

(S. B. 1574)  
(Conference)

**No. 104**

Approved July 7, 2002

**AN ACT**

To add a new Chapter 30 to Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” to fix terms for insurers and health services organizations to pay claims to health services providers; to provide for the procedures to object claims; and establish penalties.

**STATEMENT OF MOTIVES**

A vital responsibility of the State is to guarantee access and oversee the efficient rendering of health services. This function is of great public interest as it appears in the Constitution of the Commonwealth of Puerto Rico, through the creation of the Department of Health to ensure the mental and physical welfare of the citizenry. A healthy population contributes to the strengthening and development of a nation.

Health services in Puerto Rico are rendered by health providers among which are: physicians, dentists, hospitals, laboratories, ambulances and other providers that attend the needs of the people directly. In most cases, said providers, through prior negotiation and contracting, obtain the payment for their services from health services insurers or organizations, which offer the citizenry health insurance coverage.

There are approximately 3.3 million persons insured by a health care or health insurance plan on the Island. Some 138 health insurers have been authorized to do business in the Island. Of these, 94.75% of the premiums

underwritten correspond to local insurers, such as Triple-S, Inc., The Blue Cross of Puerto Rico, Inc., and Humana Health Plan of Puerto Rico, Inc., among others. The remaining 5.75% correspond to North American insurers authorized to do business in Puerto Rico. Data from the Office of the Commissioner of Insurance confirms that the health insurance industry amounts to \$2.5 billion in underwritten premiums, of which claims amounting to \$2.1 billion, are paid.

With the approval of Act No. 72 of September 7, 1993, known as the "Puerto Rico Health Insurance Administration Act", the health insurance industry increased the number of subscribers, which in turn, augmented the claims payment procedure. They have seen the increment of their work, however the collection for the services rendered has become more difficult. This situation has resulted in a disadvantage for the patients who are beneficiaries of health care insurance because the implemented system has generated controversies in the insurers-providers relationship. Insurers have assumed the role of intermediaries between the services rendered and the payment thereof, thus adversely affecting the rendering of health services.

Late payments, breach of contracts, offers to pay less than the amount claimed and nonpayment due to financial insolvency are some of the problems faced by service providers, bringing about as a result, that the latter choose not to participate in certain health care plans, among which is the Health Reform of 1993. This situation has altered the health system of the country. While some insured have seen an increase in the costs of their health insurance premiums, others see their promises of free selection of services frustrated.

The rendering of quality health services to the Puerto Rican population is vested of major public interest. It is the State's duty to see that the

offering of said services is not interrupted nor impaired. Motivated by this concern, more than 40 states in the North American Nation have legislated to establish parameters with respect to the insurer and service-provider relationship. The Commonwealth of Puerto Rico recognizes the need to regulate said relationship in order to guarantee the best health services for all Puerto Ricans, without impairing contractual and proprietary rights, if any, agreed to by the parties. Propitiating and regulating prompt payment to health providers shall promote stability and trust in the services rendered and in the health system of the country. In this manner, a model that does not deny access or services shall be offered, within a scheme responsible for the collection and payment, in which all its components may equally and effectively collaborate.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- A new Chapter 30 is hereby added to Act No. 77 of June 19, 1957, as amended, known as the "Insurance Code of Puerto Rico" to read as follows:

"CHAPTER 30

Article 30.010.- Title

This Act shall be known as the "Prompt Payment of Claims to Health Services Providers Act".

Article 30.020.- Definitions

For the purposes of this Chapter, the following terms and phrases shall have the meaning indicated hereinbelow:

- (a) "Insurer": Means an entity engaged in the business of granting health contracts, as defined in this Code.
- (b) "Actionable claim for Payment": Means a claim for services rendered, submitted manually or electronically by a provider to

an Insurer or Health Services Organization that contains the information and documents needed for the disposition thereof in compliance with the Health Insurance Portability and Accountability Act of 1996 (P. L. 104-191 of August 21, 1996) and Article 30.050 of this Act, and whose data do not require a specific finding that prevents the payment thereof within the established terms.

