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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1682 Session of  
2023

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INTRODUCED BY BRIGGS, FEE, FLOOD, T. DAVIS, PIELLI, KINSEY,  
MADDEN, FREEMAN, GUENST, SANCHEZ, KHAN, OTTEN, HILL-EVANS AND  
CEPEDA-FREYTIZ, SEPTEMBER 19, 2023

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REFERRED TO COMMITTEE ON INSURANCE, SEPTEMBER 19, 2023

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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 postacute neurorehabilitation.

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

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

18 Section 635.9. Coverage for Postacute Neurorehabilitation.--

19 (a) All group or individual health or sickness or accident  
20 insurance policies providing hospital or medical/surgical  
21 coverage and all group or individual subscriber contracts or  
22 certificates issued by any entity subject to 40 Pa.C.S. Ch. 61

1 (relating to hospital plan corporations) or 63 (relating to  
2 professional health services plan corporations), this act, the  
3 act of December 29, 1972 (P.L.1701, No.364), known as the Health  
4 Maintenance Organization Act, or an employe welfare benefit plan  
5 as defined in section 3 of the Employee Retirement Income  
6 Security Act of 1974 (Public Law 93-406, 29 U.S.C. § 1001 et  
7 seq.) providing hospital or medical/surgical coverage shall also  
8 provide coverage for postacute neurorehabilitation for an  
9 acquired brain injury. Coverage under this section shall include  
10 medically necessary treatment related to or as a result of an  
11 acquired brain injury, including cognitive communication  
12 therapy, cognitive rehabilitation therapy, neurobehavioral  
13 therapy, neurophysiological testing and treatment,  
14 neuropsychological testing and treatment, functional  
15 rehabilitation therapy, community reintegration services,  
16 postacute transitional rehabilitation treatment and day  
17 rehabilitation treatment and provide for such services as needed  
18 in facility and home and community-based settings.

19 (b) Prior to payment for postacute neurorehabilitation  
20 services, an insurer shall verify that the neurorehabilitation  
21 individual practitioners and treatment facilities provide  
22 services within the scope of the services provided under a  
23 Commission on Accreditation of Rehabilitation Facilities  
24 accredited rehabilitation program for brain injury or another  
25 nationally recognized accredited rehabilitation program for  
26 brain injury and are qualified to provide postacute care  
27 rehabilitation services through possession of the appropriate  
28 licenses, accreditation, training and experience deemed  
29 customary and routine in the trade practice and according to  
30 criteria set out in the Office of Long-Term Living's Home and

1 Community-Based Community HealthChoices Waiver.

2 (c) Coverage under this section may not limit the number of  
3 days of covered postacute care, including any therapy or  
4 treatment or rehabilitation, testing, remediation or other  
5 service described under this section, or the number of days of  
6 covered inpatient care to the extent that the treatment or care  
7 is determined to be medically necessary as a result of and  
8 related to an acquired brain injury. The insured's or enrollee's  
9 treating physician shall determine whether treatment or care is  
10 medically necessary for purposes of this paragraph in  
11 consultation with the treatment or care provider, the insured or  
12 enrollee and, if appropriate, members of the insured's or  
13 enrollee's family. Any limitations shall be separately stated by  
14 the Insurance Department.

15 (d) Coverage under this section shall not be subject to any  
16 greater deductible, coinsurance, copayments or out-of-pocket  
17 limits than any other benefit provided by the Insurance  
18 Department.

19 (e) The Insurance Department shall promulgate rules and  
20 regulations that require an insurer to provide adequate training  
21 to personnel responsible for preauthorization of coverage or  
22 utilization review for services under this section.

23 (f) This section shall not apply to the following types of  
24 policies:

- 25 (1) Accident only.
- 26 (2) Limited benefit.
- 27 (3) Credit.
- 28 (4) Dental.
- 29 (5) Vision.
- 30 (6) Specified disease.

1 (7) Medicare supplement.

