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House of Representatives
Commonwealth of Pennsylvania
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Via Email to: PennieRegulations@pennie.com

Pennsylvania Health Insurance Exchange Authority
Attn: Ana Paulina Gomez, Chief Counsel
P.O. Box 536
Harrisburg, PA 17108

RE: PHIEA Proposed-Form Regulation No. 130-1

Chief Counsel Gomez:

I write to express my concerns with the Pennsylvania Health Insurance Exchange Authority's ("Exchange Authority") proposed-form regulation No. 130-1, which would require insurers selling health or dental insurance policies through the exchange to be accredited in health equity.

As the author of Act 42 of 2019, the proposed regulation goes beyond the clearly defined purpose and legislative intent of the exchange authority as outlined in 40 Pa.C.S. § 9302(b)(1) and (2):

> (b) Purpose.--The purpose of the exchange authority shall be to create, manage and maintain in this Commonwealth the Pennsylvania Health Insurance Exchange to do all of the following:
>
> (1) Benefit the Pennsylvania health insurance market and persons enrolling in health insurance policies.
>
> (2) Facilitate or assist in facilitating the purchase of on-exchange qualified plans by qualified enrollees in the individual market or the individual and small group markets.

In the proposed regulatory package under "background information," the exchange authority references its mission to improve the ***accessibility and affordability*** of individual market health coverage for Pennsylvanians. *(Emphasis added.)*

The stated purpose of the proposed regulation goes far beyond that scope, even reaching into what insurers *and employees* will be required to *learn.* The proposal leaps to the peculiar conclusion that an insurance agent learning about health equity will somehow lead to every person receiving the same ***quality of care***:

> "Through health equity accreditation, insurers and its employees will learn about cultural competency within the healthcare field to ensure that every person – regardless of personal characteristics such as gender, race, socioeconomic status, and geographic location – ***receives the same quality of care."*** *(Emphasis added.)*

The Legislature established the state healthcare exchange in a cooperative spirit with stakeholders and members of the General Assembly. The legislation (House Bill 3 of 2019-2020) passed both chambers unanimously. To sell plans on the exchange, insurers must meet federal requirements of the Affordable Care Act and pay a user fee. To buy plans on the exchange, consumers access the online portal, enter their information, and shop for a plan that best meets their needs. The agreed-upon intent was to create a system that made it easy to purchase plans and easy to sell plans. What the Legislature did not intend was for future boards to add additional conditions on insurers or consumers, no matter how small or well-intended.

Fundamentally, it is unclear how the exchange authority board has the expertise to judge the quality of care someone receives from using their health plan, or how accreditation would practically address health equity issues. The proposal notes that Medicaid managed care organizations ("MCO") in Pennsylvania are required to achieve the National Committee for Quality Assurance ("NCQA") accreditation.

The proposal also underscores the nine other states that have health equity accreditation requirements. However, given the number of states that apply the mandate broadly, it is worth noting that the narrative fails to reference data showing how accreditation has improved quality of care in those states or achieved better health outcomes for plan participants. Because of the omission, I can only assume the data is nonexistent or does not conform to the narrative that accreditation leads to better health outcomes.

The proposal suggests accreditation will raise the quality of plans as well as the cultural competency of insurers offering plans, which will help underserved communities access critical healthcare services. Again, I fail to see how this falls anywhere near the purpose of the exchange and reiterate the point that the documents lack data to suggest mandated health equity accreditation helps underserved communities access care and improves "quality of plans."

I have similar concerns regarding the outlined process for recognizing health equity accreditation organizations. Under the proposal, an organization seeking to be recognized must submit documentation to the exchange authority board about their program to ensure it meets the prescribed standards. I again question the board's expertise in making educated decisions regarding health equity accreditation programming standards. These little-known associations will naturally attempt to expand their influence and justify their existence by demanding more standards, more certificates, more reporting, more training, and more dues. The hunger to "do more" does not help consumers find affordable insurance coverage nor does it help the industry lower costs.

The exchange is working for consumers. There are approximately 435,000 enrollees, up 17 percent over last year. Customers receive an average of $458 in tax subsidies. The average monthly premium across all plans is $178 per month or $2,136 per year. This is a tremendous success, given many Pennsylvanians working at a small business may contribute $12,000 or more for family coverage.[1] The Reinsurance Fund has kept premiums down for consumers both on and off the exchange by 4.6 percent in plan year 2024 alone.[2] These are actual and measurable results that we all celebrate and want to continue.

While a private company might choose to train their employees in health equity or even obtain accreditation, it is unclear how mandating accreditation will lead to the desired outcome. While the proposed mandate might be supported by large corporations, that should not be the litmus test on the appropriateness. Health care costs are already a major concern for consumers, providers, and insurers. Therefore, the exchange authority needs to focus squarely on their core mission of enrolling and aiding consumers in the purchasing of health plans, not the social engineering of health outcomes.

Thank you for the opportunity to provide comments.

Sincerely,

Rep. Bryan Cutler
Republican Leader
House Republican Caucus
Legislative District 100

cc: David Summer, Executive Director, Independent Regulatory Review Commission

[1] Employer Health Benefits Survey 2023 Annual Survey - Summary of Findings (kff.org)

[2] ReinsuranceImpactComparativeReport.pdf