

PA Insurance Insights

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Pennsylvania Passes State Based Health Insurance Exchange

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Message from the Commissioner



In our continued effort to promote a vibrant insurance marketplace and educate consumers on how to make informed insurance decisions, the Insurance Department is working tirelessly to highlight the importance of everything from flood insurance and battling the opioid crisis to ensuring consumers are aware of Special Enrollment Periods to enroll in individual health insurance coverage outside of the annual open enrollment period.

Over these past few months, states throughout the U.S. have experienced severe weather; tornadoes, heavy rain, and even snow storms. These events caused substantial damage to many homes and businesses. Unfortunately, for many states, the clean-up will be done in conjunction with preparing for and (continued on page 2)

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Commissioner continued

managing hurricane season which started on June 1 and runs through November. The Insurance Department is committed to helping residents understand their flood risk, and working with other agencies around the Commonwealth to support our residents and communities in preparing for potential flooding.



Commissioner Altman speaking at a PA CareerLink® office in Johnstown highlighting health insurance Special Enrollment Periods

On July 16, the department is hosting a #FloodRisk101 Twitter Chat alongside PEMA and the Departments of Environmental Protection and Community & Economic Development to outline how Pennsylvanians can prepare for hurricane season and what to do after a storm. We see a lot of flooding outside of Special Flood Hazard Areas every year and hear stories from homeowners and business owners who suffered significant losses not covered because they did not have flood insurance. Our goal is to facilitate a conversation and raise awareness about the importance of flood insurance, even for those who have property outside of traditional flood hazard areas and who may not be required to purchase flood coverage as a condition of their mortgage.

As I have written about before, I am committed to the Department doing everything we can to be a part of the Commonwealth's overall response to the opioid crisis. Through Governor Wolf's leadership, we have made considerable progress in this battle and I am proud of the work the Commonwealth and the Insurance Department have done in these efforts. Making life-saving overdose reversal agents like naloxone accessible to all that need it has been a cornerstone of those efforts. In 2018, Department of Health Secretary Dr. Rachel Levine issued a standing

order for anyone to get a naloxone prescription, specifically so loved ones and medical professionals would have access to this life-saving drug to help people in life-threatening situations. Recently, our department has received consumer complaints from individuals who feel they have been discriminated against due to an opioid overdose reversal agent on their prescription history. These individuals asserted that they did not have the prescription for themselves. Rather, it was something they deemed important to have on hand for loved ones, or those they might encounter in their duty as a medical professional. These consumers have been denied life insurance coverage or charged higher insurance premiums.

We now invite our life insurers and other insurers who provide coverage to join the effort to address this opioid crisis. In a notice that appeared in the Pennsylvania Bulletin on June 15, my department issued guidance to insurers regarding the issuing and setting premiums for policies for which health status may be considered, such as life and short-term health insurance policies where the applicant or enrollee has naloxone, or other opioid overdose reversal agents in their prescription history. Our department strongly urges carriers to gather sufficient information to determine in what context an applicant or enrollee has obtained the prescription. Our goal is to protect patient health and safety while ensuring patients have unrestricted access to medication-assisted treatment when needed to battle opioid addiction.

On July 2, Governor Wolf signed into law House Bill 3, now Act 42, that will create a state-based health insurance exchange and allow the Department to pursue a federal waiver to implement a reinsurance program in Pennsylvania, with the aim of helping the over 400,000 Pennsylvanians who purchase individual health insurance through the Affordable Care Act save on their premiums in the future.

I would like to extend my gratitude, as well as Governor Wolf's, to our partners in the General Assembly, especially Reps. Bryan Cutler and Frank Dermody, who co-sponsored this bill, the dedicated health insurers who serve the individual market, the providers who care for patients in this market, and the agents, brokers, and consumer advocates who assist individuals with securing coverage. All of these parties came together to support this initiative, and **(continued on page 3)**

Commissioner continued

Pennsylvanians will benefit from its implementation.

