



Pennsylvania Association of Health Underwriters

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June 13, 2014

Honorable Katharine Watson
Chair
House Children & Youth Committee
Main Capitol
Harrisburg, PA 17120

RE: HB 1436 Infant & Children's Health Initiative Act (Mandated Benefit for Amino-Acid Based Elemental Formulas for Children with Severe Food Allergies)

Dear Rep. Watson:

The PA Association of Health Underwriters (PAHU) noted with interest that House Bill 1436 was on the agenda of the House Children & Youth Committee June 17 and felt that it was important to comment, not on the merits of the legislation or the need advanced by Rep. Truitt but on an unforeseen consequence if this legislation becomes law thanks to the Patient Protection and Affordable Care Act (PPACA).

In establishing exchanges, the Federal Act was designed to make the exchange comparable to private sector coverage with similar benefits so as not to give the public exchange a preferential price advantage at the expense of private sector-offered health insurance coverage. If the General Assembly adds a new mandated benefit for PA private sector health plans, they may have coverage that the exchanges do not. As such, they may cost more, prompting consumers to gravitate towards the cheaper federally-facilitated exchange.

If the legislation specifies that exchanges must also include this added benefit, it appears to run afoul of Section 1311 of PPACA which says that a state adding an extra benefit must absorb the additional costs of the mandate in the exchange, something that might create more budgetary strain given the tense fiscal situation of the Commonwealth. Following is the PPACA language:

(B) STATES MAY REQUIRE ADDITIONAL BENEFITS.—

(i) IN GENERAL

.—Subject to the requirements of clause (ii), a State may require that a qualified health plan offered in such State offer benefits in addition to the essential health benefits specified under section 1302(b).

(ii) STATE MUST ASSUME COST.—ø Replaced by section 10104(e)(1);

A State shall make payments—

(I) to an individual enrolled in a qualified health plan offered in such State; or

(II) on behalf of an individual described in sub clause (I) directly to the qualified health plan

in which such individual is enrolled; to defray the cost of any additional benefits described in clause (i).

PPACA Section 1311 applies to state-based exchanges but Pennsylvania opted for the federally-facilitated marketplace (exchange). Section 1321 describes what happens if a state chooses not to establish a state-based exchange but that section is silent on benefit comparability or whether the state is still obligated to comply with Section 1311's requirement that the state pay for an additional mandated benefit in the exchange other than the essential health benefits.

PAHU would like to suggest the following:

- Have an analysis done as to the impact on premiums to establish what the increased cost if any would be to the private sector health insurance market. The PA Health Care Cost Containment Council (PHC4) did such a study in May 2000 on House Bill 854, Low Protein Modified Food Products (PKU). If PHC4 finds the cost to be minute, the PPACA warning flag could be lowered
- Have legal counsel examine the PPACA requirement to see if there is an avenue where Section 1311 would not be triggered by the addition of a new PA mandated benefit.

Thus, we would respectfully submit to you and members of the committee that movement of this legislation is premature until these questions can be addressed.

Sincerely,

Vince

Vince Phillips
Lobbyist
PA Association of Health Underwriters

CC: Honorable Dan Truitt
Honorable Louise Bishop
John Scarpato
Roseann Cadau
Garth Shipman
Alan Cohn