



Testimony on HB 2552

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Good morning Chairmen Sturla and DeLuca, Representative Schweyer and members of the House Democratic Policy Committee. My name is Alison Beam and I serve as Chief of Staff at the Pennsylvania Insurance Department. On behalf of Commissioner Altman, thank you for the opportunity to be here today to speak about HB 2552, which would prohibit health insurers from using an individual's pre-existing medical condition to deny or exclude coverage under a health insurance policy. We applaud Representative Schweyer's efforts to shed light on such an important topic.

Before we start the conversation on HB 2552, we should take a moment to recognize the impact that the Affordable Care Act (ACA) has had on Pennsylvanians; that begins with remembering what our health care system looked like prior to the ACA's enactment. Before the ACA, sick people couldn't get health insurance due to a pre-existing condition, or if they were able to pay the expensive cost for the coverage, often their pre-existing condition would not be covered under the policy. Individuals with chronic medical issues or anyone who underwent a costly procedure, like a transplant, could face annual or lifetime limits leaving them in financially devastating circumstances. Women would often see higher coverage costs than men and perhaps not have had access to contraception or maternity care coverage. Finding coverage for other critical services like mental health and substance use disorder treatment services and prescription drugs was often difficult, if not impossible. Most importantly, more than 10 percent of Pennsylvanians went uninsured.

Since the ACA's enactment, Pennsylvania's uninsured rate has dropped to 5.6 percent – the lowest rate in our state's history. Over 1.1 million Pennsylvanians have access to coverage only available because of the ACA, and the current coverage is much more comprehensive than before because of protections required by the ACA. 5.4 million Pennsylvanians cannot be denied health insurance coverage due to their pre-existing conditions, 4.5 million Pennsylvanians can access coverage so that they no longer have



to worry about large bills due to annual or lifetime limits on benefits, and 6.1 million Pennsylvanians benefit from access to free preventive care services. Additionally, more than 175,000 Pennsylvanians have been able to access substance use disorder treatment services through the marketplace and Medicaid expansion coverage. This is critical as our Commonwealth strives to combat the overwhelming impact of the opioid crisis.

We recognize that the ACA is not perfect, and has not solved all of the health care coverage issues nationally or in Pennsylvania. To that end, we should be talking about how to further stabilize our health insurance market, how to make sure the market in Pennsylvania works better for consumers, and how we can ensure that this is a market that insurers want to continue to offer products in for the long-term. Unfortunately, that is not the conversation that is currently happening in Washington as reflected in many of the decisions that have been made.

The Trump Administration and Congress have made several decisions that have caused instability in insurance markets across the nation and are slowly and gradually undermining the ACA. Those decisions include, but are not limited to:

- Changing association health plan and short term limited duration plan rules, and messaging them as an alternative while not highlighting the short-comings of these options.
- Shortening the open enrollment period, giving Pennsylvanians less time to shop for and make informed decisions about their health insurance needs.
- Repealing the individual mandate, a key provision that requires most individuals to purchase health insurance coverage or pay a penalty, which helps to stabilize the market by broadening the pool of those covered.



- Reducing funding for the navigator program, a program that helps consumers and small businesses understand their new coverage options and find affordable coverage that meets their health care needs.
- Attempting numerous times to repeal and replace the ACA with proposals that do not seem to preserve protections for individuals with pre-existing conditions.

The combined effect of the above-mentioned decisions could lead to an environment that is similar to what existed before the ACA, where insurers may once again use an individual's pre-existing medical condition to deny or exclude coverage under a health insurance policy.

A Kaiser Family Foundation analysis<sup>1</sup> about a year and half ago found that 52 million adults under 65 – or 27 percent of that population — had pre-existing health conditions that would likely make them uninsurable if they applied for health coverage under medical underwriting practices that existed in most states before insurance regulation changes made by the ACA.

In Pennsylvania, the analysis estimated that 27% of non-elderly adults have conditions that would likely result in coverage being declined if they were to seek coverage in the individual market under pre-ACA underwriting practices. This puts Pennsylvania in close company with eleven states in which at least three in ten non-elderly adults would have a declinable condition, according to the analysis: West Virginia (36%), Mississippi (34%), Kentucky (33%), Alabama (33%), Arkansas (32%), Tennessee (32%), Oklahoma (31%), Louisiana (30%), Missouri (30%), Indiana (30%) and Kansas (30%).

What are these conditions that could prompt an insurer to deny coverage? Just to name a few, prior to the enactment of the ACA, insurers called the following health issues “pre-

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<sup>1</sup> <https://www.kff.org/health-reform/press-release/an-estimated-52-million-adults-have-pre-existing-conditions-that-would-make-them-uninsurable-pre-obamacare/>



existing conditions”: asthma, Alzheimer’s, ALS or Lou Gehrig’s disease (amyotrophic lateral sclerosis), cancer, diabetes, osteoarthritis or chronic joint pain, and pregnancy.

As the safeguards of the ACA are being chipped away, measures like HB 2552 are needed to help preserve protections for those with pre-existing conditions. As I mentioned at the beginning of this testimony, HB 2552 would amend the Insurance Company Law by adding a new section that would prohibit a health insurer from discriminating against a qualified individual or a qualified group based on a pre-existing medical condition. The bill defines a method of discrimination as any of the following:

- Refusing to sell, offer or issue a health insurance policy to a qualified individual or a qualified group due to a pre-existing medical condition;
- Selling, offering or issuing a health insurance policy to a qualified individual or a qualified group that excludes coverage for a preexisting medical condition;
- Considering a qualified individual's or qualified group's prior medical history in the medical underwriting process;
- Requiring or requesting a qualified individual or a qualified group to provide information regarding prior medical history as part of the health insurer's application or enrollment process; or
- Any other method or action of a health insurer that the Insurance Commissioner deems a limitation or exclusion of benefits based on the fact that a preexisting medical condition was present before the effective date of coverage, or, if coverage is denied, the date of the denial, under a qualified individual's or a qualified group's health insurance policy.

The department supports HB 2552 as currently written. No individual should be denied coverage because of their health status. Pre-existing conditions are not unusual. In one family, the mother could have a history of breast cancer, a child asthma, and the father high blood pressure. As modifications to existing insurance laws at the federal level are



considered, those with pre-existing conditions should continue to be protected here in Pennsylvania.

There are some technical and drafting issues that we believe should be addressed. For example, the bill is not clear as to what is a “qualified group” or what makes a group “qualified” for this protection, nor does it appear to address whether a pre-existing condition may factor into the rate that an individual or group would be charged. Other more technical edits may also be needed. We will be glad to work with the House Insurance Committee to submit our suggestions the at the appropriate time.

Again, thank you for allowing me to speak with you today on HB 2552. I would be happy to take any questions that you might have.