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## Senate of Pennsylvania

October 6, 1999

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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RECEIVED

Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

**Re: Proposed Regulations to implement the Managed Care Accountability Act (Act 68)**

Dear Members of the Commission:

I am writing to express my concerns regarding the Department of Insurance's Proposed Regulations for Act 68 currently before you to review and comment.

As you know, the regulations needed to implement Act 68 are being drafted jointly by the Department of Insurance and the Department of Health. Each Department is responsible for specific aspects of the Act. It had been my understanding that the regulations proposed by each Department would ultimately be combined and published for public comment in one joint proposal. That does not seem to be happening. Instead, the Departments have been operating on different timetables. Insurance has forged ahead and proposed its set of Act 68 rules and is proceeding separately from the Department of Health through the regulatory process.

As one of the authors of Act 68, I am very concerned about this piecemeal approach to developing the regulations necessary to properly implement the Act. I have written to both the Insurance Department and to the Governor expressing my concerns. I am urging them to slow down the Department of Insurance's timetable and to delay proceeding with the proposed regulations until the Department of Health's regulations have been published.

In addition to the timing issue mentioned, I am also concerned about the content of the regulations being proposed by the Department of Insurance. The complaint process afforded to consumers by the Act is critical to their ability to get adequate care

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and to address their problems with their managed care plans. Yet the complaint procedures the Independent Regulatory Review Commission described in the regulations are vague and "bare bones." They fail to incorporate important consumer protections previously in place for many consumers through the Department of Health's Operational Standards for Fundamental Fairness for HMO Members. My intent in authoring this legislation was to enhance existing consumer protections and provide additional consumer safeguards where they did not already exist. It has never been my intent to take away or lessen any existing protections that were already in place for consumers at the time of the Act.

Providing consumers with a process to obtain standing referrals from their managed care organizations is also an important provision of the Act and may be essential to an individual member's plan of care. I believe the Department of Health is the agency most qualified to monitor the managed care plans' compliance with the standing referral provisions of the Act and that this Department should review all health plan referral procedures to assure their compliance with Act 68. The proposed regulations should also provide more guidance on the standing referral process including the criteria to be applied to a standing referral request and reasonable timeframes for deciding those requests.

In addition, I am concerned that the proposed regulations published by the Department of Insurance would limit the direct member's access to OB/GYN services guaranteed by Act 68. The Act provides consumers with direct access to all services within an OB/GYN's scope of practice. Yet the proposed regulations require consumers to seek prior authorization for some of these services. This section of the Act should also fall under the jurisdiction of the Department of Health, which has the expertise to determine whether, for example, a given service is within or outside of a provider's scope of practice. Finally, to assure that consumers understand their rights under the Act and receive the coverage they are entitled to from their health plans, the plans should be required to tell consumers that their direct access to OB/GYN services is limited to those providers participating in the plan's network.

It is vitally important that the regulations being proposed to implement Act 68 be considered as a whole and that they reflect the intent and the provisions of the Act. Thank you for your consideration of these comments and concerns.

Sincerely,

  
TIMOTHY F. MURPHY  
State Senator  
37th Senatorial District

TFM/mjc