

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1140 Session of 2023

INTRODUCED BY KRUEGER, SMITH-WADE-EL, BOROWSKI, SCHLOSSBERG, KINSEY, ISAACSON, MADDEN, PROBST, BRENNAN, T. DAVIS, HILL-EVANS, SANCHEZ, DELLOSO, MAYES, GUENST, GALLOWAY, D. WILLIAMS, HOHENSTEIN, CERRATO, O'MARA, STURLA, GREEN, DALEY, KINKEAD, OTTEN, VENKAT, SHUSTERMAN AND MALAGARI, MAY 18, 2023

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2024

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 contraceptive coverage.~~

13 PROVIDING FOR ACCESS TO CONTRACEPTIVES; IMPOSING DUTIES ON THE <--
14 INSURANCE DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES;
15 AND IMPOSING PENALTIES.

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

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

21 ~~Section 635.9. Contraceptive Coverage. (a) An insurer that~~
22 ~~issues, delivers or renews a health insurance policy in this~~

1 ~~Commonwealth on or after the effective date of this section~~
2 ~~shall provide coverage for all contraceptive drugs, devices or~~
3 ~~other products.~~

4 ~~(b) (1) Except as provided in paragraphs (2) and (3), an~~
5 ~~insurer subject to the coverage required under this section may~~
6 ~~not:~~

7 ~~(i) Impose prior authorization, utilization review or step~~
8 ~~therapy requirements that unduly restrict or delay coverage or~~
9 ~~limit a person's freedom of choice of contraceptive drugs,~~
10 ~~devices or other products.~~

11 ~~(ii) Impose a copayment, coinsurance, deductible or any~~
12 ~~other cost sharing requirement for coverage of a contraceptive~~
13 ~~drug, product and service.~~

14 ~~(iii) Require a prescription to provide coverage of over~~
15 ~~the counter contraceptive drugs, devices or other products.~~

16 ~~(2) (i) If the FDA has designated a therapeutic equivalent~~
17 ~~to another contraceptive drug, product or service that is~~
18 ~~available under a policy or contract, the insurer shall include~~
19 ~~either the original contraceptive drug, product or service or,~~
20 ~~at a minimum, one therapeutic equivalent. If there is no~~
21 ~~therapeutic equivalent, the insurer must cover the original~~
22 ~~contraceptive drug, product or service.~~

23 ~~(ii) If the covered contraceptive drug, product or service~~
24 ~~is deemed medically inadvisable by the insured's health care~~
25 ~~provider, the health insurance policy shall provide coverage for~~
26 ~~a medically appropriate contraceptive drug, product or service~~
27 ~~that is prescribed by the insured's provider without a~~
28 ~~copayment, coinsurance, deductible or another cost sharing~~
29 ~~mechanism.~~

30 ~~(3) If a contraceptive drug, product or service is provided~~

~~1 by an out of network provider, the insurer must provide coverage~~
~~2 without imposing any cost sharing requirement on the insurer if:~~
~~3 (i) there is no in network provider to furnish the~~
~~4 contraceptive drug, product or service that is geographically~~
~~5 accessible or accessible in a reasonable amount of time, as~~
~~6 provided in 28 Pa. Code Ch. 9 Subch. H (relating to availability~~
~~7 and access); or~~
~~8 (ii) an in network provider is unable or unwilling to~~
~~9 provide the service in a timely manner.~~
~~10 (c) Coverage requirements for an insured under this section~~
~~11 must also be provided to an insured's covered spouse or domestic~~
~~12 partner and covered nonspouse dependents.~~
~~13 (d) Nothing in this section shall be construed to exclude~~
~~14 coverage for contraceptive drugs, devices or other products~~
~~15 prescribed by a provider, acting within the provider's scope of~~
~~16 practice, for reasons other than contraceptive purposes,~~
~~17 including decreasing the risk of ovarian cancer or eliminating~~
~~18 symptoms of menstruation, including, but not limited to, heavy~~
~~19 menstrual bleeding, irregular bleeding, menstrual cramps,~~
~~20 perimenstrual headaches, difficulty with hygiene and quality of~~
~~21 life among patients with cognitive or physical limitations and~~
~~22 prevention of heavy menstrual bleeding among patients with~~
~~23 cancer undergoing treatments that may increase menstrual flow~~
~~24 and anemia, ovarian cysts, endometriosis, menopause, polycystic~~
~~25 ovarian syndrome, amenorrhea, gender dysphoria or chronic~~
~~26 medical problems that worsen during menses, including, but not~~
~~27 limited to, inflammatory bowel disease, gastroparesis and~~
~~28 migraines, to contribute to the life, health or well being of an~~
~~29 insured.~~
~~30 (e) An insurer that limits coverage of contraceptive drugs,~~

~~1 devices or other products in a formulary shall provide for
2 coverage for a contraceptive drug, product and service that is
3 not in the formulary if, in the judgment of the health care
4 provider, the formulary does not include a contraceptive drug,
5 device or other product that is medically necessary.~~

~~6 (f) The insurer shall establish and implement an easily
7 accessible, transparent and sufficiently expedient process,
8 available in the insured's native language, by which an insured
9 may receive a contraceptive drug, product and service not in the
10 insurer's formulary in accordance with this section.~~

~~11 (g) The insurer shall recognize a spouse as an insured
12 dependent who may obtain health care without the consent or
13 knowledge of the spouse who is the policyholder.~~

~~14 (h) The following apply:~~

~~15 (1) Upon the written request of an insured dependent who may
16 obtain health care without the consent of a parent or legal
17 guardian pursuant to Federal or State law to obtain
18 contraceptive drugs, devices or other products, an insurer shall
19 not disclose protected personal health information concerning
20 the insured dependent's receipt of such drugs, devices or other
21 products to the policyholder or any other insured, including
22 calling the shared home to confirm an appointment or sending a
23 paper or electronic communication, an appointment notice, a bill
24 or explanation of benefits, a claim denial, a request for
25 additional information about a claim, a notice of a contested
26 claim, the name and address of a provider, a description of
27 services provided and other visit information unless explicitly
28 authorized by the insured dependent.~~

