

## No. 2004-154

## AN ACT

## HB 1211

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," further providing for Health Care Provider Retention Account; providing for personal needs allowance deduction for medical assistance-eligible persons in nursing facilities; further providing for certain time periods relating to ICFs/MR, for podiatrists in the Health Care Provider Retention Program and for the expiration of the Health Care Provider Retention Program.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 443.7 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, added December 23, 2003 (P.L.237, No.44), is amended to read:

Section 443.7. Health Care Provider Retention Account.—(a) There is established within the General Fund a special account to be known as the Health Care Provider Retention Account. Funds in the account shall be subject to an annual appropriation by the General Assembly to the department. The department shall administer funds appropriated under this section consistent with its duties under section 201(1).

(b) By December 31 of each year, the Secretary of the Budget [shall] *may* transfer from the Medical Care Availability and Reduction of Error (Mcare) Fund established in section 712(a) of the act of March 20, 2002 (P.L.154, No.13), known as the "Medical Care Availability and Reduction of Error (Mcare) Act," to the Health Care Provider Retention Account an amount equal to the difference between the amount deposited under section 712(m) of the Medical Care Availability and Reduction of Error (Mcare) Act and the amount granted as discounts under section 712(e)(2) of the Medical Care Availability and Reduction of Error (Mcare) Act, for that calendar year.

*(b.1) The Secretary of the Budget may annually transfer from the Health Care Provider Retention Account to the Medical Care Availability and Reduction of Error (MCARE) Fund established in section 712(a) of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error Act, an amount up to the aggregate amount of abatements granted by the Insurance Department under section 1304-A(b).*

(c) The department may deposit any other funds received by the department which it deems appropriate in the Health Care Provider Retention Account.

(d) The Insurance Department shall provide assistance to the department in administering the Health Care Provider Retention Account.

Section 2. The act is amended by adding a section to read:

**Section 443.8. Personal Needs Allowance Deduction for Medical Assistance-Eligible Persons in Nursing Facilities.**—(a) *A personal needs allowance of not less than forty dollars (\$40) per month, for clothing and other personal needs, shall be deducted from a medical assistance-eligible person’s gross income, as defined by departmental regulation, for purposes of determining the amount that person must pay toward the cost of skilled health care and intermediate services or intermediate care while residing in a nursing facility.*

(b) *The personal needs allowance under subsection (a) shall be increased to not less than forty-five dollars (\$45) beginning July 1, 2007.*

Section 3. Section 811-C of the act, added July 4, 2004 (P.L.528, No.69), is amended to read:

Section 811-C. Time periods.

The assessment authorized in this article shall not be imposed prior to July 1, 2003, *for private ICFs/MR and July 1, 2004, for public ICFs/MR* and shall cease on June 30, 2009, or earlier if required by law.

Section 4. Sections 1301-A and 1302-A of the act, added December 23, 2003 (P.L.237, No.44), are amended to read:

Section 1301-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Account.” The Health Care Provider Retention Account established in section 443.7.

“Applicant.” A health care provider who resides in or practices in this Commonwealth and who applies for an abatement under section 1304-A.

“Assessment.” The assessment imposed under section 712(d) of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act.

“Emergency physician.” A physician who is certified by the American Board of Emergency Medicine and who is either employed full time by a trauma center or is working under an exclusive contract with a trauma center.

“Health care provider.” An individual who is all of the following:

(1) A physician, *licensed podiatrist* or certified nurse midwife.

(2) A participating health care provider as defined in section 702 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act.

“Mcare Act.” The act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act.

“Program.” The Health Care Provider Retention Program established in section 1302-A.

“Trauma center.” A hospital accredited by the Pennsylvania Trauma Systems Foundation as a Level I or Level II Trauma Center.

Section 1302-A. Abatement program.

There is hereby established within the Insurance Department a program to be known as the Health Care Provider Retention Program. The Insurance Department, in conjunction with the department, shall administer the program. The program shall provide assistance in the form of assessment abatements to health care providers for calendar years 2003 **[and 2004.]**, **2004 and 2005, except that licensed podiatrists shall not be eligible for calendar years 2003 and 2004.**

Section 5. Section 1310-A of the act, added December 23, 2003 (P.L.237, No.44), is amended to read:

Section 1310-A. Expiration.

The Health Care Provider Retention Program established under this article shall expire December 31, **[2005] 2006.**

Section 6. Any regulations or parts of regulations are hereby abrogated to the extent of any inconsistency with this act.

Section 7. This act shall take effect as follows:

- (1) The addition of section 443.8 of the act shall take effect in 90 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 29th day of November, A.D. 2004.

EDWARD G. RENDELL