

(S. B. 583)

(No. 134-2013)

(Approved November 20, 2013)

AN ACT

To add a new subsection (s) to Section 2 of Article IV of Act No. 72-1993, as amended, known as the “Health Insurance Administration Act,” in order to reiterate and clearly establish the authority of the Health Insurance Administration to impose civil fines; provide for the imposition of higher fines than those currently permitted by the code of laws in effect; provide for the disposition of the revenues collected by virtue thereof; and for other purposes.

STATEMENT OF MOTIVES

Act No. 72-1993 created the Puerto Rico Health Insurance Administration, hereinafter “the Administration,” and conferred to it the responsibility of establishing and administering a health insurance system for the residents of the Commonwealth of Puerto Rico that offers quality medical-hospital services. In order to achieve the foregoing, the Administration was empowered to negotiate, establish, and manage, through agreements with insurers, the health insurance plans needed to comply with such an important public policy.

By virtue of Reorganization Plan No. 3-2010, the Secretary of the Treasury was relieved of his duty to contract with health insurers for public employees in accordance with the provisions of Act No. 95 of June 29, 1963, as amended, known as the “Public Employees Health Benefits Act.” Such duties were transferred to the Administration in view of its experience, capacity, and expertise in negotiating said health benefits.

Among the duties and powers that Act No. 72, *supra*, entrusted to the Administration, is the duty to carry out all the actions necessary and convenient to fulfill the purposes of this Act, except to encumber the credit of the Commonwealth of Puerto Rico or of any political subdivisions thereof.

Furthermore, in the agreements entered into with insurers, health service organizations, and providers the administration has the duty to establish those mechanisms that assure every aspect that affects the accessibility, quality, cost control, and use of the services, as well as the protection of the rights of beneficiaries and providers.

Likewise, Act No. 170 of August 12, 1988, as amended, known as the “Commonwealth of Puerto Rico Uniform Administrative Procedures Act,” provides that laws that govern the agencies under said Act may be punished by civil fines that shall not exceed five thousand dollars (\$5,000) per violation. Furthermore, Act No. 170, *supra*, provides that in those cases in which a civil fine higher than that provided in said Act is authorized by special law the agency may impose said higher sanction.

Although the power of the Administration to impose civil fines is inherent to its functions, duties, and obligations, it is necessary to enable said entity to impose higher fines than those provided and authorized by Act No. 170, *supra*.

The importance of the primary interests that the Administration should further, to wit, the rendering of health insurance services of excellence, as well as providing health insurance to our employees and public officials, warrants empowering the Administration with the authority to impose higher fines and penalties that deter third parties from violating laws, regulations, and agreements related to the discharge of duties, powers, and obligations of said entity.

The purpose of this measure is to amend Act No. 72, *supra*, in order to reiterate, clearly establish, and broaden said powers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- A new subsection (s) is hereby added to Section 2 of Article IV of Act No. 72-1993, as amended, known as the “Puerto Rico Health Insurance Administration Act,” to read as follows:

“Article IV.- Puerto Rico Health Insurance Administration

...

Section 2.- Purposes, Duties, 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 duties, which shall be exercised by its Board of Directors:

(a) ...

...

(s) Impose civil fines up to a maximum of twenty thousand dollars (\$20,000) per violation to any insurer, health service organization, service provider, pharmacy benefit manager, or any intermediary organization contracted by insurers that violates any provision of this Act and of any other law and its concomitant regulations, which the Administration is responsible for implementing, as well as any noncompliance with any obligation acquired by virtue of the agreements entered into with the Administration in compliance with the duties assigned thereto by said laws. The Administration shall adopt and promulgate the regulations deemed convenient and necessary for the proper implementation and enforcement of this provision, as well as pay and collect fines. Revenues for violations of the provisions of this Act or the regulations thereunder shall be deposited into the budget fund of the Administration. Provided, however, that civil fines imposed by the Administration shall be in addition to other penalties, including liquidated damages or penalties certified in the agreement that the Administration may impose.”

Section 2.- Severability Clause

If any clause, paragraph, subparagraph, article, provision, section, subsection, chapter, subchapter, or part of this Act were held to be null or unconstitutional by a court with jurisdiction, said holding shall not affect, impair, or invalidate the remaining provisions of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, subsection, chapter, subchapter, or part thereof thus held to be null or unconstitutional.

Section 3.- Effectiveness

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 134-2013 (S. B. 583)** of the **2nd Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to add a new subsection (s) to Section 2 of Article IV of Act No. 72-1993, as amended, known as the "Health Insurance Administration Act," in order to reiterate and clearly establish the authority of the Health Insurance Administration to impose civil fines; provide for the imposition of higher fines than those currently permitted by the code of laws in effect; provide for the disposition of the revenues collected by virtue thereof; and for other purposes.

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

In San Juan, Puerto Rico, on this 6th day of December, 2018.

Orlando Pagán-Ramírez
Director