

PENNSYLVANIA HEALTH CARE REFORM ACT

Summary of Proposed Legislation

Attached is a draft of an omnibus bill to overhaul the way health care services are delivered and paid for in Pennsylvania. The bill has been drafted as Chapters 72 through 75 of Title 40 of the Pennsylvania Consolidated Statutes. It addresses three areas of concern: the affordability, the access and the quality of health care.

Affordability

Chapter 72 addresses the need to make health care insurance affordable by addressing the needs of small businesses and individuals in purchasing basic health care insurance, strengthening the oversight of premium rate increases and inducing price competition among insurers as well as among health care providers.

Section 7202 establishes the “Cover All Pennsylvanians” or “CAP” health insurance program for Pennsylvanians who are 19 years of age or older with the following components:

- CAP basic health care coverage includes preliminary and annual health assessments; emergency care; limited inpatient and outpatient care; prescription drugs; emergency dental care; maternity care; limited skilled nursing, home health and hospice care; chronic disease management; diabetic supplies and equipment; preventive and wellness care; and limited inpatient and outpatient behavioral health care. It is estimated that the monthly premium for CAP will be \$280 for the first year.
- Employers who employ more than 2 but no more than 50 employees whose average wage is below the Commonwealth average wage and have not offered health insurance to their employees for at least the 180 days leading up to enrollment may participate in CAP by enrolling at least 75% of their employees who work 20 hours or more per week.
 - The \$280 premium will be discounted by the Commonwealth by as much as 30%, with the employer paying up to 65% of the discounted premium and the employee paying the balance.
 - Employers will sign up directly with a CAP contractor servicing their geographic area.

- Individuals meeting the following requirements may also sign up for CAP directly through a CAP contractor servicing their geographic area:
 - They have been residents of the Commonwealth for at least 90 days prior to enrolling (unless the individual is a student, in which case the individual must meet the domiciliary requirements adopted by the State System of Higher Education).
 - They are not eligible for Medicare.
 - If they have a household income that is 200% of the Federal poverty level or less, they must have been without insurance for 90 days immediately prior to enrollment (with certain exceptions).
 - If they have a household income that is more than 200% of the Federal poverty level, they must have been without insurance for 180 days immediately prior to enrollment (with certain exceptions).
- Some individuals may be eligible for a subsidy from the Commonwealth of their premiums for CAP. For the first year, these subsidies are estimated to result in the following premium amounts:
 - \$10 for individuals whose household income is not more than 100% of the Federal poverty level.
 - \$40 for individuals whose household income is more than 100% but not more than 200% of the Federal poverty level.
 - \$60 for individuals whose household income is more than 200% but not more than 300% of the Federal poverty level.
- Individuals who are currently enrolled in adultBasic and those on the waiting lists for adultBasic will be transferred to CAP.
- The Department of Public Welfare will apply for waivers from the Federal government and amend the State Plan as necessary to allow for the implementation of CAP. The program will not begin until the Federal waivers have been approved.

Section 7203 establishes the fair share tax that will be imposed on all employers in the Commonwealth and collected quarterly by the Department of Labor and Industry to help fund the cost of the CAP program to the Commonwealth. The amount of the tax will be 3% of the wages paid by the employer to its employees.

- During the first 4 years, employers will get a credit against the amount of the fair share tax they are required to pay. For the first year, the credit will be \$60,000. The Department of Revenue will determine what the amount of the credit will be for each subsequent year that the credit will be allowed.
- Employers who already offer adequate health care coverage to their full time employees will receive a further credit equal to 3% of the wages paid by the employer to its employees. The Department of Labor and Industry and the Insurance Department together will determine whether an employer receives this credit.

Section 7204 addresses the affordability of small group and individual health insurance plans by decreasing the volatility of premiums and increasing price competition among insurers.

