
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1664 Session of
2023

INTRODUCED BY SCOTT, PIELLI, MADDEN, SANCHEZ, HILL-EVANS,
BENHAM, PISCIOTTANO, DALEY, BOROWSKI, CERRATO, CONKLIN AND
GREEN, SEPTEMBER 12, 2023

REFERRED TO COMMITTEE ON INSURANCE, SEPTEMBER 12, 2023

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, in regulation of insurers and related persons
3 generally, providing for payment choice.

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

6 Section 1. Title 40 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 47

9 PAYMENT CHOICE

10 Sec.

11 4701. Definitions.

12 4702. Payment.

13 4703. Regulations.

14 4704. Enforcement.

15 § 4701. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

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

3 "Credit card payment." A type of electronic funds transfer
4 in which a dental insurer or its contracted vendor issues a
5 single-use series of numbers associated with the payment of
6 covered dental services performed by a dentist and chargeable at
7 a predetermined rate for which the dentist is responsible for
8 processing the payment by a credit card terminal or Internet
9 portal. The term includes virtual or online credit card payments
10 for which no physical card is presented to the dentist and the
11 single-use credit card expires upon payment processing.

12 "Dental insurance policy." An insurance policy that pays or
13 provides dental expense benefits for covered dental services and
14 is delivered or issued for delivery by, or through a dental
15 insurer. The term includes coverage for dental benefits issued
16 either on a stand-alone basis or integrated, or otherwise
17 incorporated into the terms and coverage of a health benefits
18 plan.

19 "Dental insurer." An entity that offers, issues or renews a
20 dental insurance policy that covers dental services provided by
21 a dentist and that is governed under any of the following:

22 (1) The act of May 17, 1921 (P.L.682, No.284), known as
23 The Insurance Company Law of 1921, including section 630 and
24 Article XXIV.

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

27 (3) Chapter 61 (relating to hospital plan corporations).

28 (4) Chapter 63 (relating to professional health services
29 plan corporations).

30 "Dentist." A person licensed by the State Board of Dentistry

1 to provide dental services. The term does not include a dental
2 hygienist as defined in section 2 of the act of May 1, 1933
3 (P.L.216, No.76), known as The Dental Law.

4 "Dentist agent." A person who establishes a contractual
5 arrangement with a dentist to process bills for services
6 provided by the dentist under terms and conditions established
7 between the agent and dentist. The contracts may permit the
8 dentist agent to submit bills, request reconsideration and
9 receive reimbursements.

10 "Electronic funds transfer." A payment of any method of
11 electronic funds transfer other than through the Automated
12 Clearing House Network, as codified in 45 CFR 162.1601 (relating
13 to health care electronic funds transfers (EFT) and remittance
14 advice transaction) and 162.1602 (relating to Standards for
15 health care electronic funds transfers (EFT) and remittance
16 advice transaction).

17 § 4702. Payment.

18 (a) Payment.--A dental insurer or its contracted vendor may
19 not restrict the method of payment to a dentist so that the
20 exclusive payment method is a credit card payment.

21 (b) Changing payment.--If initiating or changing payments to
22 a dentist using electronic funds transfer payments, including
23 credit card payments, a dental insurer or its contracted vendor
24 shall:

25 (1) Advise the dentist of all available payment methods.

26 (2) Notify the dentist of any fees imposed by the dental
27 insurer or through its contracted vendor. A contracted vendor
28 shall not include a financial institution chosen by the
29 dentist.

30 (3) Provide clear instructions to the dentist for the

1 process of selecting a payment method.

2 (4) Not charge a fee solely to transmit the payment to
3 the dentist, unless the dentist has consented to the fee.

4 (c) Fees.--

5 (1) A dental insurer or its contracted vendor that
6 initiates or changes payments to a dentist through the
7 Automated Clearing House Network, as defined in 45 CFR
8 162.1601 (relating to health care electronic funds transfers
9 (EFT) and remittance advice transaction) and 162.1602
10 (relating to Standards for health care electronic funds
11 transfers (EFT) and remittance advice transaction), shall not
12 charge a fee solely to transmit the payment to the dentist
13 unless the dentist has consented to the fee.

14 (2) A dentist agent may charge reasonable fees to a
15 dentist for Automated Clearing House Network payments related
16 to transaction management, data management, portal services
17 and other value-added services in addition to the bank
18 transmittal.

19 (d) Waiver prohibited.--The provisions of this section may
20 not be waived by contract, and any contractual clause in
21 conflict with the provisions of this section or that purport to
22 waive any requirements of this section are void.

23 § 4703. Regulations.

24 The department may promulgate necessary and appropriate
25 regulations to implement this chapter.

26 § 4704. Enforcement.

27 (a) Penalties.--Upon satisfactory evidence of the violation
28 of any section of this chapter by a dental insurer or any other
29 person, one or more of the following penalties may be imposed at
30 the commissioner's discretion:

1 (1) A fine of not more than \$5,000 for each violation of
2 this chapter.

3 (2) A fine of not more than \$10,000 for each willful
4 violation of this chapter.

5 (b) Limitations.--

6 (1) Fines imposed against an individual insurer under
7 this chapter may not exceed \$500,000 in the aggregate during
8 a single calendar year.

9 (2) Fines imposed against any other person under this
10 chapter may not exceed \$100,000 in the aggregate during a
11 single calendar year.

12 (c) Additional remedies.--The enforcement remedies imposed
13 under this subsection are in addition to any other remedies or
14 penalties that may be imposed under any other applicable law of
15 this Commonwealth, including:

16 (1) The act of July 22, 1974 (P.L.589, No.205), known as
17 the Unfair Insurance Practices Act. Violations of this
18 chapter shall be deemed to be an unfair method of competition
19 and an unfair or deceptive act or practice under that act.

20 (2) The act of December 18, 1996 (P.L.1066, No.159),
21 known as the Accident and Health Filing Reform Act.

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

24 (d) Administrative procedure.--The administrative provisions
25 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
26 (relating to practice and procedure of Commonwealth agencies). A
27 party against whom penalties are assessed in an administrative
28 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.
29 Ch. 7 Subch. A (relating to judicial review of Commonwealth
30 agency action).

1 Section 2. This act shall apply to contracts offered,
2 entered, issued or renewed after the effective date of this
3 section.

4 Section 3. This act shall take effect in 60 days.