2 (8) Civilian Health and Medical Program of the Uniformed  
3 Services (CHAMPUS) supplement.

4 (9) Long-term care or disability income.

5 (10) Workers' compensation.

6 (11) Automobile medical payment.

7 (12) Fixed indemnity.

8 (13) Hospital indemnity.

9 (g) As used in this section, the following words and phrases  
10 shall have the meanings given to them in this subsection unless  
11 the context clearly indicates otherwise:

12 "Acquired brain injury" means an injury to the brain that  
13 occurs after birth and can be caused by infectious diseases,  
14 metabolic disorders, endocrine disorders or diminished oxygen,  
15 brain tumors, toxins, disease that affects the blood supply to  
16 the brain, stroke or a traumatic brain injury.

17 "Cognitive communication therapy" means the treatment of  
18 problems with communication that have an underlying cause in a  
19 cognitive deficit rather than a primary language or speech  
20 deficit.

21 "Cognitive rehabilitation therapy" means a process of  
22 relearning cognitive skills essential for daily living through  
23 the coordinated specialized, integrated therapeutic treatments  
24 which are provided in dynamic settings designed for efficient  
25 and effective relearning following damage to brain cells or  
26 brain chemistry due to brain injury.

27 "Community reintegration services" means incremental guided  
28 real-world therapeutic training to develop skills essential for  
29 an individual to participate in life to re-enter employment, to  
30 go to school and engage in other productive activity, to safely

1 live independently and to participate in their community while  
2 avoiding rehospitalization and long-term support needs.

3 "Day rehabilitation treatment" means a program that provides  
4 assistance with acquisition, retention or improvement in self-  
5 help, socialization and adaptive skills which is accomplished  
6 through comprehensive day rehabilitation programming to acquire  
7 more independent functioning and improved cognition,  
8 communication and life skills.

9 "Functional rehabilitation therapy" means a structured  
10 approach to rehabilitation for brain disorders which emphasizes  
11 learning by doing and focuses relearning a specific task in a  
12 prescribed format with maximum opportunity for repeated correct  
13 practice. Compensatory strategies are developed for those skills  
14 which are persistently impaired and individuals are trained on  
15 daily implementation.

16 "Neurobehavioral therapy" means a set of medical and  
17 therapeutic assessment and treatments focused on behavioral  
18 impairments associated with brain disease or injury and the  
19 amelioration of such impairments through the development of pro-  
20 social behavior.

21 "Neurophysiological testing and treatment" means a set of  
22 medical and therapeutic assessment and treatments focused on  
23 psychophysiological disorders or physical disorders associated  
24 with central nervous system dysfunction.

25 "Neuropsychological testing and treatment" means a set of  
26 medical and therapeutic assessment and treatments focused on  
27 evaluating the cognitive, emotional, psychosocial and behavioral  
28 deficits caused by brain injury.

29 "Preauthorization" means the provision of a reliable  
30 representation to a physician or health care provider of whether

1 an insurer will pay the physician or health care provider for  
2 proposed medical or health care services if the physician or  
3 health care provider provides the services to the patient for  
4 whom the services are proposed. The term includes  
5 precertification, certification, recertification or any other  
6 activity that involves providing a reliable representation by  
7 the issuer to a physician or health care provider.

8 "Postacute transitional rehabilitation treatment" means  
9 integrated medical and therapeutic services, treatment,  
10 education and skills training within a 24/7 real-world  
11 environment of care in a home and community setting.

12 Section 2. This act shall apply as follows:

13 (1) For health insurance policies for which either rates  
14 or forms are required to be filed with the Federal Government  
15 or the Insurance Department, the addition of section 635.9 of  
16 the act shall apply to any policy for which a form or rate is  
17 first filed on or after the effective date of this section.

18 (2) For health insurance policies for which neither  
19 rates nor forms are required to be filed with the Federal  
20 Government or the Insurance Department, the addition of  
21 section 635.9 of the act shall apply to any policy issued or  
22 renewed on or after 180 days after the effective date of this  
23 section.

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