

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, GREEN AND KHAN, SEPTEMBER 12, 2023

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 25, 2024

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:

CHAPTER 47

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

1 context clearly indicates otherwise:

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

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

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

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

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

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

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

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

1 "Dentist." A person licensed by the State Board of Dentistry
2 to provide dental services. The term does not include a dental
3 hygienist as defined in section 2 of the act of May 1, 1933
4 (P.L.216, No.76), known as The Dental Law.

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

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

18 "MERCHANT SERVICER." ANY OF THE FOLLOWING, AS DEFINED IN 26 <--
19 U.S.C. § 6050W(B) (RELATING TO RETURNS RELATING TO PAYMENTS MADE
20 IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK
21 TRANSACTIONS):

22 (1) A PAYMENT SETTLEMENT ENTITY.

23 (2) A MERCHANT ACQUIRING ENTITY.

24 (3) A THIRD-PARTY SETTLEMENT ORGANIZATION.

25 § 4702. Payment.

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

29 (b) Changing payment.--If initiating or changing payments to
30 a dentist using electronic funds transfer payments, including

1 credit card payments, a dental insurer or its contracted vendor
2 shall:

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

4 ~~(2) Notify the dentist of any fees imposed by the dental <--~~
5 ~~insurer or through its contracted vendor. A contracted vendor~~
6 ~~shall not include a financial institution chosen by the~~
7 ~~dentist.~~

8 (2) NOTIFY THE DENTIST THAT FEES IMPOSED BY THE DENTAL <--
9 INSURER OR ITS CONTRACTED VENDOR MAY APPLY TO ELECTRONIC
10 FUNDS TRANSFER PAYMENTS OR CREDIT CARD PAYMENTS AND PROVIDE
11 INSTRUCTIONS AND CONTACT INFORMATION SO THAT THE DENTIST MAY
12 OBTAIN THE EXACT AMOUNT OF THE FEES. FEES CHARGED BY A
13 FINANCIAL INSTITUTION OR MERCHANT SERVICER CHOSEN BY THE
14 DENTIST SHALL NOT BE INCLUDED FOR THE PURPOSES OF THIS
15 PARAGRAPH.

16 (3) Provide clear instructions to the dentist for the
17 process of selecting a payment method.

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

20 (c) Fees.--

21 (1) A dental insurer or its contracted vendor that
22 initiates or changes payments to a dentist through the
23 Automated Clearing House Network, as defined in 45 CFR
24 162.1601 (relating to health care electronic funds transfers
25 (EFT) and remittance advice transaction) and 162.1602
26 (relating to Standards for health care electronic funds
27 transfers (EFT) and remittance advice transaction), shall not
28 charge a fee solely to transmit the payment to the dentist
29 unless the dentist has consented to the fee.

30 (2) A dentist agent may charge reasonable fees to a

1 dentist for Automated Clearing House Network payments related
2 to transaction management, data management, portal services
3 and other value-added services in addition to the bank
4 transmittal.

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

9 § 4703. Regulations.

10 The department may promulgate necessary and appropriate
11 regulations to implement this chapter.

12 § 4704. Enforcement.

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

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

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

21 (b) Limitations.--

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

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

28 (c) Additional remedies.--The enforcement remedies imposed
29 under this subsection are in addition to any other remedies or
30 penalties that may be imposed under any other applicable law of

1 this Commonwealth, including:

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

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

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

10 (d) Administrative procedure.--The administrative provisions
11 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
12 (relating to practice and procedure of Commonwealth agencies). A
13 party against whom penalties are assessed in an administrative
14 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.
15 Ch. 7 Subch. A (relating to judicial review of Commonwealth
16 agency action).

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

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