
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 50 Session of
2023

INTRODUCED BY HUGHES, COLLETT, BOSCOLA, BREWSTER, CAPPELLETTI,
COMITTA, COSTA, DILLON, FLYNN, FONTANA, HAYWOOD, KANE,
KEARNEY, MILLER, MUTH, SANTARSIERO, SAVAL, SCHWANK, STREET,
TARTAGLIONE, A. WILLIAMS AND L. WILLIAMS, MAY 11, 2023

REFERRED TO BANKING AND INSURANCE, MAY 11, 2023

AN ACT

1 Providing for health care insurance coverage protections, for
2 duties of the Insurance Department and the Insurance
3 Commissioner, for regulations, for enforcement and for
4 penalties.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Health
9 Insurance Access Protection Act.

10 Section 2. Definitions.

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

14 "Affordable Care Act." Collectively, the Patient Protection
15 and Affordable Care Act (Public Law 111-148, 124 Stat. 119) and
16 the Health Care and Education Reconciliation Act of 2010 (Public
17 Law 111-152, 124 Stat. 1029).

18 "Commissioner." The Insurance Commissioner of the

1 Commonwealth.

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

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

6 "Grandfathered health plan." Individual or group health
7 insurance coverage in which an individual was enrolled prior to
8 the date of enactment of the Affordable Care Act or as otherwise
9 specified in 42 U.S.C. § 18011 (relating to preservation of
10 right to maintain coverage).

11 "Group health insurance policy." A policy, subscriber
12 contract, certificate or plan issued by an insurer that provides
13 medical or health care coverage on an annual basis to
14 individuals who obtain health insurance coverage through a
15 group.

16 "Health factor." An element related to an individual's
17 physical or mental makeup, including:

- 18 (1) Health status.
- 19 (2) Medical condition.
- 20 (3) Claims experience.
- 21 (4) Receipt of health care.
- 22 (5) Medical history.
- 23 (6) Genetic information.
- 24 (7) Evidence of insurability, including conditions
25 arising out of acts of domestic violence.
- 26 (8) Disability.

27 "Health insurance policy." A policy, subscriber contract,
28 certificate or plan issued by an insurer that provides medical
29 or health care coverage. The term does not include any of the
30 following:

- 1 (1) An accident only policy.
- 2 (2) A credit only policy.
- 3 (3) A long-term care or disability income policy.
- 4 (4) A specified disease policy.
- 5 (5) A Medicare supplement policy.
- 6 (6) A fixed indemnity policy.
- 7 (7) A dental only policy.
- 8 (8) A vision only policy.
- 9 (9) A workers' compensation policy.
- 10 (10) An automobile medical payment policy.
- 11 (11) A policy under which benefits are provided by the
- 12 Federal Government to active or former military personnel and
- 13 their dependents.
- 14 (12) Any other similar policies providing for limited
- 15 benefits.

16 "Individual health insurance policy." A policy, subscriber
17 contract, certificate or plan issued by an insurer that provides
18 medical or health care coverage on an annual basis to an
19 individual other than in connection with a group.

20 "Individual market." The market for health insurance
21 coverage offered to individuals other than in connection with a
22 group.

23 "Insurer." An entity that offers, issues or renews an
24 individual health insurance policy or group health insurance
25 policy that provides medical or health care coverage by a health
26 care facility or licensed health care provider and that is
27 governed under any of the following:

- 28 (1) The act of May 17, 1921 (P.L.682, No.284), known as
- 29 The Insurance Company Law of 1921, including section 630 and
- 30 Article XXIV of The Insurance Company Law of 1921.

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

3 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
4 corporations).

5 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
6 services plan corporations).

7 "Pre-existing condition." A health condition present before
8 the date of enrollment for coverage, or if coverage is denied,
9 the date of the denial, whether or not any medical advice,
10 diagnosis, care or treatment was recommended or received before
11 that date.

12 "Small group market." The market for health insurance for
13 coverage offered through a group health insurance policy for a
14 group of 2 to 50 individuals, exclusive of their dependents.

15 "Wellness program." A program offered by an employer that is
16 designed to promote health or prevent disease.

17 Section 3. Prohibitions concerning discrimination based on pre-
18 existing conditions or health factors.

19 (a) Prohibition concerning eligibility for and enrollment in
20 health insurance.--An insurer offering, issuing or renewing an
21 individual health insurance policy or group health insurance
22 policy may not impose any rule for initial or continued
23 eligibility of any individual to enroll in or renew a health
24 insurance policy based on any pre-existing condition or health
25 factor in relation to an individual or a dependent of the
26 individual.

27 (b) Prohibition concerning premium rates.--

28 (1) An insurer offering, issuing or renewing an
29 individual health insurance policy or group health insurance
30 policy may not require an individual to pay a premium rate

1 that is greater than the premium rate for a similarly
2 situated individual enrolled in the policy on the basis of
3 any pre-existing condition or health factor in relation to an
4 individual or a dependent of the individual.

5 (2) Nothing in paragraph (1) shall be construed to
6 prevent an insurer offering a group health insurance policy
7 from establishing premium discounts or rebates or modifying
8 otherwise applicable copayments or deductibles in return for
9 adherence to a wellness program. Pending the promulgation of
10 regulations by the department, a wellness program shall be
11 subject to limitations as may be established in Federal law
12 or regulation.

