

(H. B. 1845)

(No. 123-2010)

(Approved August 8, 2010)

AN ACT

To amend the second paragraph of Article II; to amend subsections (w) and (y) of Section 1 of Article III; to amend subsections (b), (n), and (o) of Section 2 of Article IV; to amend Sections 2, 4, 5, 6, 7, 8, and 10 of Article VI of Act No. 72 of September 7, 1993, as amended, known as the “Puerto Rico Health Insurance Administration Act,” in order to extend it to all health services organizations, as this term is defined in the Insurance Code of Puerto Rico.

STATEMENT OF MOTIVES

Until 1993, healthcare services in Puerto Rico were provided by a mixed public and private system. That same year, the Government initiated a reform process that dramatically changed the system for providing healthcare services to the Island’s indigent population. It is then that the provision of public and private healthcare services is redirected to eradicate discrimination in medical attention, while guaranteeing access to quality services for regulated attention. Likewise, the government function of providing medical services to the medically indigent population was thus redefined.

Act No. 72 of September 7, 1993, which has been amended afterwards on several occasions, created the Health Insurance Administration. Its mission was to provide the People of Puerto Rico with excellence in healthcare services by contracting private health insurance plans based on a managed care model to guarantee free choice, quality, and cost efficiency in services, in addition to overseeing and evaluating contracted insurance companies. For this reason, the participation of the Government was changed from providing direct services to

paying for such services, with the primary purpose of strengthening the process whereby insurers are contracted to guarantee the quality of healthcare services at a reasonable cost.

With regards to the health insurance contracting and negotiation program, the Administration covers the expenses of implementing and maintaining the health insurance plan of the Government of Puerto Rico in areas or regions benefitting therefrom, including premiums for medical insurance to be paid to insurance companies. This process is made possible by contracting directly with healthcare service providers.

This being said, and considering the present economic situation, as well as all other factors that trouble our society, it becomes imperative to reevaluate the purposes, management mechanisms, and feasibility in the execution of the Act that creates the Health Insurance Administration. For this reason, this legislative piece extends this statute to all organizations defined under the Insurance Code of Puerto Rico that offer healthcare services, in addition to those already in existence.

This Legislative Assembly believes that, in order to guarantee a healthier society, healthcare services should receive and use more human and fiscal resources. A good system should guarantee quality services at a reasonable cost, whereby private plans must compete in terms of pricing and quality. Thus, we open the door to a greater number of entities of this kind, which efforts shall inure to actual and direct opportunities and benefits for our People.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—The second paragraph of Article II of Act No. 72 of September 7, 1993, as amended, is hereby amended to read as follows:

“ARTICLE II
STATEMENT OF LEGISLATIVE INTENT

...

The Administration shall have the responsibility to implement, administer, and negotiate a health insurance system by means of contracts with insurers and/or Health Services Organizations, as such term is defined in Act No. 113 of June 2, 1976, as amended, known as the ‘Health Services Organizations Act,’ incorporated into the Insurance Code of Puerto Rico (Section 19.020 et seq.), which shall eventually give all the residents of the Island access to quality medical and hospital care, regardless of the financial condition and ability to pay of those who require them.

...”

Section 2.—Subsection (w) and subsection (y) of Section 1 of Article III of Act No. 72 of September 7, 1993, as amended, is hereby amended to read as follows:

“ARTICLE III.—DEFINITIONS

Section 1.—Terms and Phrases.—

For the purposes of this Act, the following terms and phrases shall have the meaning set forth below:

...

(w) Health Service Organizations.—Groups of primary physicians, medical support groups, and primary care providers who meet the contracting requirements established by the Administration to offer health services through the managed care model. Health Services Organizations, as this term is defined in Act No. 113 of June 2, 1976, as amended, known as the ‘Health Services Organizations Act,’ incorporated into the Insurance Code of Puerto Rico (Section 19.020 et seq.), are also included in this definition.

...

(y) Healthcare Plan.—Any contract through which a person is committed to provide to a beneficiary or group of beneficiaries, specific healthcare services, whether directly or through a healthcare provider, or to pay all or part of the cost of said services, in consideration of the payment of an amount prefixed in said contract, which is considered to be due regardless of whether or not the beneficiary uses the healthcare services provided by the plan. Notwithstanding the foregoing, said plan shall provide mainly for the rendering of healthcare services, as opposed to a mere indemnification for the cost of such services.

...”

Section 3.—Subsections (b), (n), and (o) of Section 2 of Article IV of Act No. 72 of September 7, 1993, as amended, are hereby amended to read as follows:

“ARTICLE IV

PUERTO RICO HEALTH INSURANCE ADMINISTRATION

Section 2.—Purposes, Functions, and Powers.—

The Administration shall be the government body in charge of implementing the provisions of this Act. For such purposes, it shall have the following powers and functions, which shall rest on its Board of Directors:

...

(b) To negotiate and contract medical hospital insurance coverage with public and private insurers and health services organizations, as defined and established in Article VI of this Act.

...

(n) To establish in the contracts underwritten with insurers, participating providers, and health service organizations:

...

(o) To direct the insurers, health service organizations, and participating providers to furnish the information that the Administration deems necessary to follow up on the strict compliance with this Act, to keep a record of the services rendered in categorical programs subsidized by the Federal Government that have been delegated, and to document the relationship of their beneficiaries, payment claims, and the pertinent financial and statistical reports. In case of noncompliance, the Administration may resort to the Court of First Instance of Puerto Rico, San Juan Part, to request it to order the delivery of the required information.

...”

