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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 828 Session of 2021

INTRODUCED BY J. WARD, CAPPELLETTI, COLLETT, MENSCH AND BREWSTER, JULY 26, 2021

REFERRED TO BANKING AND INSURANCE, JULY 26, 2021

AN ACT

Amending the act of July 22, 1974 (P.L.589, No.205), entitled "An act relating to unfair insurance practices; prohibiting unfair methods of competition and unfair or deceptive acts and practices; and prescribing remedies and penalties," further providing for unfair methods of competition and unfair or deceptive acts or practices defined.

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

Section 1. Section 5(a) of the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act, is amended by adding a paragraph to read:

Section 5. Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined.--(a) "Unfair methods of competition" and "unfair or deceptive acts or practices" in the business of insurance means:

* * *

(15) Altering the coverage provided by a health insurance policy, including, but not limited to, raising the premium, copayment, coinsurance or deductible or denying or otherwise failing to provide continued coverage for a health care benefit

that was included in the insured's health insurance policy and when the insured has already received the health care benefit. The following shall apply:

(i) This paragraph shall not apply to health care benefits obtained by an insured through fraudulent or criminal activity or subject to:

(A) a statement issued by the United States Food and Drug Administration (FDA) calling into question the clinical safety of the benefit; or

(B) a notice provided by the manufacturer of a prescription drug to the FDA related to a manufacturing discontinuance or potential discontinuance of the drug.

(ii) In addition to any other penalties authorized by this act, a violation of this paragraph shall be deemed a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices and Consumer Protection Law." Nothing in this act shall preclude an insured from exercising any right provided under the "Unfair Trade Practices and Consumer Protection Law." A civil penalty of up to one thousand dollars ($1,000) shall be imposed on a health insurer who violates this paragraph.

(iii) As used in this paragraph:

(A) "Biological product" shall have the same meaning as "biological product" in the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.).

(B) "Health care benefits" means all products, services, procedures, treatments and prescription drugs for which coverage is provided under a health insurance policy offered by a health insurer.

(C) (I) "Health insurance policy" means a group or

individual health or sickness or accident insurance policy, subscriber contract or certificate issued by an entity subject to any one of the following:

(a) The act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921," including section 630 and Article XXIV of that act.

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

(c) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

(II) The term does not include accident only, fixed indemnity, limited benefit, credit, dental, vision, specified disease, Medicare supplement, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement, long-term care or disability income, workers' compensation or automobile medical payment insurance.

(D) "Health insurer" means an entity licensed by the Insurance Department with accident and health authority to issue a policy, subscriber contract, certificate or plan that provides medical or health care coverage that is offered or governed under any of the following:

(I) "The Insurance Company Law of 1921," including section 630 and Article XXIV of that act.

(II) The "Health Maintenance Organization Act."

(III) 40 Pa.C.S. Ch. 61 or 63.

(E) "Insured" means a person who receives coverage under a health insurance policy and has paid all premiums due under the contract or policy. As used in this paragraph, the term shall include all individuals named in a health insurance policy

issued by a health insurer.

(F) "Prescription drug" means a controlled substance, other drug, including a biological product, or device for medication dispensed by order of an appropriately licensed medical professional.

(iv) This paragraph shall not be interpreted to impact or inhibit the applicability of any provision of the act of November 24, 1976 (P.L.1163, No.259), referred to as the "Generic Equivalent Drug Law."

(v) Nothing in this paragraph shall be construed to prohibit a health insurer from adding health care benefits during the term of a health insurance policy.

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