



SPONSOR: Rep. Kowalko & Rep. Jaques & Sen. McDowell
Reps. Baumbach, Keeley

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 74

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE.

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

1 Section 1. Amend Title 31 of the Delaware Code by making insertions as shown by underlining as follows:

2 Chapter 16. DELAWARE HEALTH SECURITY ACT

3 §1601. Purpose of the Delaware Health Security Act.

4 The purpose of this Chapter is to:

5 (1) Guarantee every Delaware citizen, and out-of-state citizens who receive health care coverage from

6 Delaware employers, all necessary health care services offered by the provider of each citizen's choice;

7 and

8 (2) Replace the current mixture of private and public health care plans with a comprehensive single payer

9 health care system available to every Delaware citizen.

10 §1602. Definitions.

11 The following words and phrases as used in this Chapter shall have the following meanings:

12 (1) "Authority Fund" means the Delaware Health Security Authority Fund established in §1616 of this Chapter.

13 (2) "Board" means the appointed members of the Delaware Health Security Authority, which is to administer the

14 Delaware Health Security Act;

15 (3) "Executive Director" means the Executive Director of the Delaware Health Security Authority;

16 (4) "Health Care" means care provided to an individual by a licensed health care professional to promote physical

17 or mental health, to prevent illness and injury and to treat illness and injury;

18 (5) "Health Care Authority" or "Authority" means the Delaware Health Security Authority established in §1603 of

19 this Chapter;

20 (6) "Health Care Facility" means any facility or institution, whether private or public, nonprofit or proprietary,

21 which offers diagnosis, treatment, inpatient or ambulatory care to two or more unrelated persons;

22 (7) "Health Care Provider" means a person, partnership, corporation or other business organization, other than a
23 facility or institution, licensed, certified or authorized by law to provide professional health care services in the
24 state to an individual;

25 (8) "Professional Advisory Committee" means a committee of advisors appointed by a Director of a Division of
26 the Delaware Health Security Authority;

27 (9) "Resident" means a person who lives in Delaware as evidenced by an intent to continue to live in Delaware and
28 to return to Delaware if temporarily absent, coupled with an act or acts consistent with that intent. The Authority
29 shall adopt standards and procedures for determining whether a person is a resident and for determining out-of-
30 state citizens' eligibility based on receiving health care coverage through their Delaware employers. Such rules and
31 standards shall include:

32 (i) A provision requiring that the person seeking resident status has the burden of proof in such
33 determination;

34 (ii) Reasonable durational domicile requirements not to exceed two years for long term care and 90 days
35 for all other covered services;

36 (iii) A provision that a residence established for the purpose of seeking health care shall not by itself
37 establish that a person is a resident of the state; and

38 (iv) A provision that, for the purposes of this Chapter, the terms "domicile" and "dwelling place" are not
39 limited to any particular structure or in real property and specifically includes homeless individuals with
40 the intent to live and return to Delaware if temporarily absent coupled with an act or acts consistent with
41 that intent; and

42 (10) "Secretary" shall mean the Secretary of the Department of Health And Social Services.

43 §1603. Establishment of the Delaware Health Security Authority.

44 (a) There is hereby created a body corporate and politic to be known as the Delaware Health Security
45 Authority hereinafter referred to as the Authority. The Authority is hereby constituted a public instrumentality of
46 the state and the exercise by the Authority of the powers conferred by this Act shall be deemed and held the
47 performance of an essential governmental function. The Authority is placed in the Department of Health and
48 Social Services but shall not be subject to the supervision or control of said Department or of any Board, Bureau,
49 Department or other agency of the state except as specifically provided by this Act.

50 (b) The Authority may purchase from, contract with or otherwise deal with any organization in which any
51 Authority board member is interested or involved; provided, however, that such interest or involvement is

52 disclosed in advance to the Authority's board members and recorded in the minutes of the proceedings of the
53 Authority; and provided, further, that any board member having such an interest or involvement may not
54 participate in any debate or decision relating to such organization.

