

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 348 Session of 2023

INTRODUCED BY J. WARD, BREWSTER AND COLLETT, FEBRUARY 10, 2023

REFERRED TO BANKING AND INSURANCE, FEBRUARY 10, 2023

AN ACT

1 Amending the act of July 22, 1974 (P.L.589, No.205), entitled  
2 "An act relating to unfair insurance practices; prohibiting  
3 unfair methods of competition and unfair or deceptive acts  
4 and practices; and prescribing remedies and penalties,"  
5 further providing for unfair methods of competition and  
6 unfair or deceptive acts or practices defined.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 5(a) of the act of July 22, 1974  
10 (P.L.589, No.205), known as the Unfair Insurance Practices Act,  
11 is amended by adding a paragraph to read:

12 Section 5. Unfair Methods of Competition and Unfair or  
13 Deceptive Acts or Practices Defined.--(a) "Unfair methods of  
14 competition" and "unfair or deceptive acts or practices" in the  
15 business of insurance means:

16 \* \* \*

17 (15) Altering the coverage provided by a health insurance  
18 policy, including raising the premium, copayment, coinsurance or  
19 deductible or denying or otherwise failing to provide continued  
20 coverage for a health care benefit that was included in the

insured's health insurance policy and when the insured has  
already received the health care benefit. The following shall  
apply:

(i) This paragraph shall not apply to health care benefits  
obtained by an insured through fraudulent or criminal activity  
or subject to:

(A) a statement issued by the United States Food and Drug  
Administration (FDA) calling into question the clinical safety  
of the benefit; or

(B) a notice provided by the manufacturer of a prescription  
drug to the FDA related to a manufacturing discontinuance or  
potential discontinuance of the drug.

(ii) In addition to any other penalties authorized by this  
act, a violation of this paragraph shall be deemed a violation  
of the act of December 17, 1968 (P.L.1224, No.387), known as the  
"Unfair Trade Practices and Consumer Protection Law." Nothing in  
this act shall preclude an insured from exercising any right  
provided under the "Unfair Trade Practices and Consumer  
Protection Law." A civil penalty of up to one thousand dollars  
(\$1,000) shall be imposed on a health insurer who violates this  
paragraph.

(iii) As used in this paragraph:

(A) "Biological product" shall have the same meaning as  
"biological product" in 42 U.S.C. § 201 et seq. (Public Health  
Service Act).

(B) "Health care benefits" means all products, services,  
procedures, treatments and prescription drugs for which coverage  
is provided under a health insurance policy offered by a health  
insurer.

(C) (I) "Health insurance policy" means a group or

individual health or sickness or accident insurance policy,  
subscriber contract or certificate issued by an entity subject  
to any one of the following:

(a) The act of May 17, 1921 (P.L.682, No.284), known as "The  
Insurance Company Law of 1921," including section 630 and  
Article XXIV of that act.

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

(c) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
corporations) or 63 (relating to professional health services  
plan corporations).

(II) The term does not include accident only, fixed  
indemnity, hospital indemnity, limited benefit, credit, dental,  
vision, specified disease, Medicare supplement, Civilian Health  
and Medical Program of the Uniformed Services (CHAMPUS)  
supplement, long-term care or disability income, workers'  
compensation or automobile medical payment insurance.

(D) "Health insurer" means an entity licensed by the  
Insurance Department with accident and health authority to issue  
a policy, subscriber contract, certificate or plan that provides  
medical or health care coverage that is offered or governed  
under any of the following:

(I) "The Insurance Company Law of 1921," including section  
630 and Article XXIV of that act.

(II) The "Health Maintenance Organization Act."

(III) 40 Pa.C.S. Ch. 61 or 63.

(E) "Insured" means a person who receives coverage under a  
health insurance policy and has paid all premiums due under the  
contract or policy. As used in this paragraph, the term shall  
include all individuals named in a health insurance policy

1 issued by a health insurer.

2 (F) "Prescription drug" means a controlled substance, other  
3 drug, including a biological product, or device for medication  
4 dispensed by order of an appropriately licensed medical  
5 professional.

6 (iv) This paragraph shall not be interpreted to impact or  
7 inhibit the applicability of any provision of the act of  
8 November 24, 1976 (P.L.1163, No.259), referred to as the Generic  
9 Equivalent Drug Law.

10 (v) Nothing in this paragraph shall be construed to prohibit  
11 a health insurer from adding health care benefits during the  
12 term of a health insurance policy.

13 \* \* \*

14 Section 2. This act shall take effect in 60 days.