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DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 227

AN ACT TO AMEND TITLE 16, TITLE 18, AND TITLE 29 OF THE DELAWARE CODE RELATING TO PRIMARY CARE SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 9903, Title 16 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 § 9903. Duties and authority of the Commission.

4 (f) The Commission must collaborate with the Primary Care Reform Collaborative to develop annual

5 recommendations that will strengthen the primary care system in Delaware. The scope of the recommendations must

6 include all of the following:

7 (1) Payment reform.

8 (2) Value-based care.

9 (3) Workforce and recruitment.

10 (4) Directing resources to support and expand primary care access.

11 (5) Increasing integrated care, including for women's and behavioral health.

12 (6) Evaluation of system-wide investments into primary care, using claims data obtained from the

13 Delaware Health Care Claims Database.

14 Section 2. Amend Chapter 99, Title 16 of the Delaware Code by making deletions as shown by strike through and  
15 insertions as shown by underline as follows:

16 § 9905. Primary Care Reform Collaborative.

17 (a) The Commission shall convene a Primary Care Reform Collaborative ("Collaborative") to assist with the

18 development of recommendations to strengthen the primary care system in this State. The Collaborative may collect and

19 accept advice and input from stakeholders, including the Delaware healthcare and patient community.

20 (b) The members of the Collaborative are as follows:

21 (1) The Commission Chairperson.

22 (2) The Chair of the Senate Health, Children & Social Services Committee.

23 (3) The Chair of the House Health & Human Development Committee.

24 (c) The Commission may also require the submission of written reports by any health insurer, as defined in § 4004  
25 of Title 18, and any hospital or acute health care facility licensed under § 1001 of Title 16, regarding all of the following  
26 matters:

27 (1) The hospital's, acute health care facility's, or health insurer's progress in adopting and implementing  
28 value-based payment models during the fiscal year immediately preceding the annual reporting deadline and the  
29 overall progress of the reporting entity on having at least 60% of Delawareans attributed to meaningful value-  
30 based payment models by 2021.

31 (2) The hospital's, acute health care facility's, or health insurer's efforts to support primary care access  
32 and primary care practitioners in the State of Delaware, including financial, operational, and other support, in  
33 conjunction with the adoption of meaningful value-based payment models.

34 Section 3. Amend § 10312, Title 16 of the Delaware Code by making deletions as shown by strike through and  
35 insertions as shown by underline as follows:

36 § 10312. Definitions.

37 For purposes of this chapter, unless amended, supplemented, or otherwise modified by regulations adopted under  
38 this chapter:

39 (4) "Mandatory reporting entity" means all of the following entities, except as prohibited under federal law:

40 e. Any health insurer providing health-care coverage to a resident of this State.

41 Section 4. Amend § 10314, Title 16 of the Delaware Code by making deletions as shown by strike through and  
42 insertions as shown by underline as follows:

43 § 10314 External and public reporting of claims data.

44 (a) The DHIN shall provide Delaware health-care payers, providers, and purchasers with access to the Delaware  
45 Health Care Claims Database for the purpose of facilitating the design and evaluation of alternative delivery and payment  
46 models, including population health research and provider risk-sharing arrangements.

47 (1) Claims data provided to the Delaware Health Care Claims Database shall only be provided to a  
48 requesting party when a majority of the DHIN Board of Directors, or of a subcommittee established under the  
49 DHIN's bylaws for purposes of administering the Health Care Claims Database, determines that the claims data  
50 should be provided to the requesting party to facilitate the purposes of this subchapter or to the Delaware Health  
51 Care Commission.

52 Section 5. Amend Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike through and  
53 insertions as shown by underline as follows:

54 § 3342A. Primary care coverage.

55 (a) For purposes of this section:

56 (1) "Carrier" means any entity that provides health insurance in this State. "Carrier" includes an insurance  
57 company, health service corporation, health maintenance organization, and any other entity providing a plan of  
58 health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third-party  
59 administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

60 (2) "Chronic care management" means the services in the Chronic Care Management Services program,  
61 as administered by the Centers for Medicare and Medicaid Services, and includes Current Procedural Terminology  
62 ("CPT") codes 99487, 99489, and 99490.

63 (3) "Medicare" means the federal Medicare Program (U.S. Public Law 89-87, as amended) [42 U.S.C. §  
64 1395 et seq.].

65 (4) "Primary care" means health care provided by a physician or an individual licensed under Title 24 to  
66 provide health care, with whom the patient has initial contact and by whom the patient may be referred to a  
67 specialist and includes family practice, pediatrics, internal medicine, and geriatrics.

68 (b) A carrier shall provide coverage for chronic care management and primary care and coverage at a  
69 reimbursement rate that is not less than the Medicare reimbursement for comparable physician services.

70 (c) Coverage for chronic care management must not be subject to patient deductibles, copayments, or fees.

71 (d) If a comparable Medicare reimbursement rate is not available, a carrier shall reimburse for services at the rates  
72 generally available under Medicare for services such as office visits and prolonged preventive services, which may be  
73 further delineated by regulation.

74 (e) The Department shall arbitrate disagreements regarding rates under this section. The parties must pay the cost  
75 of the arbitration.

76 (f) The Department shall adopt regulations to implement the requirements of this section no later than [90 days  
77 after the effective date of this Act].

78 (g) The provisions of this section may not be waived by contract. Any contractual arrangement in conflict with the  
79 provisions of this section or that purports to waive any requirements of this section is void.

80 Section 6. Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and  
81 insertions as shown by underline as follows:

82           § 3556A. Primary care coverage.