55 (c) All officers and employees of the Authority having access to its cash or negotiable securities shall
56 give bond to the Authority, in such amount and with such surety as the Authority's board shall prescribe. The
57 persons required to give bond may be included in one or more blanket or schedules' bonds.

58 (d) Board members, officers and advisors who are not regular, compensated employees of the Authority
59 shall not be liable to the State, to the Authority or to any other person as a result of their activities, whether
60 ministerial or discretionary, as such board members, officers or advisors except for willful dishonesty or
61 intentional violations of law. The Board of the Authority may purchase liability insurance for board members,
62 officers, advisors or employees and may indemnify said persons against the claims of others.

63 §1604. Powers of the Delaware Health Security Authority.

64 (a) The Authority shall have the following powers:

65 (1) To make, amend and repeal by-laws, rules and regulations for the management of its affairs;

66 (2) To adopt an official seal;

67 (3) To sue and be sued in its own name;

68 (4) To make contracts and execute all instruments necessary or convenient for carrying out the purposes
69 of this Act;

70 (5) To acquire, own, hold, dispose of and encumber personal, real or intellectual property of any nature of
71 any interest therein;

72 (6) To enter into agreements or transactions with any federal, state or municipal agency or other public
73 institution or with any private individual, partnership, firm, corporation, association or other entity;

74 (7) To appear on its own behalf before boards, commissions, departments or other agencies of federal,
75 state or municipal government;

76 (8) To appoint officers and to engage and employ employees, including legal counsel, consultants, agents
77 and advisors and prescribe their duties and fix their compensation;

78 (9) To establish advisory boards and councils;

79 (10) To procure insurance against any losses in connection with its property in such amounts, and from
80 such insurers, as may be necessary or desirable;

81 (11) To invest any funds held in reserves or sinking funds or any funds not required for immediate
82 disbursement, in such investments as may be lawful for fiduciaries in the state;
83 (12) To accept, hold, use, apply and dispose of any and all donations, grants, bequests and devises,
84 conditional or otherwise, of money, property, services or other things of value, which may be received
85 from the United States or other agency thereof, any governmental agency, any institution, person, firm or
86 corporation, private or public. Such donations, grants, bequests and devises may be held, used, applied or
87 disposed for any and all of the purposes specified in this Act and shall be used in accordance with the
88 terms and conditions of any such grant. Receipt of each such donation or grant shall be detailed in the
89 annual report of the Authority, which shall include the identity of the donor, lender, the nature of each
90 transaction and any conditions attached thereto; and
91 (13) To do any and all other things necessary to carry out the purposes of the Delaware Health Security
92 Act.

93 §1605. Board of the Authority; Composition, Powers and Duties.

94 (a) There is hereby created a statewide Board that will govern the Delaware Health Security Authority. The Board
95 will be comprised of fifteen members as follows:

- 96 (1) Two members from the State Senate, each of whom shall be a member of the Senate Committee
97 concerned with health care to be appointed by the President Pro Tempore;
98 (2) Two members of the House of Representatives, each of whom shall be a member of the House
99 Committee concerned with health care to be appointed by the Speaker of the House;
100 (3) The Secretary of the Department of Health and Social Services;
101 (4) Five representatives from different statewide Delaware health care professional organizations to be
102 appointed on a rotating basis by the Governor and confirmed by the Senate with the requirement that two
103 of these five appointed representatives will always be from the Medical Society of Delaware and the
104 Delaware Nurses Association; and
105 (5) Five members from statewide Delaware consumer groups on a rotating basis that have endorsed a
106 single payer health care system at least five years prior to the enactment of this Chapter, to be appointed
107 by the Governor and confirmed by the Senate.

108 (b) The Governor shall make appointments to the Board from nominations submitted by eligible organizations.
109 Eligible organizations shall submit nominees to the Governor within one month of enactment of this Act. The Governor
110 shall make Board appointments within two months of receiving these nominations.