These initiatives, which will be implemented for coverage beginning on January 1, 2021, will bring oversight of a core area of our health care system back to Pennsylvania, empowering us to provide better service to Pennsylvanians who rely on this market for coverage. Additionally, the federal waiver and reinsurance program will result in an estimated \$150-\$250 million in savings each year, lowering health insurance premiums in the individual market 5 to 10 percent below what they would be without this program. Having an SBE rather than using the federal-government run exchange will allow us to make decisions that best meet the specific needs of our market and consumers and we look forward to engaging with consumers and stakeholders as we work to implement this critical initiative.

I am consistently grateful for the leadership within the Insurance Department, and all who regularly work towards ensuring we are advancing consumer protections and staying ahead of the issues to keep residents informed. We hope you will join us on July 16 for our #FloodRisk101 Twitter Chat.

Jessica K. Altman



Commissioner Altman joined Governor Wolf and the Departments of Health and Drug & Alcohol Programs at the signing of the sixth renewal of the opioid disaster declaration

Corporate Governance Annual Disclosure

As a result of the financial crisis of 2008, the National Association of Insurance Commissioners (NAIC) undertook a Solvency Modernization Initiative. There were numerous changes to the regulatory approach and new requirements that have been implemented over time to enhance the solvency monitoring framework and regulatory oversight of Pennsylvania insurers. Some examples of these changes include risk focused financial examinations that focus on more than just financials, additional reporting and prior approval requirements imposed on insurers who are part of an insurance holding company system, Enterprise Risk Management (ERM) reporting, Own Risk and Solvency Assessments (ORSA) that require insurers and insurance holding company systems to perform a self-assessment, including stress testing and the availability of and adequacy of their group capital, and internal audit function requirements for certain insurers under the Model Audit Rule (MAR). The Pennsylvania Insurance Department is an active participant in the NAIC's process of developing and adopting these initiatives.

The most recent Solvency Modernization Initiative is the Corporate Governance Annual Disclosure (CGAD). According to an NAIC Corporate Governance white paper on High-Level Corporate Governance Principles for Use in U.S Insurance Regulation, "Corporate Governance is a framework of systems, policies and procedures through which an insurer effectively and efficiently: provides for sound and prudent management and oversight of the insurer's business; creates security and long-term value for policyholders, beneficiaries, and other stakeholders; exercises its corporate authority; and holds its Board members, senior management, and key persons in control functions accountable." The NAIC adopted a CGAD model law and accompanying model regulation in August of 2014. Pennsylvania adopted the CGAD requirements and Governor Wolf signed them into law on October 24, 2018 as Act 163.

Act 163 requires an annual filing by insurers of their corporate governance practices and procedures no later than June 1 of each calendar year. The first CGAD filings with the Pennsylvania Insurance Department (Department) are due June 1, 2020. There are no exemptions to the CGAD filing requirements. It applies to all insurers regardless of their structure or size. The disclosure filing should include detailed information and documentation of insurers and is focused on their governance framework and structure; policies and practices of the Board and Board Committees; policies and practices for directing senior management and key persons and oversight of critical risk areas. The specific information to be provided by insurers in the annual disclosure, nor the format of the disclosure, are provide by Act 163. Rather, the Act speaks to the type of information to be provided.

The Department has developed a template that may be used as a guide for insurers. The template is posted on the Department's website here.

The purpose of the CGAD is to provide the Department with a summary of an insurer's corporate governance structure, policies and practices to permit the Department to gain and maintain an understanding of the insurer's corporate governance framework and to hold Board members and senior management accountable for their business decisions. The information provided in the CGAD of an insurer will be treated as confidential. The confidential treatment is intended to encourage open and transparent discussion of corporate governance without fear that trade secrets and proprietary information of insurers will be revealed to competitors.

USTIF Makes A Difference

Over thirty years ago, the EPA published requirements for developing a regulatory program to prevent, detect and cleanup sites from contamination caused by leaks from Underground Storage tanks as defined under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Regulations went into effect on 12/22/1988 and tank owners and operators were given ten years to meet the regulations. Because there were over 2.1 million tanks country-wide, the EPA designed the model program to be implemented by the states in some form or fashion. As a result, after several years of discussions and development, the Pennsylvania Underground Storage Tank Indemnification Fund, (known as USTIF) became effective on 2/1/1994. USTIF is currently staffed by an Executive Director, Claim Manager, Accountant, 3-Claim Evaluators, Fee Billing Manager and a Management Technician.