Section 4.—Sections 2, 4, 5, 6, 7, 8, and 10 of Article VI of Act No. 72 of September 7, 1993, as amended, is hereby amended to read as follows:

“ARTICLE VI
HEALTH INSURANCE PLAN

...

Section 2.—Contracting.—

The Administration shall contract health insurance for the area or areas established with one (1) or more insurers and/or health service organizations authorized to do health insurance business in Puerto Rico by the Insurance Commissioner, or by special laws approved for such purposes.

...

Section 4.—Provisions against Discrimination.—

An insurer or health service organization under this Act shall not issue identification cards that are different from those provided to others who are insured under plans with similar coverage, unless the Administration so authorizes or requires.

...

Section 5.—Deductibles; Co-insurance and Premiums; Prohibited Practices.—

The Administration shall establish the premium agreed to in the contracts underwritten with the insurers and/or health service organizations. It shall also establish in said contracts the corresponding amount as payment of deductibles and co-insurance according to the level of income and ability to pay of the beneficiary. All other insurers and/or health service organizations may come to an agreement with the Administration to pay a premium that is higher than the basic premium, the difference of which shall be paid by the beneficiary. No participating provider may charge the beneficiary an amount that exceeds the amount agreed upon as a deductible, co-insurance, or premium in the contract underwritten with the insurers or the Administration.

The insurers and/or health service organizations that contract with the Administration to provide health plans shall not, at any time, increase the premium or reduce benefits in any other policies they provide, in order to subsidize the premium, reduce the cost, or compensate for the loss experienced by the health plan that is authorized in this Act. The premium agreed upon must be actuarially validated as reasonable by the duly qualified actuaries of the Administration according to the standards of the American Academy of Actuaries. For the purpose of structuring and fixing the cost or premium, the insurers and/or health service organizations shall consider the group of beneficiaries of these health insurance plans as a unit that is independent from its other groups of beneficiaries, and shall maintain a separate accounting system for them. Likewise, the health service providers that contract with the Administration may not reduce the benefits or affect the quality thereof to accommodate patients that are not covered by the Health Plan authorized by this Act.

Failure to comply with the provisions of this Section shall be penalized by the Insurance Commissioner pursuant to the provisions of Act No. 77 of June 19, 1957, as amended, denominated the ‘Insurance Code of Puerto Rico,’ or by the provisions of the contract with the Administration, as applicable.

Section 6.—Coverage and Minimum Benefits.—

The health plans shall have a broad coverage, with a minimum of exclusions. There shall be no exclusions for pre-existing conditions, or waiting periods at the time coverage is granted to the beneficiary.

A. The Administration shall establish a coverage of benefits to be offered by the contracted insurers and/or health services organizations, or participating providers. The coverage shall include, among others, the following benefits: outpatient services, hospitalizations, dental health, mental health, studies, testing, and equipment for beneficiaries that require the use of a ventilator for life support, laboratory tests, and X-rays, as well as prescription medications, which shall be dispensed by a participating pharmacy, freely chosen by the insured and licensed under the laws of Puerto Rico. The coverage shall provide for each beneficiary to have available the laboratory tests and immunizations appropriate for his/her age, sex, and physical condition annually.

...

Section 7.—Models for Rendering Services.—

The Administration shall establish, through regulations, the different models for the rendering of services which may be used in offering the health plans created by this Act.

The models for rendering services to be used shall have the following features in common:

...

(c) The Administration shall only contract with insurers that do not have any direct or indirect financial interest in, or relationship with subsidiary-owners or affiliates of a health facility that renders services to the beneficiaries of the health insurance created by this Act, except with such health service organizations duly defined and authorized by the Insurance Commissioner.

(d) The models to be implemented shall have strict use control measures.

(e) All the models shall be reinforced by a health and prevention education system, with special emphasis on lifestyle, AIDS, drug abuse, and mother and child health. The Department shall be responsible for the promotion of health.

(f) The insurers and/or health service organizations shall include in their model of services to be rendered, the use of all Commonwealth facilities contracted with the private sector in the region.

Section 8.—Regionalization System.—

The rendering of services shall be carried out following the regionalization system established by the Administration in coordination with the Department, by progressively establishing a network of participating providers throughout the Island, thus insuring the closest possible service to the patient.

(a) The insurer and/or health service organization shall provide in each region all secondary and tertiary services, as defined by the Department, but only those secondary and tertiary services not provided by the Commonwealth in such region or area. Participating providers shall coordinate with the Administration the extent of the secondary and tertiary services they shall provide as provided in the contract, but only those secondary and tertiary services not provided by the Commonwealth in such region or area.

...

Section 10.—Complaint; Procedure.—

The Administration shall require insurers, providers, and health service organizations with whom it contracts to establish the procedures to handle and resolve complaints from the participating providers and the beneficiaries.

The Administration shall establish guidelines for the resolution of complaints which shall guarantee due process of law. The findings made regarding these complaints shall be appealable before the Administration, as provided by regulations or the signed contract. The final findings of the Administration shall be reviewable by the Court of Appeals.”

Section 5.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 123-2010 (H. B. 1845)** of the **3rd Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend the second paragraph of Article II; to amend subsections (w) and (y) of Section 1 of Article III; to amend subsections (b), (n), and (o) of Section 2 of Article IV; to amend Sections 2, 4, 5, 6, 7, 8, and 10 of Article VI of Act No. 72 of September 7, 1993, as amended, known as the “Puerto Rico Health Insurance Administration Act,” in order to extend it to all health services organizations, as this term is defined in the Insurance Code of Puerto Rico.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 13th day of December, 2012.

María del Mar Ortiz Rivera