111 (c) Each Board member shall serve a term of five years; provided, however, that in making the initial
112 appointments, five members shall serve three-year terms, five members shall serve four-year terms and five members shall
113 serve five-year terms. Any person appointed to fill a vacancy on the Board shall serve for the unexpired term of the
114 predecessor Board member. Any Board member shall be eligible for reappointment. Any Board member may be removed
115 from her/his appointment by the Governor for cause. Eight Board members shall constitute a quorum and the affirmative
116 vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by
117 the Board. The Authority's Board shall meet at least ten times each year and have the final authority over the activities of
118 the Delaware Health Security Authority. The Board appointees shall annually elect a Chair and Vice-Chair from among
119 their membership. Board members shall serve without compensation, but each Board member shall be entitled to
120 reimbursement for actual and necessary expenses incurred in the performance of official duties.

121 §1606. Executive Director, Health Security Authority; Purpose and Duties.

122 (a) The Board of the Delaware Health Security Authority shall hire an Executive Director who shall be the
123 executive and administrative head of the Authority and shall be responsible for administering and enforcing the provisions
124 of law relative to the Authority.

125 (b) The Executive Director may as he or she deems necessary or suitable for the effective administration and
126 proper performance of the duties of the Authority and subject to the approval of the Board of the Authority, do the
127 following:

128 (1) Adopt, amend, alter, repeal and enforce, all such reasonable rules, regulations and orders as may be necessary;
129 and

130 (2) Appoint and remove employees and consultants; provided, however, that, subject to the availability of funds in
131 the Authority, at least one employee shall be hired to serve as Director of each of the Divisions created in §1607
132 through §1610 of this Chapter.

133 (c) The Executive Director shall:

134 (1) Negotiate or establish terms and conditions for the provision of health care services and rates of reimbursement
135 for such services on behalf of the citizens of the state;

136 (2) Negotiate or establish manufacturer discounts and rebates for covered prescription drugs and other health care
137 products;

138 (3) Develop prospective and retrospective reimbursement systems for covered services to provide prompt and fair
139 payment to eligible providers;

140 (4) Oversee preparation of annual operating and capital budgets for the statewide delivery of health care services;

141 (5) Oversee preparation of annual benefits reviews to determine the adequacy of covered services; and
142 (6) Prepare an annual report to be submitted to the Governor, President Pro Tempore of the Senate and Speaker of
143 the House of Representatives and to be easily accessible to every participating member and citizen in our state.

144 §1607. Administrative Division; Purpose and Duties.

145 (a) There shall be an Administrative Division within the Health Security Authority, which shall be under the
146 supervision and control of a Director. The powers and duties given the Director in this Act and in any other general or
147 special law shall be exercised and discharged subject to the direction, control and supervision of the Executive Director of
148 the Authority. The Director of the Administrative Division shall be appointed by the Executive Director of the Authority,
149 with the approval of the Board of the Health Security Authority, and may, with like approval be removed. The Director
150 may, at her or his discretion, establish a professional advisory committee to provide expert advice; provided, however, that
151 the committee shall have at least 33 percent consumer representation.

152 (b) The Administrative Division shall have day-to-day responsibility for:

- 153 (1) Making prompt payments to providers for covered services;
154 (2) Collecting reimbursement from non-eligible patients;
155 (3) Developing information management systems needed for provider payment, rebate collection and
156 utilization review;
157 (4) Investing Authority Fund assets consistent with state laws and §1616 of this Act;
158 (5) Developing operational budgets for the Authority; and
159 (6) Assisting the Planning Division develop capital budgets for the Authority.

160 §1608. Planning Division; Director; Purpose and Duties.