83           (a) For purposes of this section:

84                   (1) "Carrier" means any entity that provides health insurance in this State. "Carrier" includes an insurance  
85                   company, health service corporation, health maintenance organization, and any other entity providing a plan of  
86                   health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third-party  
87                   administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

88                   (2) "Chronic care management" means the services in the Chronic Care Management Services program,  
89                   as administered by the Centers for Medicare and Medicaid Services, and includes Current Procedural Terminology  
90                   ("CPT") codes 99487, 99489, and 99490.

91                   (3) "Medicare" means the federal Medicare Program (U.S. Public Law 89-87, as amended) [42 U.S.C. §  
92                   1395 et seq.].

93                   (4) "Primary care" means health care provided by a physician or an individual licensed under Title 24 to  
94                   provide health care, with whom the patient has initial contact and by whom the patient may be referred to a  
95                   specialist and includes family practice, pediatrics, internal medicine, and geriatrics.

96           (b) A carrier shall provide coverage for chronic care management and primary care and coverage at a  
97           reimbursement rate that is not less than the Medicare reimbursement for comparable physician services.

98           (c) Coverage for chronic care management must not be subject to patient deductibles, copayments, or fees.

99           (d) If a comparable Medicare reimbursement rate is not available, a carrier shall reimburse for services at the rates  
100           generally available under Medicare for services such as office visits and prolonged preventive services, which may be  
101           further delineated by regulation.

102           (e) The Department shall arbitrate disagreements regarding rates under this section. The parties must pay the cost  
103           of the arbitration.

104           (f) The Department shall adopt regulations to implement the requirements of this section no later than [90 days  
105           after the effective date of this Act].

106           (g) The provisions of this section may not be waived by contract. Any contractual arrangement in conflict with the  
107           provisions of this section or that purports to waive any requirements of this section is void.

108           Section 7. Amend § 5201, Title 29 of the Delaware Code by making deletions as shown by strike through and  
109           insertions as shown by underline as follows and by redesignating Delaware Code subsections and internal references  
110           accordingly:

111           § 5201. Definitions.

112                   (2) “Chronic care management” means the services in the Chronic Care Management Services program,  
113                   as administered by the Centers for Medicare and Medicaid Services, and includes Current Procedural Terminology  
114                   (“CPT”) codes 99487, 99489, and 99490.

115                   ( ) “Medicare” means the federal Medicare Program (U.S. Public Law 89-87, as amended) [42 U.S.C. §  
116                   1395 et seq.].

117                   ( ) “Primary care” means health care provided by a physician or an individual licensed under Title 24 to  
118                   provide health care, with whom the patient has initial contact and by whom the patient may be referred to a  
119                   specialist and includes family practice, pediatrics, internal medicine, and geriatrics.

120                   Section 8. Amend § 5203, Title 29 of the Delaware Code by making deletions as shown by strike through and  
121                   insertions as shown by underline as follows:

122                   § 5203. Specifications of the coverage.

123                   (c)(1)The basic plan must provide coverage for chronic care management and primary care and coverage at a  
124                   reimbursement rate that is not less than the Medicare reimbursement for comparable physician services.

125                   (2) Coverage for chronic care management must not be subject to patient deductibles, copayments, or  
126                   fees.

127                   (3) If a comparable Medicare reimbursement rate is not available, a plan shall reimburse for services at  
128                   the rates generally available under Medicare for services such as office visits and prolonged preventive services,  
129                   which may be further delineated by regulation.

130                   Section 9. This Act takes effect 30 days after enactment.

131                   Section 10. Sections 5 through 8 of this Act expire 3 years after enactment into law unless otherwise provided by a  
132                   subsequent Act of the General Assembly.

133                   Section 11. The Primary Care Collaborative shall convene on or before September 17, 2018, and shall issue  
134                   written recommendations on or before January 8, 2019, regarding appropriate levels of system-wide primary care  
135                   investment, including an evaluation of whether 12% of health care spending should be directed to primary care.

#### SYNOPSIS

This Act promotes the use of primary care by doing the following:

1. Creating a Primary Care Reform Collaborative under the Delaware Health Care Commission.
2. Requiring all health insurance providers to participate in the Delaware Health Care Claims Database.
3. Requiring individual, group, and State employee insurance plans to reimburse primary care physicians, certified nurse practitioners, physician assistants, and other front-line practitioners for chronic care management and primary care at no less than the physician Medicare rate for the next 3 years.

Despite the demonstrated value of primary care, access to primary care for Delawareans has become increasingly difficult because insurance reimbursement rates fail to support an adequate infrastructure. The national average for primary care spending for an insurance plan is between 6% and 8% of the insurer’s total medical expenditures. Studies recommend,

and some states are actively implementing, a 12% to 15% spending rate to have an effective system. Delaware's average insurance spending on chronic care management and primary care is between 3% and 4%. Nationally, insurance reimbursement for primary care averages between 120% and 140% of Medicare rates. In Delaware the commercial market reimburses independent primary care at rates as low as between 65% and 85% of Medicare rates. Reliable data regarding insurance spending is difficult to obtain due to a combination of contractual restrictions and an absence of mandatory health care price transparency requirements applicable to commercial plans in Delaware

This Act simultaneously enacts short-term and long-term solutions to strengthen the primary care system in this State. While the Primary Care Reform Collaborative and the Delaware Health Care Commission study and development long-term recommendations, requiring insurers to reimburse for chronic care management and primary care at the Medicare rates will stabilize existing resources and provide immediate benefits. The Primary Care Reform Collaborative and the Delaware Health Care Commission have reliable data and information from the Delaware Health Care Claims Database to use in this analysis and to make recommendations that will strengthen the primary care system in Delaware.

Author: Senator Townsend