
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 544 Session of
2023

INTRODUCED BY CAPPELLETTI, HAYWOOD, KANE, FONTANA, PENNYCUICK,
COMITTA, SCHWANK, COSTA, SANTARSIERO AND STREET,
MARCH 28, 2023

REFERRED TO BANKING AND INSURANCE, MARCH 28, 2023

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," in casualty insurance, providing
12 for coverage for anti-obesity treatments; and abrogating a
13 regulation.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
17 as The Insurance Company Law of 1921, is amended by adding a
18 section to read:

19 Section 635.9. Coverage for Anti-Obesity Treatments.--(a)
20 Notwithstanding any other provision of law, all of the following
21 shall be considered compensable items or services under the
22 Commonwealth's medical assistance program:

23 (1) Bariatric surgery and related treatments for obesity and

1 morbid obesity when the prescribing physician has issued a
2 written order stating that treatment is in accordance with the
3 patient qualifications and treatment standards provided by the
4 American Society for Metabolic and Bariatric Surgery or the
5 American College of Surgeons, subject to the following:

6 (i) Related treatment may include, but not be limited to,
7 preoperative psychological screening and counseling, behavior
8 modification, weight loss, exercise regimens, nutritional
9 counseling and postoperative follow-up, overview and counseling
10 of dietary, exercise and lifestyle changes.

11 (ii) The insured shall be at least eighteen (18) years of
12 age.

13 (2) An anti-obesity drug when it is included:

14 (i) in the definition of "covered outpatient drug" under 42
15 U.S.C. § 1396r-8(k) (relating to payment for covered outpatient
16 drugs) and subject to 42 U.S.C. § 1396r-8(a)(1); and

17 (ii) on the Pennsylvania Medical Assistance Statewide
18 Preferred Drug List authorized under section 459.1 of the act of
19 June 13, 1967 (P.L.31, No.21), known as the "Human Services
20 Code."

21 (b) Notwithstanding any other provision of law, a health
22 insurer that issues or renews a health insurance policy
23 providing benefits for medical or hospital expenses to insureds
24 residing in this Commonwealth shall provide to the insured under
25 the health insurance policy coverage for all of the following:

26 (1) Bariatric surgery and related treatments for obesity and
27 morbid obesity when the prescribing physician has issued a
28 written order stating that treatment is in accordance with the
29 patient qualifications and treatment standards provided by the
30 American Society for Metabolic and Bariatric Surgery or the

1 American College of Surgeons, subject to the following:

2 (i) Related treatment may include, but not be limited to,
3 preoperative psychological screening and counseling, behavior
4 modification, weight loss, exercise regimens, nutritional
5 counseling and postoperative follow-up, overview and counseling
6 of dietary, exercise and lifestyle changes.

7 (ii) The insured shall be at least eighteen (18) years of
8 age.

9 (iii) An entity subject to this subsection shall provide the
10 benefits required under this subsection to the same extent as
11 for other medically necessary surgical procedures and treatments
12 under the insured's contract or policy with the entity.

13 (2) An anti-obesity drug approved by the Food and Drug
14 Administration of the United States Department of Health and
15 Human Services.

16 (c) As used in this section:

17 (1) "Health insurance policy" means the following:

18 (i) A group or individual health or sickness or accident
19 insurance policy, subscriber contract or certificate issued by
20 an entity subject to any one of the following:

21 (A) Section 630 and Article XXIV of this act.

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

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

27 (ii) The term does not include accident only, fixed
28 indemnity, hospitality indemnity, limited benefit, credit,
29 dental, vision, specified disease, Medicare supplement, Civilian
30 Health and Medical Program of the Uniformed Services (CHAMPUS)

1 supplement, long-term care or disability income, workers'
2 compensation or automobile medical payment insurance.

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

8 (i) This act.

9 (ii) The "Health Maintenance Organization Act."

10 (iii) 40 Pa.C.S. Ch. 61 or 63.

11 (3) "Insured" means a person on whose behalf an insurer is
12 obligated to pay covered health care expense benefits or provide
13 health care services under a health insurance policy. The term
14 includes:

15 (i) A policyholder, subscriber, certificate holder, member,
16 dependent or other individual who is eligible to receive health
17 care services through a health insurance policy.

18 (ii) All individuals named in a health insurance policy
19 issued by a health insurer.

20 Section 2. The addition of section 635.9 of the act shall
21 apply to health insurance policies offered, issued or renewed on
22 or after the effective date of this section.

23 Section 3. The provisions of 55 Pa. Code § 1121.54(1) are
24 abrogated insofar as they are inconsistent with the addition of
25 section 635.9(a)(2) of the act.

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