

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1908 Session of 2013

INTRODUCED BY MATZIE, HARKINS, SNYDER, O'BRIEN, KOTIK, READSHAW, V. BROWN, BROWNLIE, SCHLOSSBERG, THOMAS, MUNDY, D. COSTA, COHEN, KORTZ, CALTAGIRONE, FREEMAN, PARKER, DeLUCA, PASHINSKI AND GOODMAN, DECEMBER 11, 2013

REFERRED TO COMMITTEE ON INSURANCE, DECEMBER 11, 2013

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
 2 "An act providing for and reorganizing the conduct of the  
 3 executive and administrative work of the Commonwealth by the  
 4 Executive Department thereof and the administrative  
 5 departments, boards, commissions, and officers thereof,  
 6 including the boards of trustees of State Normal Schools, or  
 7 Teachers Colleges; abolishing, creating, reorganizing or  
 8 authorizing the reorganization of certain administrative  
 9 departments, boards, and commissions; defining the powers and  
 10 duties of the Governor and other executive and administrative  
 11 officers, and of the several administrative departments,  
 12 boards, commissions, and officers; fixing the salaries of the  
 13 Governor, Lieutenant Governor, and certain other executive  
 14 and administrative officers; providing for the appointment of  
 15 certain administrative officers, and of all deputies and  
 16 other assistants and employes in certain departments, boards,  
 17 and commissions; and prescribing the manner in which the  
 18 number and compensation of the deputies and all other  
 19 assistants and employes of certain departments, boards and  
 20 commissions shall be determined," establishing the Office of  
 21 Consumer Advocate for Health Insurance as an office within  
 22 the Office of Attorney General and prescribing its powers and  
 23 duties; and making editorial changes.

24 The General Assembly of the Commonwealth of Pennsylvania  
 25 hereby enacts as follows:

26 Section 1. Article IX-A of the act of April 9, 1929  
 27 (P.L.177, No.175), known as The Administrative Code of 1929, is

1 amended by adding a subarticle heading to read:

2 ARTICLE IX-A

3 OFFICE OF CONSUMER ADVOCATE

4 (a) General Provisions

5 Section 2. Article IX-A of the act is amended by adding a  
6 subarticle to read:

7 (b) Office of Consumer Advocate  
8 for Health Insurance

9 Section 921-A. Definitions.

10 The following words and phrases when used in this subarticle  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Consumer." A person who is a named insured, insured or  
14 beneficiary of a policy of health insurance or any other person,  
15 including employers who purchase insurance for themselves and  
16 their employees, who may be affected in any way by the Insurance  
17 Department's exercise of or the failure to exercise its  
18 authority.

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

20 "Insurer." Any "company," "association" or "exchange" as  
21 such terms are defined in section 101 of the act of May 17, 1921  
22 (P.L.682, No.284), known as The Insurance Company Law of 1921,  
23 or any entity subject to 40 Pa.C.S. Ch. 61 (relating to hospital  
24 plan corporations) or 63 (relating to professional health  
25 services plan corporations) or Article XXIV of The Insurance  
26 Company Law of 1921 or the act of December 29, 1972 (P.L.1701,  
27 No.364), known as the Health Maintenance Organization Act.

28 Section 922-A. Office of Consumer Advocate for Health  
29 Insurance.

30 (a) Office established.--There is hereby established as an

1 office within the Office of Attorney General an Office of  
2 Consumer Advocate for Health Insurance to represent the  
3 interests of consumers before the department.

4 (b) Consumer Advocate for Health Insurance.--The Office of  
5 Consumer Advocate for Health Insurance shall be headed by the  
6 Consumer Advocate for Health Insurance appointed by the Attorney  
7 General who by reason of training, experience and attainment is  
8 qualified to represent the interests of consumers. The term of  
9 the Consumer Advocate shall be for six years, and no person  
10 shall serve for more than two terms. Compensation shall be set  
11 by the Executive Board, established under section 204.

12 (c) Conflict of interest.--No individual who serves as a  
13 Consumer Advocate for Health Insurance shall, while serving in  
14 the position, engage in any business, vocation or other  
15 employment, or have other interests, inconsistent with the  
16 official responsibilities, nor shall the individual seek or  
17 accept employment nor render beneficial services for  
18 compensation with any insurer subject to the authority of the  
19 office during the tenure of the appointment and for a period of  
20 two years immediately after the appointment is served or  
21 terminated.

22 (d) Restriction.--Neither the Consumer Advocate for Health  
23 Insurance nor an employee of the Consumer Advocate shall be  
24 employed by or be pecuniarily interested in any insurance  
25 company, association or exchange, or in any insurance business,  
26 other than as a policyholder.

27 (e) Political office.--Any individual who is appointed to  
28 the position of Consumer Advocate for Health Insurance shall not  
29 seek election nor accept appointment to any political office  
30 during the tenure as Consumer Advocate for Health Insurance and

1 for a period of two years after the appointment is served or  
2 terminated.