USTIF has protected the environment by providing financial assistance to tank owners and operators to cleanup contamination from underground storage tanks. The fund provides up to \$1.5 million in coverage per tank for corrective action costs and related third-party liability claims. Since inception, 3600 sites have been cleaned through the USTIF program.

Since the inception of USTIF, there have been a significant number of facilities that have been cleaned up and changed from their original intended use over the years. Many facilities have been consolidated, and in some instances major oil companies have sold their neighborhood gas stations. Although many of these sites continue to operate as independent or branded gas stations, there are several sites that have been closed permanently and redeveloped into a new use. The cleanup and reuse of contaminated sites is critical in ensuring the health and well-being of the Commonwealth. **(Continued of page 5)**



Site tank excavation

USTIF continued

Many sites are located near major highway corridors and occupy corner lots making it ideal for reuse and redevelopment. In many instances, contamination is not discovered until the site is closed and the tanks are removed, as in the case of a site known as Tom's Middletown Exxon. It is situated off I-283 on a corner lot. A medical facility is situated to the west. During permanent closure of the underground tanks, contaminated soil was discovered under the dispensers presumably caused by overfills and spills during operation of the station. The owner submitted a claim to USTIF and the investigation concluded that the owner met the eligibility requirements and could receive funding for the cleanup. The owner addressed the cleanup by excavating and removing contaminated soil in 2013 and monitoring the groundwater conditions through periodic sampling. The lot received regulatory closure and now has been repurposed as a parking lot for the adjacent medical

facility clients and staff. The site is now aesthetically appealing, and reuse of the site is of benefit to the Middletown area and surrounding communities.



Post tank removal

Consumer Corner

For many, summer months mean more trips to the beach, fun at amusement parks, and finding more ways to enjoy the warm weather. However, summer months also mean bracing for hurricane season, that runs from June 1 through November.

Although the eye of the hurricane may not cross over Pennsylvania, the tropical cyclones and heavy rains have a great impact on the state. All Pennsylvania residents, even those living outside of a Special Flood Hazard Area (SFHAs), should have a natural disaster preparedness plan and a thorough understanding of the importance of flood insurance.

Approximately one in four flood insurance claims are paid on policies in low-to-moderate risk areas. One of the main factors the department wants consumers to understand, is it doesn't take a major body of water, or even a major storm, to cause a flood. Anything from a broken sewer line to a slow-moving rainstorm can cause flooding.

According to state officials, 2018 was the wettest year on record and there is currently a trend of above-average precipitation in 2019; that's why it is important to be prepared during this hurricane and flood season.

There is a common misconception that federal disaster assistance will automatically cover damages to homes or businesses in the aftermath of a natural disaster. Our goal is to educate consumers that flooding is not always declared a federal disaster, and even when there is a disaster declaration, the federal government's Individual Assistance Program pays a maximum of \$33,000 to property owners. Consumers who live in a low or moderate-risk area, may be able to secure flood insurance for as low as \$100 a year.

The insurance department's website has a one-stop flood insurance page for information on federal government insurance and private coverage through the National Flood Insurance Program (NFIP) and private insurers. We consistently encourage homeowners and renters to visit this page and shop around for the best deals in their area.

Any insurer or producer who wants to be added to the department's list of Licensed Agents Who Can Discuss Surplus Lines, complete an access request form and submit it to ra-in-floodins@pa.gov.

Arson is a Community Problem; Awareness is Key and Everyone Can Help

by Bruce Trego, Pennsylvania State Fire Commissioner

Each year for Arson Awareness Week (AAW), the U.S. Fire Administration gathers and shares information to raise awareness of arson while providing communities with strategies to combat these problems. According to the U.S. Fire Administration, about 23,800 vacant residential building fires are reported each year and cause an estimated 75 deaths, 200 injuries, and as much as \$785 million in property loss. Unfortunately, we have come to understand that for many of these incidents involving vacant buildings, the fires were set intentionally.