- The insurance Department will be given enhanced powers to regulate the rates of small group and individual health insurance plans.
 - Insurers must use modified community rating in setting rates – taking into account only age, geographic region and family composition.
 - Rates may not vary by a factor greater than 33% of the community rate, thereby achieving a 2 to 1 ratio between the highest rate and the lowest rate charged.
 - Small group plans must maintain a medical loss ratio of no less than 85%; the Insurance Department may take action against an insurer whose plan fails to meet that requirement, including requiring repayment of premiums.
- In addition, the legislation will require insurers have a standard small group and individual plan that will mirror the benefits being offered under CAP except that they will not be required to offer behavioral health benefits. Insurers, as a result, will only compete on premium

levels, deductibles and co-payments. Insurers may offer additional benefits, but they must clearly distinguish between the standard benefits and the additional benefits with respect to the cost to consumers.

Section 7205 follows the trend in other states establishing a minimum benefit package for full-time students enrolled in baccalaureate and post-baccalaureate programs and requiring those students to have health care coverage that meets the minimum requirements. Programs must offer coverage through CAP or some other plan or by providing coverage through their own on-campus clinics and services.

Section 7206 requires insurers to allow parents to continue to cover their children under their health insurance plan until the child reaches the age of 30. The child must be unmarried, have no dependents, be a resident of the Commonwealth or a full-time student in the Commonwealth and have no other health insurance coverage.

Section 7207 requires hospitals claiming tax exemptions under the Institutions of Purely Public Charities Act to demonstrate how they are meeting their obligations to their communities in return for the tax and other benefits they receive under the Act. These hospitals will be required to assess the needs of their communities and report to the Department of Health how they chose to meet those needs. The Department of Health will be given authority to audit and disallow claims for uncompensated goods or services that do not address the communities' needs.

Section 7208 requires hospitals to have admission policies that are clear and understandable and that are based on the urgency of the patient's medical condition and the risk to the patient of going without medical care. Hospitals must help uninsured patients apply for enrollment in CAP and provide for referral and transfer of patients to other facilities if the hospital does not accept the patient's insurance or the hospital does not provide the services that the patient needs. This section also requires hospitals to have fair billing and collection practices.

Section 7209 addresses the need for transparency in the pricing of drugs and medical procedures so that consumers can make better informed choices for the delivery of health care services. To do this, the Health Care Cost Containment Council (PHC4) will establish the following registries that will be readily accessible to consumers:

- The drug retail price registry will include the prices of the 150 most frequently prescribed prescription drugs and their generic equivalents gathered from pharmacies in the Commonwealth.

- The hospital payment registry will include information regarding the payments received by hospitals for the 150 most frequent admission diagnoses and the 150 most frequently dispensed drugs.
- The outpatient procedure payment registry will include information regarding the payments received by ambulatory surgery facilities and imaging centers for the 50 most frequent outpatient procedures.

Accessibility

Chapter 73 addresses the need to expand access to quality health care and health care professionals.

Section 7302 will formally establish the Pennsylvania Center for Health Careers to develop strategies to address the Commonwealth's short and long term health care workforce. The Center will be governed by the Health Careers Leadership Council composed of the Secretaries of Labor and Industry, State, Health and Public Welfare, four members of the General Assembly and public members appointed by the Governor in consultation with the Workforce Investment Board.

Section 7303 will expand access to health care professionals by allowing Certified Registered Nurse Practitioners, Clinical Nurse Specialists, Physician Assistants and Nurse Midwives to provide acute illness or minor injury care or management of chronic diseases and to be designated as primary care providers. It also requires these professionals to maintain an appropriate level of malpractice insurance coverage.

- Barriers will be lifted with respect to how many CRNP's and PA's a physician may supervise at once.
- The State Board of Medicine will be required to establish a complaint review process with respect to collaborative and written agreements.
- CRNP's will be given additional functions; Nurse Midwives will be given prescriptive authority; title protection will be given to CNSs; dental hygienists will be given additional functions; and CRNA's will be given greater autonomy.
- The "Independent Hygiene Practitioner" will be established as an identified provider who can perform the functions of a dental hygienist at specified sites without the supervision of a dentist.