3 Section 923-A. Assistant consumer advocates for health  
4 insurance; employees.

5 The Consumer Advocate for Health Insurance may appoint  
6 attorneys as assistant consumer advocates for health insurance  
7 and additional clerical, technical and professional staff as may  
8 be appropriate, and may contract for additional services as  
9 shall be necessary for the performance of the duties imposed by  
10 this subarticle. The compensation of assistant consumer  
11 advocates for health insurance and clerical, technical and  
12 professional staff shall be set by the Executive Board. No  
13 assistant consumer advocate for health insurance or other staff  
14 employee shall, while serving in the position, engage in any  
15 business, vocation or other employment, or have other interests,  
16 inconsistent with official responsibilities.

17 Section 924-A. Powers and duties of Consumer Advocate for  
18 Health Insurance.

19 (a) Representation of consumer interests.--In addition to  
20 any other authority conferred by this subarticle, the Consumer  
21 Advocate for Health Insurance is authorized to and shall, in  
22 carrying out the responsibilities under this subarticle,  
23 represent the interests of consumers as a party, or otherwise  
24 participate for the purpose of representing an interest of  
25 consumers, before the department in any matter properly before  
26 the department, and before any court or agency, initiating  
27 proceedings if, in the judgment of the Consumer Advocate for  
28 Health Insurance, the representation may be necessary, in  
29 connection with any matter involving regulation by the  
30 department or the corresponding regulatory agency of the United

1 States, whether on appeal or otherwise initiated.

2 (b) Exercise of discretion.--The Consumer Advocate for  
3 Health Insurance may exercise discretion in determining the  
4 interests of consumers that will be advocated in any particular  
5 proceeding and in determining whether to participate in or  
6 initiate any particular proceeding. In making a determination,  
7 the Consumer Advocate for Health Insurance shall consider the  
8 public interest, the resources available and the substantiality  
9 of the effect of the proceeding on the interests of consumers.  
10 The Consumer Advocate for Health Insurance may refrain from  
11 intervening when, in the judgment of the Consumer Advocate for  
12 Health Insurance, intervention is not necessary to represent  
13 adequately the interests of consumers.

14 (c) Grants.--The Consumer Advocate for Health Insurance  
15 shall apply for all grant moneys available from the Federal  
16 Government and may expend all the moneys obtained from grant  
17 awards.

18 (d) Action on petition.--In addition to any other authority  
19 conferred by this subarticle, the Consumer Advocate for Health  
20 Insurance is authorized to represent an interest of consumers  
21 that is presented for consideration upon petition in writing by  
22 a substantial number of persons who are consumers of an insurer  
23 subject to regulation by the department. The Consumer Advocate  
24 for Health Insurance shall notify the principal sponsors of the  
25 petition within a reasonable time after receipt of the petition  
26 of the action taken or intended to be taken with respect to the  
27 interests of consumers presented in that petition. If the  
28 Consumer Advocate for Health Insurance declines or is unable to  
29 represent the interests, written notification and the reasons  
30 for the action shall be given to the sponsors.

1 (e) Name in which action is brought.--Any action brought by  
2 the Consumer Advocate for Health Insurance before a court or an  
3 agency of this Commonwealth shall be brought in the name of the  
4 Consumer Advocate for Health Insurance. The Consumer Advocate  
5 for Health Insurance may name a consumer or group of consumers  
6 in whose name the action may be brought or may join with a  
7 consumer or group of consumers in bringing the action.

8 (f) Public statement.--At a time that the Consumer Advocate  
9 for Health Insurance determines, in accordance with applicable  
10 time limitations, to initiate, intervene or otherwise  
11 participate in any department, agency or court proceeding, the  
12 Consumer Advocate for Health Insurance shall issue publicly a  
13 written statement, a copy of which shall be filed in the  
14 proceeding in addition to any required entry of appearance,  
15 stating concisely the specific interests of consumers to be  
16 protected.

17 Section 925-A. Duties of department.

18 In dealing with any proposed action that may substantially  
19 affect the interests of consumers, including, but not limited  
20 to, a proposed change of rates and the adoption of rules,  
21 regulations, guidelines, orders, standards or final policy  
22 decisions, the department shall:

23 (1) Notify the Consumer Advocate for Health Insurance  
24 when notice of the proposed action is given to the public or  
25 at a time fixed by agreement between the Consumer Advocate  
26 for Health Insurance and the department in a manner to assure  
27 the Consumer Advocate for Health Insurance reasonable notice  
28 and adequate time to determine whether to intervene in the  
29 matter.

30 (2) Consistent with its other statutory

1 responsibilities, take action with due consideration to the  
2 interests of consumers.

3 Section 926-A. Reports.

4 The Consumer Advocate for Health Insurance shall annually  
5 transmit to the Governor and to the chairman and minority  
6 chairman of the Banking and Insurance Committee of the Senate  
7 and the chairman and minority chairman of the Insurance  
8 Committee of the House of Representatives, and shall make  
9 available to the public, an annual report on the conduct of the  
10 Office of Consumer Advocate for Health Insurance. The Consumer  
11 Advocate for Health Insurance shall make recommendations as may  
12 from time to time be necessary or desirable to protect the  
13 interests of consumers.

14 Section 927-A. Savings provision and construction.

15 (a) No bar to action.--Nothing contained in this subarticle  
16 shall limit the right of a consumer to bring a proceeding before  
17 either the department or a court.

18 (b) No impairment to department.--Nothing contained in this  
19 subarticle shall be construed to impair the statutory authority  
20 or responsibility of the department to regulate insurers in the  
21 public interest.

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