~~29 (2) An insurer who has received a request for confidential
30 communications shall not require the insured dependent to obtain~~

1 ~~the policyholder's or other covered person's authorization to~~
2 ~~receive health care services or to submit a claim as to health~~
3 ~~care which the insured dependent may obtain without parental~~
4 ~~consent under Federal or State law.~~

5 ~~(3) Insurers shall promptly inform insured dependents upon~~
6 ~~their enrollment of the right to choose their preferred method~~
7 ~~of communications, including to the insured dependent's address,~~
8 ~~electronic address, alternate address or telephone number, or to~~
9 ~~withhold such communications.~~

10 ~~(4) The Insurance Department shall prepare a standard, easy~~
11 ~~to understand form for insurers to provide to insured dependents~~
12 ~~to notify insured dependents of their right to request~~
13 ~~confidential communications and their preferred method of~~
14 ~~insurer communications and allow them to request confidential~~
15 ~~communications through use of the standard form, other written,~~
16 ~~electronic or oral communication in person or by telephone.~~

17 ~~(5) Insurers shall implement requests for confidential~~
18 ~~communications within three business days of receipt of a~~
19 ~~request and thereafter make all communications to the dependent~~
20 ~~insured's election unless the insured issues a revocation of the~~
21 ~~request.~~

22 ~~(i) The following shall apply to dispensing:~~

23 ~~(1) Except as provided in paragraph (2), an insurer shall~~
24 ~~provide coverage for a single dispensing to an insured of a~~
25 ~~supply of contraceptive drugs, devices or other products for up~~
26 ~~to a one year period.~~

27 ~~(2) An insurer may provide coverage for a supply of~~
28 ~~contraceptive drugs, devices or other products that is for less~~
29 ~~than a one year period if:~~

30 ~~(i) the insured requests a lesser dispensing of the~~

1 ~~contraceptive drugs, devices or other products at one time; or~~
2 ~~(ii) the prescribing provider instructs that the insured~~
3 ~~receive a lesser dispensing of the contraceptive drugs, devices~~
4 ~~or other products at one time.~~

5 ~~(3) A provider may not impose a limitation under paragraph~~
6 ~~(2) without the insured's consent.~~

7 ~~(j) An insurer:~~

8 ~~(1) Shall provide coverage without a prescription for~~
9 ~~dispensation of contraceptives, devices or other products~~
10 ~~intended to last the insured for a twelve month duration once it~~
11 ~~is determined that the chosen contraceptive works for the~~
12 ~~person, unless the insured requests a lesser dispensing of the~~
13 ~~contraceptive drugs, devices or other products.~~

14 ~~(2) May not discriminate in the delivery or coverage of~~
15 ~~contraceptive drugs, devices or other products based on the~~
16 ~~covered person's actual or perceived race, color, national~~
17 ~~origin, sex, sexual orientation, gender identity or expression,~~
18 ~~age or disability.~~

19 ~~(k) (1) A religious employer may request an exclusion from~~
20 ~~the coverage requirement under this section by submitting a~~
21 ~~written request to the Insurance Department, if the employer:~~

22 ~~(i) is a not for profit organization that has the purpose of~~
23 ~~inculcating religious values;~~

24 ~~(ii) primarily employs individuals who share the religious~~
25 ~~tenets of the employer; and~~

26 ~~(iii) primarily serves individuals who share the religious~~
27 ~~tenets of the employer.~~

28 ~~(2) The Insurance Department shall develop a timely and~~
29 ~~efficient process for responding to requests submitted under~~
30 ~~this subsection.~~

1 ~~(3) A religious employer granted an exclusion under this~~
2 ~~subsection shall provide written notice to prospective insureds~~
3 ~~prior to their enrollment in the health insurance policy,~~
4 ~~listing the contraceptive drugs, devices or other products that~~
5 ~~the employer refuses to cover for religious reasons.~~

6 ~~(4) The exclusion from coverage under this subsection shall~~
7 ~~not apply to a contraceptive drug, device or other product which~~
8 ~~is used for purposes other than contraception.~~

9 ~~(5) If a religious employer is granted an exclusion under~~
10 ~~this subsection:~~

11 ~~(i) Each insured covered under the health insurance policy~~
12 ~~shall have the right to directly purchase coverage for the cost~~
13 ~~of contraceptive drugs, devices or other products from the~~
14 ~~insurer which issued the policy at the prevailing small group~~
15 ~~community rate whether the insured is part of a small group.~~

16 ~~(ii) The insurer that provides the coverage shall provide~~
17 ~~written notice to insureds upon enrollment with the insurer of~~
18 ~~their right to directly purchase coverage for the cost of~~
19 ~~contraceptive drugs, devices or other products. The notice shall~~
20 ~~also advise the enrollees of the additional premium for coverage~~
21 ~~of contraceptive drugs, devices or other products.~~

22 ~~(1) The following shall apply regarding enforcement:~~

23 ~~(1) A prospective insured or insured who believes that the~~
24 ~~prospective insured or insured has been adversely affected by an~~
25 ~~act or practice of an insurer in violation of this section may~~
26 ~~file any of the following:~~

27 ~~(i) A complaint with the Insurance Commissioner, who shall~~
28 ~~handle the complaint consistent with 2 Pa.C.S. (relating to~~
29 ~~administrative law and procedure) and address a violation~~
30 ~~through means appropriate to the nature and extent of the~~