- (c) “Health Care Plan”: Means the one defined as a “Health Care Plan” in Article 19.020 of this Code; any insurance for disability or expenses for illness or any health plan operating in Puerto Rico, even though it operates as an association that includes medical benefits, regardless of the law of the Commonwealth of Puerto Rico under which it is organized or authorized to do business.
- (d) “Commissioner”: Means the Commissioner of Insurance of Puerto Rico.
- (e) “Participating Provider”: Means any physician, hospital, primary services center, diagnostic and treatment center, dentist, laboratory, pharmacy, emergency or pre-hospitalization medical services or any other person authorized to provide health care services in Puerto Rico, that under contract with an Insurer or Health Services Organization renders health services to subscribers or beneficiaries of a health care or health insurance plan.
- (f) “Subscriber”: Means any person who receives the benefits of a health care or health insurance plan.

- (g) “Health Services Organization”: Means any person who renders or makes a commitment to provide a health care plan to one or more subscribers, pursuant to Act No. 77 of June 19, 1957, as amended, known as the "Insurance Code of Puerto Rico" .
- (h) “Health Insurance”: Insurance for expenses incurred for bodily injury, disability or illness, or according to the definition of "disability insurance" provided in Article 4.030 of this Code.

Article 30.030.- Term for the Payment of Claims

The participating provider shall submit its claims for payment for services rendered within ninety (90) days after having rendered the same, and the Insurer or Health Services Organization is bound to pay in full any claim actionable for payment within a term of fifty (50) calendar days, counting from the date that the Insurer or Health Services Organization receives the same.

In the event that the Insurer or Health Services Organization is the secondary payer, the ninety (90) days shall begin to count on the date that the Participating Provider receives the determination of the primary payer.

After the terms indicated above have elapsed, the provisions of this Chapter shall not be applicable to said claims. Provided, that the uniform term established, shall not be construed to render ineffective those minor terms that may apply to the payment of claims for services rendered, if other alternate payment terms have been agreed on by free contracting.

Article 30.040.- Payments for Actionable Claims

The participating providers shall submit their claims on the uniform payment form provided by the Insurer or Health Services Organization, which shall indicate the information that must be enclosed, pursuant to the provisions of the Health Insurance Portability and Accountability Act of

1996, and in the regulations of the Office of the Commissioner of Insurance. The claim shall be processed if it also complies with the following requirements:

- a) it corresponds to a health service rendered by a provider to an insured person whose service is covered by a health insurance or health care plan of the Insurer or Health Service Organization, to which the claim is addressed;
- b) it includes the complete and correct information required by the Insurer or Health Service Organization provided the Insurer or Health Service Organization have notified the required information to the participating provider; and
- c) there is no controversy regarding the amount claimed.

If the Insurer or Health Service Organization does not notify any objection to a claim for payment within a term of forty (40) days, pursuant to Article 30.050 of this Act, it shall be understood that said claim can be processed for payment.

The Insurer or Health Service Organization may request the reimbursement of an unprocessable claim paid to the provider, within a term of six (6) years counting from the moment that the Insurer or Health Service Organization made the payment, pursuant to the procedure established by the Commissioner through regulations, and subsequently resort to the corresponding Court for judicial review, if it so desires.

#### Article 30.050 - Claims not actionable for Payment

The Insurer or Health Services Organization shall notify the participating providers, in writing or through electronic means, of those claims that are not actionable for payment within the term of forty (40) calendar days after receiving the total or partial objection to the claim for

payment. The notice shall clearly indicate the reasons for which the Insurer or Health Services Organization deems that the claim is not actionable for payment, indicating the documents or additional information that must be submitted so that it may be processed.

Within the following forty-five days of having received the notice of the Insurer or Health Services Organization, the participating provider must answer the same. The failure to do so shall be deemed to be an admission of the deficiencies notified. Once the participating provider submits the required information or documents, the Insurer or Health Services Organization shall proceed to pay the claim within the thirty (30) days following the receipt of the information or documents.

From the date that the Insurer or Health Services Organization receives a claim submitted by the participating provider, two (2) simultaneous terms elapse; one of fifty (50) days for the payment of actionable claims as established in Article 30.030 of this Act, and one of forty (40) days for the Insurer or Health Services Organization to remit the notice of non-actionable claim for payment to the participating provider (*sic*). That claim or part of the claim not objected to by the Insurer or Health Services Organization within the above stated term of forty (40) days shall be deemed an actionable claim.