161 (a) There shall be a Planning Division within the Authority, which shall be under the supervision and control of a
162 Director. The powers and duties given the Director in this Act and in any other general or special law shall be exercised and
163 discharged subject to the direction, control and supervision of the Executive Director of the Authority. The Director of the
164 Planning Division shall be appointed by the Executive Director of the Authority, with the approval of the Board of the
165 Health Security Authority, and may, with like approval, be removed. The Director may, at her or his discretion, establish a
166 professional advisory committee to provide expert advice; provided, however, that such committee shall have at least 33
167 percent consumer representation.

168 (b) The Planning Division shall have day-to-day responsibility for coordinating health care resources to ensure all
169 eligible participants reasonable access to covered services.

170 (c) The Planning Division shall review annually the adequacy of health care resources throughout the State and
171 recommend changes as may from time to time be required. The Planning Division shall submit to the Board of the
172 Authority its final review and recommendations by October 1 of each year. Subject to Authority Board approval, the
173 Authority shall adopt the recommendations.

174 §1609. Quality Assurance Division; Director; Purpose and Duties.

175 (a) There shall be a Quality Assurance Division within the Authority, which shall be under the supervision and
176 control of a Director. The powers and duties given the Director in this Act and in any other general or special law shall be
177 exercised and discharged subject to the direction, control and supervision of the Executive Director of the Authority. The
178 Director of the Quality Assurance Division shall be appointed by the Executive Director of the Authority, with the approval
179 of the Board of the Health Security Authority, and may, with like approval be removed. The Director may, at her or his
180 discretion, establish a professional advisory committee to provide expert advice; provided, however, that this committee
181 shall have at least 33 percent consumer representation.

182 (b) The Quality Assurance Division shall review annually the quality of health care services and outcomes
183 throughout the state and submit such recommendations as may from time to time be required to maintain and improve the
184 quality of health care delivery and the overall health of Delaware citizens. The Division shall submit to the Board of the
185 Authority its final review and recommendations by October 1 of each year. Subject to Advisory Board approval, the
186 Authority shall adopt the recommendations.

187 §1610. Benefits Division; Director; Purpose and Duties.

188 (a) There shall be a Benefits Division within the Authority, which shall be under the supervision and control of a
189 Director. The powers and duties given the Director in this Act and in any other general or special law shall be exercised and
190 discharged subject to the direction, control and supervision of the Executive Director of the Authority. The Director of the
191 Benefits Division shall be appointed by the Executive Director of the Authority, with the approval of the Authority's Board,
192 and may, with like approval, be removed. The Director may, at her or his discretion, establish a professional advisory
193 committee to provide expert advice; provided, however, that such committee shall have at least 33 percent consumer
194 representation.

195 (b) The Benefits Division shall review annually the adequacy of covered benefits and recommend changes in
196 covered benefits as from time to time be required. The Division shall submit to the Board of the Authority its final review
197 and recommended changes by October 1 of each year. Subject to Board approval, the Authority shall adopt the
198 recommended changes.

199 §1611. Eligible Participants.

200 The following persons shall be entitled to benefits under this Chapter:

201 (a) All Delaware citizens;

202 (b) All non-residents who:

203 (1) Work 20 hours or more per week in Delaware, including legal non-resident aliens;

204 (2) Pay all applicable Delaware personal income and payroll taxes;

205 (3) Pay any additional premiums established by the Authority; and

206 (4) Have complied with requirements of this paragraph for at least 90 days; and

207 (c) All patients requiring emergency treatment for illness or injury; provided, however, that the Authority shall
208 recoup expenses for such patients whenever possible.

209 §1612. Eligible Health Care Providers and Facilities.