1 ~~violation, which may include a cease and desist order,~~
2 ~~injunctive relief, restitution, suspension or revocation of a~~
3 ~~certificate of authority or license, civil penalties,~~
4 ~~reimbursement of costs or reasonable attorney fees incurred by~~
5 ~~the aggrieved individual in bringing the complaint, or any~~
6 ~~combination of these.~~

7 ~~(ii) A civil action against the insurer in a State court of~~
8 ~~original jurisdiction, which, upon proof of the violation of~~
9 ~~this section by a preponderance of the evidence, shall award~~
10 ~~appropriate relief, including temporary, preliminary or~~
11 ~~permanent injunctive relief, compensatory or punitive damages,~~
12 ~~the costs of suit, reasonable attorney fees and reasonable fees~~
13 ~~for the aggrieved individual's expert witnesses. At any time~~
14 ~~prior to the rendering of final judgment, the aggrieved~~
15 ~~individual may elect to recover, in lieu of actual damages, an~~
16 ~~award of statutory damages in the amount of five thousand~~
17 ~~dollars for each violation.~~

18 ~~(2) (Reserved).~~

19 ~~(m) As used in this section:~~

20 ~~"Contraceptive drugs, devices or other products" means the~~
21 ~~following:~~

22 ~~(1) The term includes, but is not limited to:~~

23 ~~(i) Medical and counseling services.~~

24 ~~(ii) All regimens of over the counter and prescription~~
25 ~~contraceptive drugs approved by the FDA.~~

26 ~~(iii) All regimens of prescription contraceptive devices~~
27 ~~approved by the FDA and any generic equivalent approved as~~
28 ~~substitutable by the FDA.~~

29 ~~(iv) Tubal ligation.~~

30 ~~(v) Voluntary sterilization implant.~~

- 1 ~~(vi) Voluntary sterilization surgery.~~
2 ~~(vii) Copper intrauterine device.~~
3 ~~(viii) Intrauterine device with progestin.~~
4 ~~(ix) Implantable rod.~~
5 ~~(x) Contraceptive shot or injection.~~
6 ~~(xi) Combined oral contraceptives.~~
7 ~~(xii) Extended or continuous use oral contraceptives.~~
8 ~~(xiii) Progestin only oral contraceptives.~~
9 ~~(xiv) Patch.~~
10 ~~(xv) Vaginal ring.~~
11 ~~(xvi) Diaphragm with spermicide.~~
12 ~~(xvii) Sponge with spermicide.~~
13 ~~(xviii) Cervical cap with spermicide.~~
14 ~~(xix) External and internal condoms.~~
15 ~~(xx) Spermicide alone.~~
16 ~~(xxi) Vasectomy.~~
17 ~~(xxii) Ulipristal acetate.~~
18 ~~(xxiii) Levonorgestrel emergency contraception.~~
19 ~~(xxiv) Any additional contraceptive drugs, products or~~
20 ~~services approved by the FDA.~~

21 ~~(2) The term does not include a drug, device or other~~
22 ~~product that has been recalled for safety reasons or withdrawn~~
23 ~~from the market.~~

24 ~~"FDA" means the United States Food and Drug Administration.~~

25 ~~"Health care provider" means a person who is licensed,~~
26 ~~certified or otherwise lawfully authorized to provide health~~
27 ~~care in the ordinary course of business.~~

28 ~~"Health insurance policy" means the following:~~

29 ~~(1) An individual or group health insurance policy,~~
30 ~~subscriber contract, certificate or plan which provides medical~~

~~1 or health care coverage by a health care facility or licensed
2 health care provider which is offered by or is governed under
3 this act or any of the following:~~

~~4 (i) Subarticle (f) of Article IV of the act of June 13, 1967
5 (P.L.31, No.21), known as the "Human Services Code," and Article
6 XXIII of this act.~~

~~7 (ii) The act of December 29, 1972 (P.L.1701, No.364), known
8 as the "Health Maintenance Organization Act."~~

~~9 (iii) The act of May 18, 1976 (P.L.123, No.54), known as the
10 "Individual Accident and Sickness Insurance Minimum Standards
11 Act."~~

~~12 (iv) A nonprofit corporation subject to 40 Pa.C.S. Ch. 61
13 (relating to hospital plan corporations) or 63 (relating to
14 professional health services plan corporations).~~

~~15 (2) Does not include any of the following:~~

~~16 (i) A health benefit plan that is a grandfathered health
17 plan, as defined in 42 U.S.C. § 18011 (relating to preservation
18 of right to maintain existing coverage) and any rules,
19 regulations or guidance issued under that act.~~

~~20 (ii) Any of the following types of insurance or a
21 combination of any of the following types of insurance:~~

~~22 (A) Accident only.~~

~~23 (B) Fixed indemnity.~~

~~24 (C) Limited benefit.~~

~~25 (D) Credit.~~

~~26 (E) Dental.~~

~~27 (F) Vision.~~

~~28 (G) Specified disease.~~

~~29 (H) Medicare supplement.~~

~~30 (I) Civilian Health and Medical Program of the Uniformed~~

1 ~~Services (CHAMPUS) supplement.~~

2 ~~(J) Long term care or disability income.~~

3 ~~(K) Workers' compensation.~~

4 ~~(L) Automobile medical payment.~~

5 ~~"Insurer" means an entity that issues an individual or group~~
6 ~~health insurance policy.~~

7 ~~"Medical or counseling service" includes, but is not limited~~
8 ~~to:~~

9 ~~(1) Examinations, procedures and medical and counseling~~
10 ~~services related to the provision or use of contraception which~~
11 ~~are provided on an inpatient or outpatient basis, including~~
12 ~~consultations.~~

