

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1867 Session of 2023

INTRODUCED BY VENKAT, SANCHEZ, KAZEEM, MADDEN, McANDREW, KHAN, MAYES, WEBSTER, BOROWSKI, HADDOCK, BURGOS, KENYATTA, KOSIEROWSKI, SHUSTERMAN, GREEN, KINSEY AND CEPEDA-FREYTIZ, NOVEMBER 30, 2023

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 6, 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; and imposing
4 penalties.

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

7 Section 1. Title 40 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 47

10 PAYMENT CHOICE

11 Sec.

12 4701. Definitions.

13 4702. Payment.

14 4703. Regulations.

15 4704. Enforcement.

16 § 4701. Definitions.

17 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

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

5 "Covered person." A policyholder, subscriber or other
6 individual who is entitled to receive health care services under
7 a health insurance policy.

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

18 "Electronic funds transfer." A payment of any method of
19 electronic funds transfer ~~other than through the Automated~~ <--
20 ~~Clearing House Network,~~ as codified in 45 CFR 162.1601 (relating
21 to health care electronic funds transfers (EFT) and remittance
22 advice transaction) and 162.1602 (relating to standards for
23 health care electronic funds transfers (EFT) and remittance
24 advice transaction).

25 "Health care billing agent." A person who establishes a <--
26 contractual arrangement with a participating health care
27 provider to process bills for services provided by the health
28 care provider under terms and conditions established between the
29 agent and the health care provider. The contracts may permit the
30 health care billing agent to submit bills, request

1 reconsideration and receive reimbursements.

2 "Health care provider." A licensed hospital or health care
3 facility, medical equipment supplier or person who is licensed,
4 certified or otherwise regulated to provide health care services
5 under the laws of this Commonwealth, including a physician,
6 podiatrist, optometrist, psychologist, physical therapist,
7 certified nurse practitioner, registered nurse, nurse midwife,
8 physician's assistant, chiropractor, ~~dentist,~~ pharmacist or an <--
9 individual accredited or certified to provide behavioral health
10 services. The term includes an individual providing emergency
11 services under a licensed emergency medical services agency as
12 defined in 35 Pa.C.S. § 8103 (relating to definitions).

13 "Health care service." A covered treatment, admission,
14 procedure, medical supplies and equipment or other service,
15 including behavioral health, prescribed or otherwise provided or
16 proposed to be provided by a health care provider to a covered
17 person for the diagnosis, prevention, treatment, cure or relief
18 of a health condition, illness, injury or disease under the
19 terms of health insurance policy.

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

- 24 (1) An accident only policy.
- 25 (2) A credit only policy.
- 26 (3) A long-term care or disability income policy.
- 27 (4) A specified disease policy.
- 28 (5) A Medicare supplement policy.
- 29 (6) A TRICARE policy, including a Civilian Health and
30 Medical Program of the Uniformed Services (CHAMPUS)

1 supplement policy.

2 (7) A fixed indemnity policy.

3 (8) A hospital indemnity policy.

4 (9) A workers' compensation policy.

5 (10) An automobile medical payment policy under 75

6 Pa.C.S. (relating to vehicles).

7 (11) A homeowner's insurance policy.

8 (12) A DENTAL ONLY POLICY. <--

9 ~~(12)~~ (13) Any other similar policies providing for <--

10 limited benefits.

11 "Health insurer." An entity that offers, issues or renews a
12 health insurance policy that is offered or governed under any of
13 the following:

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

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

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

20 (4) Chapter 63 (relating to professional health services
21 plan corporations).

22 "MERCHANT SERVICER." ANY OF THE FOLLOWING, AS DEFINED IN 26 <--

23 U.S.C. § 6050W(B) (RELATING TO RETURNS RELATING TO PAYMENTS MADE
24 IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK
25 TRANSACTIONS):

26 (1) A PAYMENT SETTLEMENT ENTITY.

27 (2) A MERCHANT ACQUIRING ENTITY.

28 (3) A THIRD-PARTY SETTLEMENT ORGANIZATION.

29 "Participating health care provider." A health care provider
30 that has entered into a contractual or operating relationship

1 with a health insurer to participate in one or more designated
2 networks of the health insurer and to provide health care
3 services to covered persons under the terms of the health
4 insurer's administrative policy.

5 § 4702. Payment.

6 (a) Payment.--A health insurer or its contracted vendor may
7 not restrict the method of payment to a participating health
8 care provider so that the exclusive payment method is a credit
9 card payment.

10 (b) Changing payment.--If initiating or changing payments to
11 a participating health care provider using electronic funds
12 transfer payments, including credit card payments, a health
13 insurer or its contracted vendor shall:

14 (1) Advise the health care provider of all available
15 payment methods.

16 ~~(2) Notify the health care provider of any fees imposed <--~~
17 ~~by the health insurer or through its contracted vendor. A~~
18 ~~contracted vendor may not include a financial institution~~
19 ~~chosen by the health care provider.~~

20 (2) NOTIFY THE HEALTH CARE PROVIDER THAT FEES IMPOSED BY <--
21 THE HEALTH INSURER OR ITS CONTRACTED VENDOR MAY APPLY TO
22 ELECTRONIC FUNDS TRANSFER PAYMENTS, INCLUDING CREDIT CARD
23 PAYMENTS, AND PROVIDE INSTRUCTIONS AND CONTACT INFORMATION SO
24 THAT THE HEALTH CARE PROVIDER MAY OBTAIN THE EXACT AMOUNT OF
25 THE FEES. FEES CHARGED BY A FINANCIAL INSTITUTION OR MERCHANT
26 SERVICER CHOSEN BY THE HEALTH CARE PROVIDER SHALL NOT BE
27 INCLUDED FOR THE PURPOSES OF THIS PARAGRAPH.

28 (3) Provide clear instructions to the health care
29 provider for the process of selecting a payment method.

30 (4) Not charge a fee solely to transmit the payment to

1 the health care provider, unless the health care provider has
2 consented to the fee.

3 (c) Fees. <--

4 (1) A health insurer or its contracted vendor that
5 initiates or changes payments to a participating health care
6 provider through the Automated Clearing House Network, as
7 defined in 45 CFR 162.1601 (relating to health care
8 electronic funds transfers (EFT) and remittance advice
9 transaction) and 162.1602 (relating to standards for health
10 care electronic funds transfers (EFT) and remittance advice
11 transaction), may not charge a fee solely to transmit the
12 payment to the health care provider unless the health care
13 provider has consented to the fee.

14 (2) A health care billing agent may charge reasonable
15 fees to a health care provider for Automated Clearing House
16 Network payments related to transaction management, data
17 management, portal services and other value added services in
18 addition to the bank transmittal.

19 (d) (C) Waiver prohibited.--The provisions of this section <--
20 may not be waived by contract, and any contractual clause in
21 conflict with the provisions of this section or that purport to
22 waive any requirements of this section are void.

23 § 4703. Regulations.

24 The department may promulgate rules and regulations necessary <--
25 to implement this chapter.

26 § 4704. Enforcement.

27 (a) Penalties.--Upon satisfactory evidence of the violation
28 of this chapter by a health insurer or any other person, one or
29 more of the following penalties may be imposed at the
30 commissioner's discretion:

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

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

5 (b) Limitations.--

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

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

12 (c) Additional remedies.--The enforcement remedies imposed
13 under this section are in addition to any other remedies or
14 penalties that may be imposed under any other applicable law of
15 this Commonwealth, including:

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

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

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

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

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

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