210 (a) Eligible health care providers and facilities shall include an agency, facility, corporation, individual or other
211 entity directly rendering any covered benefit to an eligible patient; provided, however, that it:

212 (1) Is licensed to operate or practice in the state;

213 (2) Furnishes a signed agreement that:

214 a. All health care services will be provided without discrimination on the basis of age, sex, race,
215 national origin, sexual orientation, income status or pre-existing condition;

216 b. The provider will comply with all state and federal laws regarding the confidentiality of
217 patient records and information;

218 c. No balance billing or out-of-pocket charges will be required for covered services unless
219 otherwise provided in this Act; and

220 d. The provider will furnish such information as may be reasonably required by the Authority for
221 making payment, verifying reimbursement and rebate information, utilization review analyzes,
222 statistical and fiscal studies of operations and compliance with state and federal law. All such
223 disclosures, however, should meet the strictest standards of privacy protection, as set forth in
224 state or federal legislation or in the standards of professional practice associations, whichever is
225 more protective of patient confidentiality and non-identifiable; and

226 (3) Meets whatever additional requirements that may be established by the Authority.

227 §1613. Prospective Payments to Eligible Health Care Providers and Facilities.

228 (a) The Authority shall negotiate with eligible health care providers, health care facilities, or groups of providers or
229 facilities, or establish prospective reimbursement schedules or rates for covered services. Such reimbursement schedules or

230 rates may be made on a capitated or fee-for-service basis and shall remain in effect for a period of 12 months unless sooner
231 modified by the Authority. Except as provided in §1614 of this Chapter, reimbursement for covered services by the
232 Authority shall constitute full payment for the services.

233 (b) Prospective payment rates and schedules shall be adjusted annually to incorporate retrospective adjustments.

234 §1614. Retrospective Payments to Eligible Health Care Providers and Facilities.

235 The Authority shall provide for retrospective adjustments of payments to eligible health care providers and
236 facilities to assure that payments to such providers and facilities reflect the difference between actual and projected
237 utilization and expenditures for covered services; and protect health care providers and facilities who serve a
238 disproportionate share of eligible participants whose expected utilization of covered health care services and expected
239 health care expenditures for such services are greater than the average utilization and expenditure rates for eligible
240 participants statewide.

241 §1615. Covered Services.

242 (a) The Health Security Authority shall reimburse all professional services provided by eligible providers to
243 eligible participants to:

244 (1) Provide appropriate and necessary health care services;

245 (2) Encourage reductions in health risks and increase use of preventive and primary care services; and

246 (3) Attempt to integrate physical health, mental health, emotional health and substance abuse services.

247 (b) Covered services shall include all health care determined to be necessary or appropriate by the Authority
248 including, but not limited to the following:

249 (1) The prevention, diagnosis and treatment of illness and injury, including laboratory, diagnostic
250 imaging, inpatient, ambulatory and emergency medical care, blood, dialysis, mental health services,
251 dental care, acupuncture, optometric, chiropractic and pediatric services;

252 (2) The rehabilitation of sick and disabled persons (including addiction to all drugs), providing physical,
253 psychological and other specialized therapies, and long term services in community-based and
254 institutional settings;

255 (3) The provision of prescription drugs, therapeutic devices, prosthetics, eyeglasses, hearing aids and
256 other health care supplies;

257 (4) The promotion and maintenance of individual good health through appropriate screening, counseling
258 and health education;

259 (5) The provision of home health, personal care, hospice and service of nurse practitioners, nurse
260 midwives, language interpretation and such other medical and remedial services as the Authority shall
261 determine;

262 (6) Emergency and other medically necessary transportation; and

263 (7) Prenatal, perinatal and maternity care, family planning, fertility and reproductive health care.

264 §1616. Establishment of the Authority Health Care Fund.

265 There is hereby established the Authority Health Care Fund, hereinafter known as the Authority Fund, which shall
266 be administered and expended by the Authority without further appropriation. The Fund shall consist of all revenue sources
267 defined in §1618, and all properties and securities acquired by and through the use of monies deposited to the Authority
268 Fund and all interest therein less payments therefrom to meet liabilities incurred by the Authority in the exercise of its
269 powers and the performance of its duties under this Act. The Executive Director shall from time to time requisition from
270 said Authority Fund such amounts as the Executive Director deems necessary to meet the current obligations for a
271 reasonable period.

272 §1617. Purpose of the Authority Health Care Fund.