13 ~~(2) Services for initial and periodic comprehensive physical~~
14 ~~examinations, procedures, ultrasound, anesthesia, patient~~
15 ~~education, individual counseling, group family counseling,~~
16 ~~device insertions and removal, follow up care and side effect~~
17 ~~management. Coverage for the examinations shall be consistent~~
18 ~~with the recommendations of the appropriate medical specialty~~
19 ~~organizations and shall be made under terms and conditions~~
20 ~~applicable to other coverage.~~

21 ~~(3) Medical, laboratory and radiology services warranted by~~
22 ~~initial and periodic comprehensive physical examinations or by~~
23 ~~the history, physical findings or risk factors, including~~
24 ~~medical services necessary for the insertion and removal of any~~
25 ~~contraceptive drug, product or service and individual or group~~
26 ~~family planning counseling.~~

27 ~~"Therapeutic equivalent" means a drug, device or other~~
28 ~~product which:~~

29 ~~(1) Can be expected to have the same clinical effect and~~
30 ~~safety profile when administered to a patient under the~~

1 ~~conditions specified in the labeling.~~

2 ~~(2) Is FDA approved as safe and effective.~~

3 ~~(3) Is a pharmaceutical equivalent which:~~

4 ~~(i) contains identical amounts of the same active drug~~
5 ~~ingredient in the same dosage form and route of administration;~~
6 ~~and~~

7 ~~(ii) meets compendial or other applicable standards of~~
8 ~~strength, quality, purity and identity.~~

9 ~~(4) Is bioequivalent which:~~

10 ~~(i) does not present a known or potential bioequivalence~~
11 ~~problem and meets an acceptable in vitro standard; or~~

12 ~~(ii) is shown to meet an appropriate bioequivalence standard~~
13 ~~if it does present a known or potential bioequivalence problem.~~

14 ~~(5) Is adequately labeled.~~

15 ~~(6) Is manufactured in compliance with current good~~
16 ~~manufacturing practice regulations.~~

17 ~~Section 2. This act shall take effect in 180 days.~~

18 SECTION 1. SHORT TITLE.

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19 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE CONTRACEPTIVE
20 ACCESS FOR ALL ACT.

21 SECTION 2. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
23 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
24 CONTEXT CLEARLY INDICATES OTHERWISE:

25 "COST-SHARING." AS FOLLOWS:

26 (1) THE SHARE OF THE HEALTH CARE COSTS COVERED BY A
27 GOVERNMENT PROGRAM OR HEALTH INSURANCE POLICY THAT AN
28 ENROLLEE OR COVERED PERSON PAYS OUT-OF-POCKET.

29 (2) THE TERM INCLUDES A DEDUCTIBLE, COINSURANCE,
30 COPAYMENT OR SIMILAR CHARGE.

1 (3) THE TERM DOES NOT INCLUDE A PREMIUM, A BALANCE
2 BILLED AMOUNT FROM AN OUT-OF-NETWORK PROVIDER OR THE COST OF
3 A NONCOVERED SERVICE.

4 "COVERED PERSON." A POLICYHOLDER, SUBSCRIBER, COVERED PERSON
5 OR OTHER INDIVIDUAL WHO IS ENTITLED TO RECEIVE HEALTH CARE
6 SERVICES UNDER A HEALTH INSURANCE POLICY.

7 "ENROLLEE." AN INDIVIDUAL WHO IS ENTITLED TO RECEIVE HEALTH
8 CARE SERVICES UNDER A GOVERNMENT PROGRAM.

9 "FDA." THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

10 "GOVERNMENT PROGRAM." COVERAGE UNDER EITHER OF THE
11 FOLLOWING:

12 (1) ARTICLE XXIII-A OF THE ACT OF MAY 17, 1921 (P.L.682,
13 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921.

14 (2) SUBARTICLE (F) OF ARTICLE IV OF THE ACT OF JUNE 13,
15 1967 (P.L.31, NO.21), KNOWN AS THE HUMAN SERVICES CODE.

16 "HEALTH CARE PROVIDER." AN INDIVIDUAL WHO IS AUTHORIZED TO
17 PRACTICE SOME COMPONENT OF THE HEALING ARTS BY A LICENSE,
18 PERMIT, CERTIFICATE OR REGISTRATION ISSUED BY A COMMONWEALTH
19 LICENSING AGENCY OR BOARD.

20 "HEALTH INSURANCE POLICY." AS FOLLOWS:

21 (1) A POLICY, SUBSCRIBER CONTRACT, CERTIFICATE OR PLAN
22 ISSUED BY A HEALTH INSURER THAT PROVIDES MEDICAL OR HEALTH
23 CARE COVERAGE.

24 (2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

25 (I) AN ACCIDENT ONLY POLICY.

26 (II) A CREDIT ONLY POLICY.

27 (III) A LONG-TERM CARE POLICY.

28 (IV) A DISABILITY INCOME POLICY.

29 (V) A SPECIFIED DISEASE POLICY.

30 (VI) A MEDICARE SUPPLEMENT POLICY.

- 1 (VII) A FIXED INDEMNITY POLICY.
2 (VIII) A DENTAL ONLY POLICY.
3 (IX) A VISION ONLY POLICY.
4 (X) A WORKERS' COMPENSATION POLICY.
5 (XI) AN AUTOMOBILE MEDICAL PAYMENT POLICY.
6 (XII) A POLICY UNDER WHICH BENEFITS ARE PROVIDED BY
7 THE FEDERAL GOVERNMENT TO ACTIVE OR FORMER MILITARY
8 PERSONNEL AND THEIR DEPENDENTS.
9 (XIII) A HOSPITAL INDEMNITY POLICY.
10 (XIV) ANY OTHER SIMILAR POLICY PROVIDING FOR LIMITED
11 BENEFITS.

