

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 289** Session of
2023

INTRODUCED BY KRAJEWSKI, DALEY, KINSEY, ISAACSON, HOHENSTEIN,
CIRESI, SCHLOSSBERG, MADDEN, RABB, SANCHEZ, HOWARD, FREEMAN,
FRANKEL AND N. NELSON, MARCH 20, 2023

REFERRED TO COMMITTEE ON HEALTH, MARCH 20, 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 enrolled dependents right to confidentiality for health
13 care services received.

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. Enrolled Dependents Right to Confidentiality
20 for Health Care Services Received.--(a) A health insurance
21 policy or government program that is offered, issued or renewed
22 in this Commonwealth shall include policies and procedures that

1 comply with Federal and State law to ensure that all
2 identifiable information regarding receipt of health care
3 services by a protected enrolled dependent is adequately
4 protected and remains confidential.

5 (b) A health insurer shall develop a standardized
6 confidential communications request form, in an easily readable
7 and understandable format as approved by the department, to
8 permit a protected enrolled dependent to request an alternative
9 method for receiving confidential communication related to the
10 receipt of health care services. The following apply:

11 (1) A health insurer shall permit any protected enrolled
12 dependent to submit a confidential communications request.

13 (2) A request by a protected enrolled dependent exercising
14 the option for confidential communication shall be submitted in
15 writing using the standardized form.

16 (3) The availability of the standardized form shall be
17 disseminated in a health insurance policy or government program.

18 (c) Confidential communications subject to the requirements
19 of this section include the following:

20 (1) an explanation of benefits;

21 (2) information related to an appointment for health care
22 services;

23 (3) a claim denial;

24 (4) a request for additional information related to a claim;

25 (5) a notice of a contested claim;

26 (6) the name and address of a provider, a description of
27 services provided and other visit information; and

28 (7) any written, oral or electronic communication from a
29 carrier that contains protected health information.

30 (d) Alternative methods of receiving confidential

1 communication shall include:

2 (1) sending a paper form to an alternate address as
3 requested by the protected enrolled dependent;

4 (2) sending electronic communication to an alternate
5 electronic address as requested by the protected enrolled
6 dependent; or

7 (3) withholding confidential communication as requested by
8 the protected enrolled dependent until an alternate method of
9 receiving communication is requested subsequently at a later
10 date by the protected enrolled dependent. A protected enrolled
11 dependent shall be permitted to submit a subsequent request
12 orally in-person or by telephone, or by paper or electronic
13 written communication.

14 (e) If a protected enrolled dependent has no liability for
15 payment for a procedure or service, a health insurance policy or
16 government program shall permit a protected enrolled dependent
17 to request suppression of all confidential communications, in
18 which case the explanation of benefits, or any confidential
19 communication covered under this section, shall not be issued.

20 (f) A health insurer or government program shall ensure that
21 requests for confidential communication required under
22 subsection (b) are implemented not later than three business
23 days after receipt of a request. A health insurer shall
24 acknowledge receipt of a protected enrolled dependent's
25 confidential communications request form by providing notice to
26 the protected enrolled dependent through the alternative method
27 of communication as requested by the protected enrolled
28 dependent.

29 (g) The department, in collaboration with the Department of
30 Health, may develop and implement a plan to educate health care

1 providers and consumers regarding the rights of protected
2 enrolled dependents and the responsibilities of health insurers
3 to promote compliance with this section. The following apply:

4 (1) The plan shall include staff training and other
5 education for:

6 (i) All administrative staff involved in patient
7 registration and confidentiality education.

8 (ii) All billing staff involved in processing insurance
9 claims.

10 (iii) Education for health care providers employed in a
11 health care facility as defined in section 802.1 of the act of
12 July 19, 1979 (P.L.130, No.48), known as the "Health Care
13 Facilities Act."

14 (iv) Education for health care providers employed in school
15 health services as provided under Article XIV of the act of
16 March 10, 1949 (P.L.30, No.14), known as the "Public School Code
17 of 1949."

18 (2) The plan shall include instruction for health care
19 providers to disseminate a protected enrolled dependent's right
20 to exercise the alternative delivery of confidential
21 communications in a manner that clearly displays its
22 availability to patients.

23 (h) The department may promulgate regulations necessary to
24 implement and enforce this section, which may include
25 requirements for reasonable reporting by a health insurer that
26 issues, delivers, executes or renews a policy covered under this
27 section to the department regarding compliance and the number
28 and type of complaints received regarding noncompliance with
29 this section.

30 (i) The department shall submit an annual report to the

1 chairperson and minority chairperson of the Banking and
2 Insurance Committee of the Senate and the chairperson and
3 minority chairperson of the Insurance Committee of the House of
4 Representatives, which shall be made available on the
5 department's publicly accessible Internet website, to
6 disseminate the following information:

7 (1) Aggregate data for health insurer reporting requirements
8 as established under subsection (h).

