
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1663 Session of
2023

INTRODUCED BY VENKAT, HOGAN, KHAN, KOSIEROWSKI, MERCURI,
PISCIOTTANO, DELLOSO, PARKER, PROBST, HILL-EVANS, MADDEN,
HANBIDGE, SANCHEZ, FREEMAN, DONAHUE, MALAGARI, HOWARD,
HADDOCK, MAYES, CEPEDA-FREYTIZ, SHUSTERMAN, BOROWSKI, MADSEN
AND BURGOS, SEPTEMBER 7, 2023

REFERRED TO COMMITTEE ON INSURANCE, SEPTEMBER 7, 2023

AN ACT

1 Providing for disclosure by health insurers of the use of
2 artificial intelligence-based algorithms in the utilization
3 review process.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Artificial
8 Intelligence Utilization Review (AURA) Act.

9 Section 2. Definitions.

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

13 "Artificial intelligence-based algorithms." Any artificial
14 system that performs tasks under varying and unpredictable
15 circumstances without significant human oversight or that can
16 learn from experience and improve performance when exposed to
17 data sets.

1 "Commissioner." The Insurance Commissioner of the
2 Commonwealth.

3 "Covered person." A policyholder, subscriber or other
4 individual who is entitled to receive health care services under
5 a health insurance policy.

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

7 "Health care provider." A licensed hospital or health care
8 facility, medical equipment supplier or person who is licensed,
9 certified or otherwise regulated to provide health care services
10 under the laws of this Commonwealth.

11 "Health care service." Any covered treatment, admission,
12 procedure, medical supplies and equipment or other services,
13 including behavioral health, prescribed or otherwise provided or
14 proposed to be provided by a health care provider to a covered
15 person for the diagnosis, prevention, treatment, cure or relief
16 of a health condition, illness, injury or disease under the
17 terms of a health insurance policy.

18 "Health insurance policy." A policy, subscriber contract,
19 certificate or plan issued by an insurer that provides medical
20 or health care coverage. The term does not include:

- 21 (1) An accident only policy.
- 22 (2) A credit only policy.
- 23 (3) A long-term care or disability income policy.
- 24 (4) A specified disease policy.
- 25 (5) A Medicare supplement policy.
- 26 (6) A TRICARE policy, including a Civilian Health and
27 Medical Program of the Uniformed Services (CHAMPUS)
28 supplement policy.
- 29 (7) A fixed indemnity policy.
- 30 (8) A hospital indemnity policy.

- 1 (9) A dental only policy.
- 2 (10) A vision only policy.
- 3 (11) A workers' compensation policy.
- 4 (12) An automobile medical payment policy under 75
5 Pa.C.S. (relating to vehicles).
- 6 (13) A homeowner's insurance policy.
- 7 (14) Any other similar policies providing for limited
8 benefits.

9 "Insurer." The following:

10 (1) An entity licensed by the department that offers,
11 issues or renews an individual or group health insurance
12 policy that is offered or governed under:

13 (i) The act of May 17, 1921 (P.L.682, No.284), known
14 as The Insurance Company Law of 1921, including section
15 630 and Article XXIV thereof.

16 (ii) The act of December 29, 1972 (P.L.1701,
17 No.364), known as the Health Maintenance Organization
18 Act.

19 (iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan
20 corporations) or 63 (relating to professional health
21 services plan corporations).

22 (2) The term does not include an entity operating as a
23 Medical Assistance or CHIP Managed Care Plan.

24 "Medical Assistance or CHIP Managed Care Plan." A health
25 care plan that uses a gatekeeper to manage the utilization of
26 health care services by medical assistance or children's health
27 insurance program enrollees and integrates the financing and
28 delivery of health care services.

29 "Specialist." A health care provider whose practice is not
30 limited to primary health care services and who has additional

1 postgraduate or specialized training, has board certification or
2 practices in a licensed specialized area of health care.

3 "Utilization review." The term shall mean the same as
4 defined under section 2102 of The Insurance Company Law of 1921.
5 Section 3. Insurer requirements.

6 (a) Duty to disclose.--An insurer shall disclose to a health
7 care provider, all covered persons and the general public if
8 artificial intelligence-based algorithms are used, not used or
9 will be used in the insurer's utilization review process. An
10 insurer shall disclose information about the use or lack of use
11 of artificial intelligence-based algorithms in the utilization
12 review process on the insurer's publicly accessible Internet
13 website.

14 (b) Transparency.--An insurer shall submit the artificial
15 intelligence-based algorithms and training data sets that are
16 being used or will be used in the utilization review process to
17 the department for transparency. The department shall implement
18 a process that allows the department to certify that these
19 artificial intelligence-based algorithms and training data sets
20 have minimized the risk of bias based on the covered person's
21 race, color, religious creed, ancestry, age, sex, gender,
22 national origin, handicap or disability and adhere to evidence-
23 based clinical guidelines.

24 Section 4. Specialist requirements.

25 A specialist who participates in a utilization review process
26 for an insurer that initially uses artificial intelligence-based
27 algorithms for a utilization review shall open and document the
28 utilization review of the individual clinical records or data
29 prior to the individualized documented decision of a denial.

30 Section 5. Enforcement.

1 (a) Penalties.--

2 (1) A violation of this act shall be deemed to be an
3 unfair method of competition and an unfair or deceptive act
4 or practice under the act of July 22, 1974 (P.L.589, No.205),
5 known as the Unfair Insurance Practices Act.

6 (2) Upon satisfactory evidence of a violation of this
7 act by an insurer or other person, one or more of the
8 following penalties may be imposed at the commissioner's
9 discretion:

10 (i) Suspension or revocation of license of the
11 insurer or other person.

12 (ii) Refusal, for a period not to exceed one year,
13 to issue a new license to the insurer or other person.

14 (iii) A fine of not more than \$5,000 for each
15 violation of this act.

16 (iv) A fine of not more than \$10,000 for each
17 willful violation of this act.

18 (b) Limitations on fines.--

19 (1) Fines imposed against an insurer under subsection
20 (a) may not exceed \$500,000 in the aggregate during a single
21 calendar year.

22 (2) Fines imposed against any other person under
23 subsection (a) may not exceed \$100,000 in the aggregate
24 during a single calendar year.

25 (c) Additional remedies.--The enforcement remedies imposed
26 under this subsection are in addition to any other remedies or
27 penalties that may be imposed under any other applicable law of
28 this Commonwealth, including:

29 (1) The Unfair Insurance Practices Act.

30 (2) The act of December 18, 1996 (P.L.1066, No.159),

1 known as the Accident and Health Filing Reform Act.

2 (3) The act of June 25, 1997 (P.L.295, No.29), known as
3 the Pennsylvania Health Care Insurance Portability Act.

4 (d) Administrative procedure.--This section shall be subject
5 to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure
6 of Commonwealth agencies). A party against whom penalties are
7 assessed in an administrative action may appeal to Commonwealth
8 Court as provided in 2 Pa.C.S. Ch. 7 Subch. A (relating to
9 judicial review of Commonwealth agency action).

10 Section 6. Effective date.

11 This act shall take effect in 60 days.