
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2564 Session of
2024

INTRODUCED BY HADDOCK, HILL-EVANS, HARRIS, HANBIDGE, PIELLI,
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SANCHEZ AND DALEY, SEPTEMBER 11, 2024

REFERRED TO COMMITTEE ON INSURANCE, SEPTEMBER 11, 2024

AN ACT

1 Providing for health insurance access protections; imposing
2 duties on the Insurance Department and the Insurance
3 Commissioner; and imposing penalties.

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

17 "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 section 1251 of the Affordable Care Act (42 U.S.C.
10 § 18011).

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." As follows:

- 28 (1) A policy, subscriber contract, certificate or plan
29 issued by an insurer that provides medical or health care
30 coverage.

1 (2) The term does not include any of the following:

2 (i) An accident only policy.

3 (ii) A credit only policy.

4 (iii) A long-term care or disability income policy.

5 (iv) A specified disease policy.

6 (v) A Medicare supplement policy.

7 (vi) A fixed indemnity policy.

8 (vii) A dental only policy.

9 (viii) A vision only policy.

10 (ix) A workers' compensation policy.

11 (x) An automobile medical payment policy.

12 (xi) A policy under which benefits are provided by
13 the Federal Government to active or former military
14 personnel and their dependents.

15 (xii) A hospital indemnity policy.

16 (xiii) Any other similar policies providing for
17 limited benefits.

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

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

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

30 (1) The act of May 17, 1921 (P.L.682, No.284), known as

1 The Insurance Company Law of 1921, including section 630 and
2 Article XXIV of The Insurance Company Law of 1921.

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

5 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
6 corporations).

7 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
8 services plan corporations).

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

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

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

19 Section 3. Prohibitions concerning discrimination based on
20 preexisting conditions or health factors.

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

28 (b) Prohibition concerning premium rates.--

29 (1) An insurer offering, issuing or renewing an
30 individual or group health insurance policy may not require

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

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

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

20 Section 4. Limitations on premium rating factors.

21 (a) Premium rate.--With respect to the premium rate charged
22 by an insurer for health insurance coverage offered in the
23 individual or small group market, the premium rate may only vary
24 for a particular plan or coverage based on the 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 shall transmit notice
5 to the Legislative Reference Bureau for publication in the next
6 available issue of the Pennsylvania Bulletin. Prior to
7 publication, the department shall provide a 30-day comment
8 period and shall consult with insurers offering health insurance
9 policies in this 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 shall transmit notice
13 to the Legislative Reference Bureau for publication in the next
14 available issue of the Pennsylvania Bulletin. Prior to
15 publication, the department shall provide a 30-day comment
16 period and shall consult with insurers offering health insurance
17 policies in this 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.--Except as permitted in accordance
23 with an innovation waiver under 40 Pa.C.S. Ch. 95 (relating to
24 reinsurance program), an insurer shall consider all enrollees in
25 all health insurance policies offered by the insurer in the
26 individual market, other than grandfathered health plans, to be
27 members of a single risk pool.

28 (b) Small group market.--An insurer shall consider all
29 enrollees in all health insurance policies offered by the
30 insurer in the small group market, other than grandfathered

1 health plans, to be members of a single risk pool.

2 Section 6. Regulations.

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

6 (b) Temporary regulations.--

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

13 (i) Section 612 of the act of April 9, 1929
14 (P.L.177, No.175), known as The Administrative Code of
15 1929.

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

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

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

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

29 Section 7. Enforcement.

30 (a) Penalties.--Upon satisfactory evidence of the violation

1 of any section of this act by an insurer or any other person,
2 one or more of the following penalties may be imposed at the
3 commissioner's discretion:

4 (1) Suspension or revocation of the license of the
5 offending insurer or other person.

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

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

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

12 (b) Limitations.--

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

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

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

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

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

30 (3) The act of June 25, 1997 (P.L.295, No.29), known as

1 the Pennsylvania Health Care Insurance Portability Act.

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

9 Section 8. Notice.

10 The commissioner shall transmit notice to the Legislative
11 Reference Bureau for publication in the next available issue of
12 the Pennsylvania Bulletin if any of the following occurs:

13 (1) The Congress of the United States repeals, in whole
14 or in part, any of the following:

15 (i) 42 U.S.C. § 300gg (relating to fair health
16 insurance premiums).

17 (ii) 42 U.S.C. § 300gg-3 (relating to prohibition of
18 preexisting condition exclusions or other discrimination
19 based on health status).

20 (iii) 42 U.S.C. § 300gg-4 (relating to prohibiting
21 discrimination against individual participants and
22 beneficiaries based on health status).

23 (iv) 42 U.S.C. § 18032(c) (relating to consumer
24 choice).

25 (2) A court of the United States abrogates, vacates or
26 invalidates any of the following, in whole or in part, or a
27 regulation implementing any of the following, in whole or in
28 part:

29 (i) 42 U.S.C. § 300gg.

30 (ii) 42 U.S.C. § 300gg-3.

1 (iii) 42 U.S.C. § 300gg-4.

2 (iv) 42 U.S.C. § 18032(c).

3 (3) The executive branch of the United States refuses to
4 enforce or repeals a regulation implementing, in whole or in
5 part, any of the following:

6 (i) 42 U.S.C. § 300gg.

7 (ii) 42 U.S.C. § 300gg-3.

8 (iii) 42 U.S.C. § 300gg-4.

9 (iv) 42 U.S.C. § 18032(c).

10 Section 9. Implementation.

11 The implementation of this act shall be limited to the
12 provisions necessary to achieve a substitute coverage
13 requirement for the portion or portions of 42 U.S.C. § 300gg
14 (relating to fair health insurance premiums), 42 U.S.C. § 300gg-
15 3 (relating to prohibition of preexisting condition exclusions
16 or other discrimination based on health status), 42 U.S.C. §
17 300gg-4 (relating to prohibiting discrimination against
18 individual participants and beneficiaries based on health
19 status) or 42 U.S.C. § 18032(c) (relating to consumer choice)
20 that are impacted by the occurrence of any of the events
21 described in section 8.

22 Section 10. Repeals.

23 All acts and parts of acts are repealed insofar as they are
24 inconsistent with this act.

25 Section 11. Effective date.

26 This act shall take effect as follows:

27 (1) The following shall take effect immediately:

28 (i) Section 8.

29 (ii) Section 9.

30 (iii) This section.

1 (2) The remainder of this act shall take effect upon
2 publication of the notice in section 8.