13 (c) Prohibition concerning benefit coverage.--An insurer
14 offering, issuing or renewing an individual health insurance
15 policy or group health insurance policy may not exclude or deny
16 coverage for any benefit provided for in a policy based on any
17 pre-existing condition or health factor in relation to an
18 individual or a dependent of the individual.

19 Section 4. Limitations on premium rating factors.

20 (a) In general.--With respect to the premium rate charged by
21 an insurer for health insurance coverage offered in the
22 individual market or small group market, the premium rate may
23 only vary for a particular plan or coverage based on the
24 following:

25 (1) Family size.

26 (2) Geographic rating area.

27 (3) Age, except that the rate shall not vary by more
28 than 3 to 1 for adults except as provided under subsection

29 (d).

30 (4) Tobacco use, except that the rate shall not vary by

1 more than 1.5 to 1 except as provided under subsection (d).

2 (b) Geographic rating areas.--The department may specify the
3 geographic rating areas by publication on the department's
4 publicly accessible Internet website and transmission of a
5 notice to the Legislative Reference Bureau for publication in
6 the Pennsylvania Bulletin. Prior to publication, the department
7 shall provide a 30-day comment period and shall consult with
8 insurers offering health insurance policies in this
9 Commonwealth.

10 (c) Age bands.--The department may define the permissible
11 age bands for rating purposes by publication on the department's
12 publicly accessible Internet website and transmission of a
13 notice to the Legislative Reference Bureau for publication in
14 the Pennsylvania Bulletin. Prior to publication, the department
15 shall provide a 30-day comment period and shall consult with
16 insurers offering health insurance policies in this
17 Commonwealth.

18 (d) Adjustment of age and tobacco rating variations.--The
19 department may, by regulation, adjust the rating bands for age
20 and tobacco use.

21 Section 5. Single risk pools.

22 (a) Individual market.--An insurer shall consider all
23 enrollees in all health insurance policies offered by the
24 insurer in the individual market, other than grandfathered
25 health plans, to be members of a single risk pool.

26 (b) Small group market.--An insurer shall consider all
27 enrollees in all health insurance policies offered by the
28 insurer in the small group market, other than grandfathered
29 health plans, to be members of a single risk pool.

30 Section 6. Regulations.

1 (a) Authority to promulgate.--The department may promulgate
2 regulations as may be necessary and appropriate to carry out the
3 provisions of this act.

4 (b) Temporary regulations.--

5 (1) Notwithstanding any other provision of law, in order
6 to facilitate the prompt implementation of this act, the
7 department may issue temporary regulations which shall expire
8 no later than two years following publication of the
9 temporary regulations in the Pennsylvania Bulletin. The
10 temporary regulations shall be exempt from the following:

11 (i) Section 612 of the act of April 9, 1929
12 (P.L.177, No.175), known as The Administrative Code of
13 1929.

14 (ii) Sections 201, 202, 203, 204 and 205 of the act
15 of July 31, 1968 (P.L.769, No.240), referred to as the
16 Commonwealth Documents Law.

17 (iii) Section 204(b) of the act of October 15, 1980
18 (P.L.950, No.164), known as the Commonwealth Attorneys
19 Act.

20 (iv) The act of June 25, 1982 (P.L.633, No.181),
21 known as the Regulatory Review Act.

22 (2) The authority of the department to issue temporary
23 regulations under this subsection shall expire two years from
24 the effective date of this section. Regulations adopted after
25 the two-year period shall be promulgated as provided by
26 statute.

27 Section 7. Enforcement.

28 (a) General rule.--Upon satisfactory evidence of the
29 violation of any section of this act by an insurer or any other
30 person, one or more of the following penalties may be imposed at

1 the commissioner's discretion:

2 (1) Suspension or revocation of the license of the
3 offending insurer or other person.

4 (2) Refusal, for a period not to exceed one year, to
5 issue a new license to the offending insurer or other person.

6 (3) A fine of not more than \$5,000 for each violation of
7 this act.

8 (4) A fine of not more than \$10,000 for each willful
9 violation of this act.

10 (b) Limitations.--

11 (1) Fines imposed against an individual insurer under
12 this act may not exceed \$500,000 in the aggregate during a
13 single calendar year.

14 (2) Fines imposed against any other person under this
15 act may not exceed \$100,000 in the aggregate during a single
16 calendar year.

17 (c) Additional remedies.--The enforcement remedies imposed
18 under this section are in addition to any other remedies or
19 penalties that may be imposed under any other applicable law of
20 this Commonwealth, including:

21 (1) The act of July 22, 1974 (P.L.589, No.205), known as
22 the Unfair Insurance Practices Act. Violations of this act
23 shall be deemed to be an unfair method of competition and an
24 unfair or deceptive act or practice under the Unfair
25 Insurance Practices Act.

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

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

30 (d) Administrative procedure.--The administrative provisions

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

7 Section 8. Repeals.

8 All acts and parts of acts are repealed insofar as they are
9 inconsistent with this act.

10 Section 9. Effective date.

11 This act shall take effect immediately.