9 (2) The effectiveness of the requirements established under
10 this section in enabling protected enrolled dependents to
11 request an alternative method for receiving confidential
12 communications.

13 (3) Education and outreach conducted by health insurers and
14 providers to inform protected enrolled dependents about their
15 right to request an alternative method for receiving
16 confidential communication related to the receipt of health care
17 services.

18 (j) The department shall implement an appeals process for
19 the denial or partial denial by a health insurer of a claim
20 provided to a protected enrolled dependent who has exercised the
21 right to an alternative method for receiving confidential
22 communications covered by this section. The following apply:

23 (1) A protected enrolled dependent has the right to appeal a
24 denial or partial denial of a claim.

25 (2) An enrollee, subscriber or certificate holder is
26 prohibited from appealing a denial or partial denial of a claim
27 unless the protected enrolled dependent has provided written
28 authorization to disclose claims information relevant to the
29 appeal.

30 (k) This section applies as follows:

1 (1) For a health insurance policy or government program for
2 which either rates or forms are required to be filed with the
3 Federal Government or the department, this section applies to a
4 policy for which a form or rate is first permitted to be used
5 180 days on or after the effective date of this section.

6 (2) For a health insurance policy or government program for
7 which neither rates nor forms are required to be filed with the
8 Federal Government or the department, this section applies to a
9 policy issued or renewed on or after 180 days after the
10 effective date of this section.

11 (1) The following words and phrases when used in this
12 section shall have the meanings given to them in this subsection
13 unless the context clearly indicates otherwise:

14 "Department." The Insurance Department of the Commonwealth.

15 "Government program." Any of the following:

16 (1) Medical assistance under Subarticle (f) of Article IV of
17 the act of June 13, 1967 (P.L.31, No.21), known as the "Human
18 Services Code."

19 (2) The Comprehensive Program for Health Care for Uninsured
20 Children under Article XXIII-A.

21 "Health care practitioner." An individual who is authorized
22 to practice some component of the healing arts by a license,
23 permit, certificate or registration issued by a Commonwealth
24 licensing agency or board.

25 "Health care provider." Any of the following:

26 (1) A health care practitioner as defined in section 103 of
27 the "Health Care Facilities Act."

28 (2) A federally qualified health center as defined in 42
29 U.S.C. § 1395x(aa)(4) (relating to definitions).

30 (3) A rural health clinic as defined in 42 U.S.C. §

1 1395x(aa)(2).

2 (4) A pharmacist who holds a valid license under the act of
3 September 27, 1961 (P.L.1700, No.699), known as the "Pharmacy
4 Act."

5 (5) A social worker, clinical social worker, marriage and
6 family therapist or professional counselor who holds a valid
7 license under the act of July 9, 1987 (P.L.220, No.39), known as
8 the "Social Workers, Marriage and Family Therapists and
9 Professional Counselors Act."

10 (6) A registered professional nurse who holds a valid
11 license under the act of May 22, 1951 (P.L.317, No.69), known as
12 "The Professional Nursing Law."

13 "Health insurance policy." As follows:

14 (1) An individual or group health insurance policy,
15 subscriber contract, certificate or plan that provides medical
16 or health care coverage for services provided by a health care
17 facility or licensed health care provider on an expense-incurred
18 service or prepaid basis and that is offered by or is governed
19 under any of the following:

20 (i) This act, including section 630.

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

23 (iii) 40 Pa.C.S. Chs. 61 (relating to hospital plan
24 corporations) and 63 (relating to professional health services
25 plan corporations).

26 (2) The term does not include:

27 (i) Accident only.

28 (ii) Credit only.

29 (iii) Long-term care or disability income.

30 (iv) Specified disease.

1 (v) Medicare supplement.
2 (vi) TRICARE, including Civilian Health and Medical Program
3 of the Uniformed Services (CHAMPUS) supplement.
4 (vii) Fixed indemnity.
5 (viii) Dental only.
6 (ix) Vision only.
7 (x) Workers' compensation.
8 (xi) Automobile medical payment insurance under 75 Pa.C.S.
9 (relating to vehicles).
10 (xii) Hospital indemnity.
11 (xiii) Limited benefits.
12 "Health insurer." An entity offering a health insurance
13 policy or government program.
14 "Protected enrolled dependent." Any of the following:
15 (1) An adult covered as a dependent on a health insurance
16 policy.
17 (2) A minor authorized to consent to medical, dental and
18 health services under State law that is covered as a dependent
19 on a policyholder's insurance policy.
20 "Protected health information." As defined in Federal
21 regulation under 45 CFR 160.103 (relating to definitions)
22 promulgated under the administrative simplification provisions
23 of the Health Insurance Portability and Accountability Act of
24 1996 (Public Law 104-191, 110 Stat. 1936).
25 Section 2. This act shall take effect in 60 days.