12 "HEALTH INSURER." AN ENTITY THAT OFFERS, ISSUES OR RENEWS A
13 HEALTH INSURANCE POLICY THAT PROVIDES MEDICAL OR HEALTH CARE
14 COVERAGE BY A HEALTH CARE FACILITY OR LICENSED HEALTH CARE
15 PROVIDER GOVERNED UNDER ANY OF THE FOLLOWING:

16 (1) THE INSURANCE COMPANY LAW OF 1921, INCLUDING SECTION
17 630 AND ARTICLE XXIV THEREOF.

18 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),
19 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

20 (3) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
21 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES
22 PLAN CORPORATIONS).

23 "OUT-OF-NETWORK PROVIDER." A HEALTH CARE PROVIDER WHO DOES
24 NOT CONTRACT WITH A GOVERNMENT PROGRAM OR HEALTH INSURER TO
25 PROVIDE HEALTH CARE SERVICES TO AN ENROLLEE OR COVERED PERSON.

26 "PRIOR AUTHORIZATION." AS DEFINED IN SECTION 2102 OF THE
27 INSURANCE COMPANY LAW OF 1921.

28 "STEP THERAPY." AS DEFINED IN SECTION 2102 OF THE INSURANCE
29 COMPANY LAW OF 1921.

30 SECTION 3. MINIMUM COVERAGE REQUIREMENTS.

1 (A) MANDATORY COVERAGE.--A GOVERNMENT PROGRAM OR HEALTH
2 INSURANCE POLICY OFFERED, ISSUED OR RENEWED IN THIS COMMONWEALTH
3 SHALL PROVIDE COVERAGE FOR ALL OF THE FOLLOWING:

4 (1) ALL FDA-APPROVED CONTRACEPTIVE DRUGS, DEVICES AND
5 OTHER PRODUCTS FOR WHICH AN ENROLLEE OR COVERED PERSON
6 OBTAINED A PRESCRIPTION.

7 (2) ALL FDA-APPROVED OVER-THE-COUNTER EMERGENCY
8 CONTRACEPTIVE DRUGS, INCLUDING LEVONORGESTREL AND ULIPRISTAL
9 ACETATE, FOR WHICH AN ENROLLEE OR COVERED PERSON OBTAINED A
10 PRESCRIPTION OR WHICH IS THE SUBJECT OF A STANDING ORDER
11 ISSUED UNDER SECTION 4. COVERAGE PROVIDED UNDER THIS
12 PARAGRAPH SHALL NOT BE SUBJECT TO PRIOR AUTHORIZATION OR STEP
13 THERAPY.

14 (3) ALL FDA-APPROVED OVER-THE-COUNTER ORAL CONTRACEPTIVE
15 DRUGS, FOR WHICH AN ENROLLEE OR COVERED PERSON OBTAINED A
16 PRESCRIPTION OR WHICH IS THE SUBJECT OF A STANDING ORDER
17 ISSUED UNDER SECTION 4. COVERAGE PROVIDED UNDER THIS
18 PARAGRAPH SHALL NOT BE SUBJECT TO PRIOR AUTHORIZATION OR STEP
19 THERAPY.

20 (4) PRESCRIPTION ORAL CONTRACEPTIVES INTENDED TO LAST
21 FOR NOT MORE THAN A THREE-MONTH PERIOD FOR THE FIRST TIME
22 THAT THE PRESCRIPTION ORAL CONTRACEPTIVE IS DISPENSED TO THE
23 ENROLLEE OR COVERED PERSON.

24 (5) AS FOLLOWS:

25 (I) SUBJECT TO SUBPARAGRAPH (II), PRESCRIPTION ORAL
26 CONTRACEPTIVES INTENDED TO LAST FOR NOT MORE THAN A 12-
27 MONTH PERIOD FOR ANY SUBSEQUENT DISPENSING OF THE SAME
28 PRESCRIPTION, WHICH MAY BE DISPENSED ALL AT ONCE OR OVER
29 THE COURSE OF THE 12-MONTH PERIOD, REGARDLESS OF WHETHER
30 THE ENROLLEE OR COVERED PERSON WAS ENROLLED IN A

1 GOVERNMENT PROGRAM OR HEALTH INSURANCE POLICY AT THE TIME
2 THE PRESCRIPTION CONTRACEPTIVE WAS FIRST DISPENSED.

3 (II) AN ENROLLEE OR COVERED PERSON MAY NOT FILL MORE
4 THAN ONE 12-MONTH PRESCRIPTION ORAL CONTRACEPTIVE IN A
5 SINGLE CALENDAR YEAR.

6 (6) VOLUNTARY ADULT MALE AND VOLUNTARY ADULT FEMALE
7 STERILIZATION SURGERY.

8 (7) ITEMS AND SERVICES INTEGRAL TO THE FURNISHING OF
9 CONTRACEPTIVE DRUGS, DEVICES AND PRODUCTS OR VOLUNTARY
10 STERILIZATION SURGERY, INCLUDING PATIENT SCREENING, EDUCATION
11 AND COUNSELING AND ITEMS AND SERVICES RELATED TO THE
12 INSERTION OR REMOVAL OF A CONTRACEPTIVE DEVICE.

13 (B) COST-SHARING PROHIBITED.--COVERAGE UNDER SUBSECTION (A)
14 SHALL BE PROVIDED WITHOUT IMPOSING ANY FORM OF COST-SHARING.

15 (C) CONSTRUCTION.--NOTHING IN SUBSECTION (A) SHALL BE
16 CONSTRUED TO:

17 (1) REQUIRE COVERAGE OF MALE CONDOMS.

18 (2) EXCLUDE, LIMIT OR PROHIBIT COVERAGE FOR
19 CONTRACEPTIVE DRUGS, DEVICES AND PRODUCTS USED FOR OTHER THAN
20 CONTRACEPTIVE PURPOSES.