- The places where pharmacists are permitted to manage drug therapy will be expanded to include academic health centers and group practice settings where the pharmacist is an integral member of the clinical team and has access to the patient's medical records.
- Insurers will be required to include CRNP's, CNS's, PA's and Nurse Midwives in all provider networks. Insurers will also be required to provide financial incentives for primary care providers offering extended hours in the evenings and on weekends which permit patients to walk-in without an appointment.
- Insurers will be prohibited from excluding children with behavioral health needs from coverage.

Quality

Chapter 74 addresses the need to ensure patient safety and quality health care and wellness outcomes.

Section 7402 will require health care providers to take specific steps to improve patient safety.

- All hospitals will be required to use a uniform electronic surveillance system identified and certified by PHC4 to report health care acquired infections to PHC4.
- Hospitals will also be required to report certain data to PHC4 with respect to individuals presenting at hospitals for emergency services.
- Nursing homes will be required to report to PHC4 information on health care acquired infections similar to that reported by hospitals.
- The Patient Safety Authority will use data already being delivered by nursing homes to the Department of Health to improve patient safety and the quality of care. Nursing homes will also receive patient safety advisories published by the Authority and nursing home staff will be eligible for patient safety training conducted by the Authority. Just as hospitals and other health care facilities are already doing, nursing homes will be required to pay a surcharge to help fund the Authority's activities.

- Health care facilities will be required to develop a plan for implementing e-prescribing systems in their facilities so that every health care provider with prescriptive authority has access to and uses such systems by September 1, 2008. The State Board of Medicine will be charged with the responsibility of setting a date by which every licensed physician in the Commonwealth must have access to and use an e-prescribing system to write prescriptions electronically and check for potentially harmful drug interactions. As of those dates, access to and use of those systems will be a condition of licensure for health facilities and physicians. Grant funds of \$25,000,000 will be made available to assist hospitals in acquiring the necessary systems.
- Hospitals will be required to submit an annual report, identifying three year trends in health care acquired infections, medication errors, readmissions and procedure complications, failures to rescue, and falls. The report must also specify which safe practices as endorsed by the National Quality Forum hospitals have adopted and their plans for implementing facility-wide and data-driven error-reduction or quality improvement programs that the hospital intends to adopt and implement at each facility.
- The Department of Health will be required to establish by regulation standardized best practices for eliminating health care acquired infections and reducing medical errors and a date by which health care facilities shall adopt those practices. It shall be a condition to licensure that health care facilities adopt the standardized best practices and demonstrate that a reduction in health care acquired infections and medical errors
- Patient safety training will be required for top administrators and board members of hospitals as well as top clinical personnel. Similar training is required of nursing home administrators and directors of nursing.
- The State Board of Medicine will be given authority to defer disciplinary or corrective action in the event a clinical needs assessment program is developed and approved by the Board through which a person licensed by the Board may be referred for a clinical skills assessment and undertake a subsequent plan to improve clinical skills or otherwise address any clinical skills deficiencies.

Recognizing that secondhand smoke is a significant health hazard for nonsmokers, Section 7403 bans smoking in public places and places of employment across the Commonwealth.

- Included in the ban are the following:
 - Bars (except for certain existing cigar bars).
 - Restaurants.
 - Buses, subways, taxicabs and limousines and waiting areas in public transportation terminals.
 - Public or private facilities that house or treat children.
 - Slot machine facilities.
- Excepted from the ban are the following:
 - Private homes and automobiles.
 - Hotel rooms rented to more than one guest.
 - Retail tobacco businesses.
- Violators of the ban will be subject to a civil penalty of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense. In addition, a court may order immediate compliance.
- County boards of health will be tasked with enforcing the ban. If a county does not have a board of health, the county will be required to designate an “enforcement officer” for this purpose.

Miscellaneous Provisions

Chapter 75 includes miscellaneous provisions relating to the promulgation of regulations by Commonwealth agencies, enforcement by the Insurance Department against violations of provisions of the bill by a licensee of the Department and severability.