilities of health insurers  
4 to promote compliance with this section. The following shall  
5 apply:

6 (1) The plan shall include, but not be limited to, staff  
7 training and other education for:

8 (i) All administrative staff involved in patient  
9 registration and confidentiality education.

10 (ii) All billing staff involved in processing insurance  
11 claims.

12 (iii) Education for health care providers employed in a  
13 health care facility as defined in section 801.2 of the act of  
14 July 19, 1979 (P.L.130, No.48), known as the "Health Care  
15 Facilities Act."

16 (iv) Education for health care providers employed in school  
17 health services as provided under Article XIV of the act of  
18 March 10, 1949 (P.L.30, No.14), known as the "Public School Code  
19 of 1949."

20 (2) The plan shall include instruction for health care  
21 providers to disseminate a protected enrolled dependent's right  
22 to exercise the alternative delivery of confidential  
23 communications in a manner that clearly displays its  
24 availability to patients.

25 (h) The department may promulgate regulations necessary to  
26 implement and enforce this section, which may include  
27 requirements for reasonable reporting by a health insurer that  
28 issues, delivers, executes or renews a policy covered under this  
29 section to the department regarding compliance and the number  
30 and type of complaints received regarding noncompliance with

1 this section.

2 (i) The department shall submit an annual report to the  
3 chairperson and minority chairperson of the Banking and  
4 Insurance Committee of the Senate and the chairperson and  
5 minority chairperson of the Insurance Committee of the House of  
6 Representatives, which shall be made available on the  
7 department's publicly accessible Internet website, to  
8 disseminate the following information:

9 (1) Aggregate data for health insurer reporting requirements  
10 as established under subsection (h).

11 (2) The effectiveness of the requirements established under  
12 this section in enabling protected enrolled dependents to  
13 request an alternative method for receiving confidential  
14 communications.

15 (3) Education and outreach conducted by health insurers and  
16 providers to inform protected enrolled dependents about their  
17 right to request an alternative method for receiving  
18 confidential communication related to the receipt of health care  
19 services.

20 (j) The department shall implement an appeals process for  
21 the denial or partial denial by a health insurer of a claim  
22 provided to a protected enrolled dependent who has exercised the  
23 right to an alternative method for receiving confidential  
24 communications covered by this section. The following shall  
25 apply:

26 (1) A protected enrolled dependent has the right to appeal a  
27 denial or partial denial of a claim.

28 (2) An enrollee, subscriber or certificate holder is  
29 prohibited from appealing a denial or partial denial of a claim  
30 unless the protected enrolled dependent has provided written

1 authorization to disclose claims information relevant to the  
2 appeal.

3 (k) This section shall apply as follows:

4 (1) For a health insurance policy or government program for  
5 which either rates or forms are required to be filed with the  
6 Federal Government or the Insurance Department, this section  
7 shall apply to a policy for which a form or rate is first  
8 permitted to be used 180 days on or after the effective date of  
9 this section.

10 (2) For a health insurance policy or government program for  
11 which neither rates nor forms are required to be filed with the  
12 Federal Government or the Insurance Department, this section  
13 shall apply to a policy issued or renewed on or after 180 days  
14 after the effective date of this section.

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

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

19 "Government program." The following:

20 (1) Subarticle (f) of Article IV of the act of June 13, 1967  
21 (P.L.31, No.21), known as the "Human Services Code."

22 (2) The Commonwealth's children's health insurance program  
23 under Article XXIII-A.

24 "Health care practitioner." An individual who is authorized  
25 to practice some component of the healing arts by a license,  
26 permit, certificate or registration issued by a Commonwealth  
27 licensing agency or board.

28 "Health care provider." Any of the following:

29 (1) A health care practitioner as defined in section 103 of  
30 the act of July 19, 1979 (P.L.130, No.48), known as the "Health

1 Care Facilities Act."

2 (2) A federally qualified health center as defined in  
3 section 1861(aa)(4) of the Social Security Act (49 Stat. 620, 42  
4 U.S.C. § 1395x(aa)(4)).

5 (3) A rural health clinic as defined in section 1861(aa) (2)  
6 of the Social Security Act (42 U.S.C. § 1395x(aa)(2)).

7 (4) A pharmacist who holds a valid license under the act of  
8 September 27, 1961 (P.L.1700, No.699), known as the "Pharmacy  
9 Act."

10 (5) A social worker, clinical social worker, marriage and  
11 family therapist or professional counselor who holds a valid  
12 license under the act of July 9, 1987 (P.L.220, No.39), known as  
13 the "Social Workers, Marriage and Family Therapists and  
14 Professional Counselors Act."

15 (6) A registered professional nurse who holds a valid  
16 license under the act of May 22, 1951 (P.L.317, No.69), known as  
17 "The Professional Nursing Law."

18 "Health insurance policy." The following:

19 (1) An individual or group health insurance policy,  
20 subscriber contract, certificate or plan that provides medical  
21 or health care coverage for services provided by a health care  
22 facility or licensed health care provider on an expense-incurred  
23 service or prepaid basis and that is offered by or is governed  
24 under any of the following:

25 (i) This act, including section 630.

26 (ii) The act of December 29, 1972 (P.L.1701, No.364), known  
27 as the "Health Maintenance Organization Act."

28 (iii) 40 Pa.C.S. Chs. 61 (relating to hospital plan  
29 corporations) and 63 (relating to professional health services  
30 plan corporations).

1     (2) The term does not include:

2     (i) Accident only.

3     (ii) Credit only.

4     (iii) Long-term care or disability income.

5     (iv) Specified disease.

6     (v) Medicare supplement.

7     (vi) TRICARE, including Civilian Health and Medical Program  
8 of the Uniformed Services (CHAMPUS) supplement.

9     (vii) Fixed indemnity.

10    (viii) Dental only.

11    (ix) Vision only.

12    (x) Workers' compensation.

13    (xi) Automobile medical payment insurance under 75 Pa.C.S.  
14 (relating to vehicles).

15    "Health insurer." An entity offering a health insurance  
16 policy or government program.

17    "Protected enrolled dependent." The following:

18    (1) An adult covered as a dependent on a health insurance  
19 policy.

20    (2) A minor authorized to consent to medical, dental and  
21 health services under State law that is covered as a dependent  
22 on a policyholder's insurance policy.

23    "Protected health information." As defined in Federal  
24 regulation under 45 CFR 160.103 (relating to definitions)  
25 promulgated under the administrative simplification provisions  
26 of the Health Insurance Portability and Accountability Act of  
27 1996 (Public Law 104-191, 110 Stat. 1936).

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