21 (D) CONDITIONS FOR COVERAGE.--EXCEPT FOR OVER-THE-COUNTER
22 EMERGENCY CONTRACEPTIVE DRUGS DESCRIBED IN SUBSECTION (A) (2) AND
23 OVER-THE-COUNTER ORAL CONTRACEPTIVE DRUGS DESCRIBED IN
24 SUBSECTION (A) (3), A GOVERNMENT PROGRAM OR HEALTH INSURANCE
25 POLICY MAY REQUIRE THAT ITEMS AND SERVICES DESCRIBED IN
26 SUBSECTION (A) ARE MEDICALLY NECESSARY OR APPROPRIATE AS A
27 CONDITION OF COVERAGE.

28 (E) COMPLIANCE WITH LAW.--A GOVERNMENT PROGRAM OR HEALTH
29 INSURER THAT IMPOSES PRIOR AUTHORIZATION OR STEP THERAPY ON THE
30 ITEMS OR SERVICES DESCRIBED IN SUBSECTION (D) SHALL COMPLY WITH

1 ALL APPLICABLE FEDERAL AND STATE LAWS AND GUIDANCE CONCERNING
2 PRIOR AUTHORIZATION AND STEP THERAPY, INCLUDING:

3 (1) SECTION 2155 OF THE ACT OF MAY 17, 1921 (P.L.682,
4 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921.

5 (2) SECTION 2156 OF THE INSURANCE COMPANY LAW OF 1921.

6 (3) SUBDIVISION (I) OF ARTICLE XXI OF THE INSURANCE
7 COMPANY LAW OF 1921.

8 (4) SUBDIVISION (I.1) OF ARTICLE XXI OF THE INSURANCE
9 COMPANY LAW OF 1921.

10 (F) OUT-OF-NETWORK PROVIDERS.--

11 (1) THE FOLLOWING APPLY:

12 (I) SUBJECT TO SUBPARAGRAPH (II), NOTHING IN
13 SUBSECTION (A) SHALL:

14 (A) REQUIRE A HEALTH INSURER THAT HAS A NETWORK
15 OF PROVIDERS TO PROVIDE BENEFITS FOR CONTRACEPTIVE
16 CARE COVERED UNDER SUBSECTION (A) THAT ARE DELIVERED
17 BY AN OUT-OF-NETWORK PROVIDER.

18 (B) PRECLUDE A HEALTH INSURER THAT HAS A NETWORK
19 OF PROVIDERS FROM IMPOSING COST-SHARING REQUIREMENTS
20 FOR CONTRACEPTIVE CARE COVERED UNDER SUBSECTION (A)
21 THAT ARE DELIVERED BY AN OUT-OF-NETWORK PROVIDER.

22 (II) IF A HEALTH INSURER DOES NOT HAVE IN ITS
23 NETWORK A PROVIDER THAT CAN PROVIDE CONTRACEPTIVE CARE
24 COVERED UNDER SUBSECTION (A), THE HEALTH INSURER SHALL
25 COVER THE CONTRACEPTIVE CARE WHEN PERFORMED BY AN OUT-OF-
26 NETWORK PROVIDER AND MAY NOT IMPOSE COST-SHARING WITH
27 RESPECT TO THE CONTRACEPTIVE CARE.

28 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
29 LIMITING AN ENROLLEE'S ABILITY TO RECEIVE CONTRACEPTIVE CARE
30 FROM A HEALTH CARE PROVIDER IN ACCORDANCE WITH 42 CFR 431.51

1 (RELATING TO FREE CHOICE OF PROVIDERS) .

2 SECTION 4. STANDING ORDER.

3 (A) PERMISSIBLE ACTS.--NOTWITHSTANDING ANY OTHER PROVISION
4 OF LAW, A HEALTH CARE PROVIDER OTHERWISE AUTHORIZED TO PRESCRIBE
5 FDA-APPROVED OVER-THE-COUNTER EMERGENCY CONTRACEPTIVE DRUGS OR
6 FDA-APPROVED OVER-THE-COUNTER ORAL CONTRACEPTIVE DRUGS MAY
7 DISPENSE, PRESCRIBE OR DISTRIBUTE THE DRUGS DIRECTLY OR BY A
8 STANDING ORDER TO A PERSON WITHIN THIS COMMONWEALTH.

9 (B) ISSUANCE OF STANDING ORDER.--THE SECRETARY OF HEALTH OR
10 THE PHYSICIAN GENERAL OF THE COMMONWEALTH SHALL ISSUE A
11 STATEWIDE STANDING ORDER IN ACCORDANCE WITH SUBSECTION (A) FOR
12 FDA-APPROVED OVER-THE-COUNTER EMERGENCY CONTRACEPTIVE DRUGS AND
13 FDA-APPROVED OVER-THE-COUNTER ORAL CONTRACEPTIVE DRUGS.

14 (C) LIABILITY.--

15 (1) A HEALTH CARE PROVIDER WHO, ACTING IN GOOD FAITH,
16 PRESCRIBES OR DISPENSES A DRUG PURSUANT TO A STANDING ORDER
17 UNDER THIS SECTION SHALL NOT BE SUBJECT TO ANY CRIMINAL OR
18 CIVIL LIABILITY OR ANY PROFESSIONAL DISCIPLINARY ACTION FOR:

19 (I) PRESCRIBING OR DISPENSING THE DRUG; OR

20 (II) ANY OUTCOMES RESULTING FROM THE EVENTUAL
21 ADMINISTRATION OF THE FDA-APPROVED OVER-THE-COUNTER
22 EMERGENCY CONTRACEPTIVE DRUG OR FDA-APPROVED OVER-THE-
23 COUNTER ORAL CONTRACEPTIVE DRUG.

24 (2) THE IMMUNITY UNDER PARAGRAPH (1) SHALL NOT APPLY TO
25 A HEALTH CARE PROVIDER WHO ACTS WITH INTENT TO HARM OR WITH
26 RECKLESS INDIFFERENCE TO A SUBSTANTIAL RISK OF HARM.