273 Amounts credited to the Authority Fund may be used for the following purposes:

274 (a) To reimburse eligible health care providers and facilities for covered services rendered to eligible
275 patients;

276 (b) To pay for preventive care, educational and outreach programs and related health care activities;

277 (c) To supplement other sources of financing for health care education and research;

278 (d) To fund training programs and provide economic assistance for professional and non-professional
279 workers in the health care sector displaced as a result of administrative streamlining gained by moving
280 from a multi-payer to a single payer system and who choose to remain in the health care field to fill
281 additional needed health care service positions; provided, however, that such funding shall end June 30 of
282 the third year following full implementation of this Act;

283 (e) To fund a reserve account to finance anticipated long-term cost increases due to demographic
284 changes, inflation or other foreseeable trends that would increase Authority Fund liabilities, and, for
285 budgetary shortfalls, epidemics and other extraordinary events; and

286 (f) To pay the administrative costs of the Health Care Authority.

287 §1618. Health Security Authority's Funding Sources.

288 (a) The Authority Fund shall be a repository for all health care funds and related administrative funds from the
289 following sources:

290 (1) All monies the state currently appropriates to pay for health care services or health insurance premiums,
291 including, but not limited to, all current state programs which provide covered benefits and appropriations to cities,
292 towns, counties and other government subdivisions to pay for health care services or health insurance premiums;
293 provided, however, that the Authority shall then assume responsibility for all benefits and services previously paid
294 for by the state with these funds. All current state health care programs which provide covered benefits shall be
295 included in this requirement;

296 (2) All monies the state receives from the federal government to pay for health care services or insurance
297 premiums; provided, however, that the Authority shall assume the responsibility for all benefits and services
298 previously paid by the federal government with these funds. The Authority shall seek to maximize all sources of
299 federal financial support for health care services in Delaware. Accordingly, the Executive Director of the
300 Authority shall obtain waivers or exemptions so that all current federal payments for health care shall, consistent
301 with federal law, be paid directly to the Authority Fund;

302 (3) Private individual and employer health insurance payments and out-of-pocket health care expenses will be
303 replaced in this single payer Delaware Health Security Act as follows:

304 a. All employers shall pay a graduated payroll tax as follows:

305 (i) 4 percent for employers with less than ten employees;

306 (ii) 5 percent for employers with 10 to 24 employees;

307 (iii) 7 percent for employers with 25 to 49 employees; and

308 (iv) 9 percent for employers with 50 or more employees..

309 Single employers shall pay no payroll tax as each will pay according to paragraphs b. or c. of
310 this subsection that applies.

311 b. All heads of households and persons subject to Delaware's income tax return shall pay an additional
312 Health Security income tax of 2.5 percent of taxable income.

313 c. Persons filing a Delaware income tax return shall pay an additional Health Security income surtax of
314 2.5 percent on net taxable income in excess of \$250,000. Married couples filing a Delaware joint income tax return
315 shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.

316 (b) The Authority Fund shall retain:

317 (1) Any charity donations, gifts, grants or bequests made to it from whatever source consistent with state and
318 federal law;

319 (2) Any rebates negotiated or established; and

320 (3) Income from the investment of Authority assets, consistent with state and federal law.

321 §1619. Insurance Reforms.

322 Insurers regulated by the Delaware Insurance Department are prohibited from charging premiums to eligible
323 participants for coverage of services already covered by the Health Security Authority. The State Insurance Commissioner
324 shall adopt, amend, alter, repeal and enforce all such rules and regulations and orders as may be necessary to implement this
325 section.

SYNOPSIS

This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket- expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure.

This Act creates the Delaware Health Security Authority. The authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health And Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members from eligible consumer organizations in our state.

Funding for the new health care system will be as follows:

- (1) All state and federal funds available for health and health care costs in Delaware;
- (2) Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees;
- (3) A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware's income tax; and
- (4) An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.