This year's AAW theme is "Preventing Arson at Construction Sites."

Here are some tips that could help keep your community safe from arson:

Community Members:

- Awareness is essential to preventing instances of arson. Become more familiar with the day-to-day activities occurring in your neighborhood and report odd or suspicious behavior to authorities.

First Responders/Inspectors:

- If there has been negative press about the project, remind workers to be vigilant on the job site.
- Make unannounced inspections to assess the project, activities and the job site.
- Perform site planning and preplanning throughout the building process.
- Invite surrounding fire departments/companies to assist in the pre-fire plan.
- Take photos of anything you believe is a potential hazard and inform the job site manager.

Contractors and Tradespeople:

- Store solvents, fuels and tools in a locked storage container or remove them from the job site when you are not using them.
- Request additional patrols or drive-bys from your local law enforcement.
- Remove trash and debris from the job site.
- Try not to store excess materials on the job site.
- Secure doors and windows on structures when crews are not actively working on the property.



Arson is not a victimless crime. Aside from the financial implications for property owners and the insurance industry, vacant and abandoned building fires cause a disproportionate share of firefighter injuries according to the National Fire Prevention Association.

Perhaps most importantly, everyone should treat this as an opportunity to discuss fire safety with their families. The two most important things we can do to prevent fire-related deaths are to ensure the presence of operational smoke alarms in our homes, and to have an evacuation plan that the entire family has practiced.

Smoke alarms can decrease the risk of dying in a home fire by as much as half. From the moment an alarm sounds, occupants may have as little as two minutes to safely exit the building.

For more information about the fire service in Pennsylvania, go to www.osfc.pa.gov, "like" the OSFC page at www.facebook.com/PAOSFC or call 1-800-670-3473.





State-Based Health Insurance Exchange Signed Into Law

Act 42, signed into law by Governor Wolf on Tuesday, July 2, is a bipartisan effort that establishes a state-based exchange and reinsurance program in Pennsylvania. This new law was sponsored by the House Majority and Minority Leaders, Representatives Cutler and Dermody, and received overwhelming support in both the House of Representatives and the Senate.

Specifically, the law establishes the Pennsylvania Health Insurance Exchange Authority, a state-affiliated entity, to create, manage and maintain the Pennsylvania Health Insurance Exchange. The Pennsylvania Health Insurance Exchange will assist individuals with the purchase of on-exchange health insurance plans in the individual market and small group markets. The Exchange Authority will also provide consumer outreach and education through a navigator program. One of the main responsibilities of the Exchange Authority will be to collect an exchange user fee from on-exchange insurers and use it to fund the operation of the exchange and reinsurance program. The fee is initially set at 3 percent of the total monthly premiums for on-exchange policies, and the fee may not exceed 3.5 percent, which is the current federal government fee.

The law also establishes The Commonwealth Health Insurance Reinsurance Program. A reinsurance program is often referred to as “insurance for insurers”, and provides a buffer against the risk of high-cost health care claims, which in turn helps bring stability to the market place. The department estimates that increases in premiums in the individual market can be reduced by 5-10 percent with the addition of the reinsurance program. To create and administer a reinsurance program, the department must apply to the federal government for a section 1332 waiver of the Affordable Care Act.

Funding for the reinsurance program will come from the repurposing funding already in the healthcare system. The state contribution, estimated at \$53-58 million, will be from savings created by operating the

state-based exchange much more efficiently than the federal government currently operates the exchange for Pennsylvania. The federal contribution, estimated at \$145-190 million, will be from federal subsidy savings (as premiums are lowered due to the reinsurance program, federal subsidies will be proportionally lowered). The department, in consultation with on-exchange insurers, will determine and adopt the reinsurance parameters for the program including the attachment point, reinsurance cap, and co-insurance rates for the following year.

The Pennsylvania Insurance Department has begun taking immediate steps to transition to a state-based exchange by operating the exchange on a federal platform in 2020. The state-based exchange, on a state platform, and the reinsurance program will both be fully operational for plan year 2021.

To read House Bill 3, [click here](#).