27 SECTION 5. RELIGIOUS EXEMPTION.

28 (A) GENERAL RULE.--NOTWITHSTANDING THE ACT OF DECEMBER 9,
29 2002 (P.L.1701, NO.214), KNOWN AS THE RELIGIOUS FREEDOM
30 PROTECTION ACT, AND EXCEPT AS PROVIDED IN SUBSECTION (B), A

1 HEALTH INSURANCE POLICY ISSUED TO AN OBJECTING ENTITY OR
2 INDIVIDUAL UNDER 45 CFR 147.132 (RELATING TO RELIGIOUS
3 EXEMPTIONS IN CONNECTION WITH COVERAGE OF CERTAIN PREVENTIVE
4 HEALTH SERVICES) OR 147.133 (RELATING TO MORAL EXEMPTIONS IN
5 CONNECTION WITH COVERAGE OF CERTAIN PREVENTIVE HEALTH SERVICES)
6 IS EXEMPT FROM SECTION 3.

7 (B) EXCEPTION.--AN EXEMPTION UNDER SUBSECTION (A) SHALL NOT
8 APPLY TO CONTRACEPTIVE DRUGS, DEVICES OR PRODUCTS USED FOR
9 PURPOSES OTHER THAN CONTRACEPTIVE PURPOSES.

10 (C) NOTICE.--AN OBJECTING ENTITY EXEMPT FROM SECTION 3 SHALL
11 PROVIDE WRITTEN NOTICE TO EMPLOYEES AND PROSPECTIVE EMPLOYEES
12 THAT THE ENTITY DOES NOT PROVIDE OR LIMITS COVERAGE OF
13 CONTRACEPTIVE CARE DESCRIBED IN SECTION 3(A). THE NOTICE SHALL
14 INDICATE WHETHER ANY CONTRACEPTIVE CARE IS COVERED AND, IF SO,
15 UNDER WHAT CONDITIONS.

16 SECTION 6. CONFIDENTIALITY.

17 (A) ALTERNATIVE MEANS OF COMMUNICATION.--A GOVERNMENT
18 PROGRAM OR HEALTH INSURER MUST PERMIT AND ACCOMMODATE A
19 REASONABLE REQUEST BY AN ENROLLEE OR COVERED PERSON TO RECEIVE
20 COMMUNICATIONS FROM THE GOVERNMENT PROGRAM OR HEALTH INSURER
21 REGARDING THE RECEIPT OF CONTRACEPTIVE CARE COVERED UNDER
22 SECTION 3 BY ALTERNATIVE MEANS OR AT ALTERNATIVE LOCATIONS. A
23 REQUEST IS REASONABLE IF THE ENROLLEE OR COVERED PERSON STATES
24 CLEARLY THAT THE DISCLOSURE OF ALL OR PART OF THAT INFORMATION
25 COULD ENDANGER THE ENROLLEE OR COVERED PERSON.

26 (B) REQUEST IN WRITING.--A GOVERNMENT PROGRAM OR HEALTH
27 INSURER MAY REQUIRE THE ENROLLEE OR COVERED PERSON TO MAKE A
28 REQUEST FOR CONFIDENTIAL COMMUNICATION DESCRIBED IN SUBSECTION
29 (A) IN WRITING.

30 (C) CONDITION.--A GOVERNMENT PROGRAM OR HEALTH INSURER MAY

1 CONDITION THE PROVISION OF A REASONABLE ACCOMMODATION ON
2 SPECIFICATION OF AN ALTERNATIVE ADDRESS OR OTHER METHOD OF
3 CONTACT.

4 (D) REQUIRED STATEMENT.--A GOVERNMENT PROGRAM OR HEALTH
5 INSURER MAY REQUIRE THAT A REQUEST FOR ALTERNATIVE COMMUNICATION
6 UNDER SUBSECTION (A) CONTAIN A STATEMENT THAT DISCLOSURE OF ALL
7 OR PART OF THE INFORMATION TO WHICH THE REQUEST PERTAINS COULD
8 ENDANGER THE ENROLLEE OR COVERED PERSON.

9 (E) DENIALS AND REQUESTS FOR ADDITIONAL INFORMATION.--IF A
10 GOVERNMENT PROGRAM OR HEALTH INSURER DENIES OR REQUESTS
11 ADDITIONAL INFORMATION FROM THE COVERED PERSON OR ENROLLEE
12 REGARDING A REQUEST FOR CONFIDENTIAL COMMUNICATIONS, THE
13 GOVERNMENT PROGRAM OR HEALTH INSURER SHALL TRANSMIT THE DENIAL
14 OR REQUEST TO THE COVERED PERSON OR ENROLLEE IN ACCORDANCE WITH
15 THE ALTERNATIVE MEANS OR ALTERNATIVE LOCATIONS SELECTED BY THE
16 COVERED PERSON OR ENROLLEE IN THE REQUEST FOR CONFIDENTIAL
17 COMMUNICATIONS.

18 SECTION 7. REPORTS.

19 (A) ADDITIONAL CONTENTS.--THE ANNUAL REPORTS BY THE
20 INSURANCE DEPARTMENT UNDER SECTION 2181(F) OF THE ACT OF MAY 17,
21 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF
22 1921, SHALL INCLUDE INFORMATION ON THE NUMBER, TYPE AND
23 DISPOSITION OF EACH COMPLAINT, GRIEVANCE, INTERNAL APPEAL AND
24 ADVERSE BENEFIT DETERMINATION FILED WITH A HEALTH INSURER OR
25 GOVERNMENT PROGRAM REGARDING CONTRACEPTIVE CARE.