The erroneous notification of unprocessable claims shall not interrupt the term of fifty (50) days for payment, thus, the Insurer or Health Services Organization shall proceed to pay the amount claimed, plus interest, as provided in Articles 30.060 and 30.070 of this Chapter.

No Insurer or Health Services Organization shall refuse to pay a claim for services rendered because of unilateral alterations or amendments to the terms of the contract between the Insurer or Health Services Organization

and the subscriber or between the Insurer or Health Services Organization and the provider, including amendments to the rates.

#### Article 30.060.- Excluded Claims

Claims for services rendered that correspond to providers outside of Puerto Rico or to persons who do not reside in Puerto Rico shall not be subject to the provisions of this Act, unless there is no prior authorization for the rendering of the service; the claims that require coordination of benefits, subrogation and investigation of preexisting conditions, or that involve liability of a third party, and the claims that are submitted by the provider sixty (60) days after the date of the service, unless the parties have agreed on to a longer term.

#### Article 30.070.- Interest

Any actionable claim that is not paid within the term provided, shall accrue interest in behalf of the participating provider on the total unpaid amount of said claim or the part thereof that is actionable for payment up to the date of its full payment, according to the prevailing legal interest fixed by the Commissioner of Financial Institutions. Said interest shall be accrued from the day following the expiration of the term for payment and shall be payable to the participating provider along with the actionable claim for payment.

The interest shall be computed up to the time the payment is issued, provided said payment is remitted to the participating provider within the three (3) days following the issuing thereof. If it is not remitted within said term, the interest shall be computed up to the date that the provider receives the corresponding payment.

#### Article 30.080.- Powers and Duties of the Commissioner

In order to ensure compliance with the provisions of this Act, the Commissioner shall have the following powers and duties:

- (a) Impose administrative fines or sanctions for violations of the provisions of this Chapter, pursuant to the provisions of Act No. 77 of June 19, 1957, as amended, known as the Insurance Code of Puerto Rico, upon the initiative of the Commissioner or after a complaint has been filed by a participating provider due to said noncompliance. Provided, that the provider shall have a term of one (1) year to file the compliant counting from the date the term for the payment of an actionable claim expires.
- (b) Adopt, within one hundred and eighty (180) days from the approval of this Act, the regulations needed to implement the same, pursuant to Act No. 170 of August 12, 1998, as amended, known as the “Uniform Administrative Procedures Act.”
- (c) The Commissioner shall have original jurisdiction regarding the controversies that arise between participating providers and insures or health services organizations, pursuant to this Act.

The party of adversely affected by the determination of the Commissioner may resort for review before the Commonwealth of Puerto Rico Circuit Court of Appeals pursuant to the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedure Act.”

#### Article 30.090.- Payment of Claims in Process

Every claim actionable for payment that has been submitted at the time this Act become effective by participating providers and is pending processing, shall be paid by the Insurer or Health Services Organization within a term of fifty (50) calendar days from the effectiveness of this Act.

The claims that at the effectiveness date of this Act are in dispute shall be subject to the provisions of this Act."

Section 2.- The sum of one hundred thousand (100,000) dollars is hereby appropriated from unencumbered funds in the Commonwealth Treasury to the Office of the Commissioner of Insurance to comply with the provisions of this Act. In subsequent fiscal years, said appropriation shall be consigned in the budget item of the Office of the Commissioner of Insurance in the Joint Resolution of the Budget of Expenses of the Commonwealth of Puerto Rico.

### Section 3.- Severability

If any clause, paragraph, article, or part of this Act were found to be null or unconstitutional by a competent court, the judgment to such effect shall not affect, impair or invalidate the rest of this Act. The effect of said judgment shall be limited to the clause, paragraph, article or part thereof that has thus been declared null or unconstitutional.

Section 4.- This Act shall take effect immediately after its approval for the sole purpose that the Commissioner of Insurance may adopt the regulations needed for its implementation. Its remaining provisions shall take effect one hundred and eighty (180) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 104 (S.B. 1574) (Conference) of the 3<sup>rd</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add a new Chapter 30 to Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” to fix terms for insurers and health services organizations to pay claims to health services providers; to provide for the procedures to object claims; and establish penalties,

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

In San Juan, Puerto Rico, today 14<sup>th</sup> of May of 2003.

Elba Rosa Rodríguez-Fuentes  
Director