26 (B) DEFINITIONS.--AS USED IN THIS SECTION, THE TERMS
27 "COMPLAINT," "GRIEVANCE" AND "ADVERSE BENEFIT DETERMINATION"
28 SHALL HAVE THE MEANINGS GIVEN TO THEM IN SECTION 2102 OF THE
29 INSURANCE COMPANY LAW OF 1921.

30 SECTION 8. ENFORCEMENT.

1 (A) PENALTIES.--UPON SATISFACTORY EVIDENCE OF THE VIOLATION
2 OF THIS ACT BY A HEALTH INSURER, ONE OR MORE OF THE FOLLOWING
3 PENALTIES MAY BE IMPOSED AT THE DISCRETION OF THE INSURANCE
4 COMMISSIONER:

5 (1) SUSPENSION OR REVOCATION OF THE LICENSE OF THE
6 OFFENDING HEALTH INSURER OR OTHER PERSON.

7 (2) REFUSAL, FOR A PERIOD NOT TO EXCEED ONE YEAR, TO
8 ISSUE A NEW LICENSE TO THE OFFENDING HEALTH INSURER OR OTHER
9 PERSON.

10 (3) A FINE OF NOT MORE THAN \$5,000 FOR EACH VIOLATION OF
11 THIS ACT.

12 (4) A FINE OF NOT MORE THAN \$10,000 FOR EACH WILLFUL
13 VIOLATION OF THIS ACT.

14 (B) LIMITATIONS.--

15 (1) FINES IMPOSED AGAINST A HEALTH INSURER UNDER THIS
16 ACT MAY NOT EXCEED \$500,000 IN THE AGGREGATE DURING A SINGLE
17 CALENDAR YEAR.

18 (2) FINES IMPOSED AGAINST ANY OTHER PERSON UNDER THIS
19 ACT MAY NOT EXCEED \$100,000 IN THE AGGREGATE DURING A SINGLE
20 CALENDAR YEAR.

21 (C) ADDITIONAL REMEDIES.--THE ENFORCEMENT REMEDIES IMPOSED
22 UNDER THIS SECTION ARE IN ADDITION TO ANY OTHER REMEDIES OR
23 PENALTIES THAT MAY BE IMPOSED UNDER ANY OTHER APPLICABLE LAW OF
24 THIS COMMONWEALTH, INCLUDING:

25 (1) THE ACT OF JULY 22, 1974 (P.L.589, NO.205), KNOWN AS
26 THE UNFAIR INSURANCE PRACTICES ACT. A VIOLATION OF THIS ACT
27 SHALL BE DEEMED TO BE AN UNFAIR METHOD OF COMPETITION AND AN
28 UNFAIR OR DECEPTIVE ACT OR PRACTICE UNDER THAT ACT.

29 (2) THE ACT OF DECEMBER 18, 1996 (P.L.1066, NO.159),
30 KNOWN AS THE ACCIDENT AND HEALTH FILING REFORM ACT.

1 (3) THE ACT OF JUNE 25, 1997 (P.L.295, NO.29), KNOWN AS
2 THE PENNSYLVANIA HEALTH CARE INSURANCE PORTABILITY ACT.

3 (D) ADMINISTRATION.--

4 (1) THE ADMINISTRATIVE PROVISIONS OF THIS SECTION SHALL
5 BE SUBJECT TO 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE
6 AND PROCEDURE OF COMMONWEALTH AGENCIES).

7 (2) A PARTY AGAINST WHOM PENALTIES ARE ASSESSED IN AN
8 ADMINISTRATIVE ACTION UNDER THIS SECTION MAY APPEAL TO
9 COMMONWEALTH COURT AS PROVIDED IN 2 PA.C.S. CH. 7 SUBCH. A
10 (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

11 SECTION 9. REGULATIONS.

12 (A) DEPARTMENT OF HUMAN SERVICES.--THE DEPARTMENT OF HUMAN
13 SERVICES MAY PROMULGATE NECESSARY AND APPROPRIATE REGULATIONS
14 WITH RESPECT TO GOVERNMENT PROGRAMS TO IMPLEMENT, ADMINISTER AND
15 ENFORCE THIS ACT.

16 (B) INSURANCE DEPARTMENT.--THE INSURANCE DEPARTMENT MAY
17 PROMULGATE NECESSARY AND APPROPRIATE REGULATIONS WITH RESPECT TO
18 HEALTH INSURERS AND HEALTH INSURANCE POLICIES TO IMPLEMENT,
19 ADMINISTER AND ENFORCE THIS ACT.

20 SECTION 10. APPLICABILITY.

21 THIS ACT SHALL APPLY AS FOLLOWS:

22 (1) FOR HEALTH INSURANCE POLICIES FOR WHICH EITHER RATES
23 OR FORMS ARE REQUIRED TO BE FILED WITH THE FEDERAL GOVERNMENT
24 OR THE INSURANCE DEPARTMENT, THIS ACT SHALL APPLY TO ANY
25 POLICY FOR WHICH A FORM OR RATE IS FIRST FILED ON OR AFTER
26 THE EFFECTIVE DATE OF THIS PARAGRAPH.

27 (2) FOR HEALTH INSURANCE POLICIES FOR WHICH NEITHER
28 RATES NOR FORMS ARE REQUIRED TO BE FILED WITH THE FEDERAL
29 GOVERNMENT OR THE INSURANCE DEPARTMENT, THIS ACT SHALL APPLY
30 TO ANY POLICY ISSUED OR RENEWED ON OR AFTER 180 DAYS AFTER

1 THE EFFECTIVE DATE OF THIS PARAGRAPH.

2 SECTION 11. SEVERABILITY.

3 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF A PROVISION OF
4 THIS ACT OR THE PROVISION'S APPLICATION TO A PERSON OR
5 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
6 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
7 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

8 SECTION 12. EFFECTIVE DATE.

9 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.