

**DENNIS M. O'BRIEN, MEMBER**

ROOM 100 MAIN CAPITOL  
HOUSE BOX 202020  
HARRISBURG, PA 17120-2020  
PHONE: (717) 787-5689  
FAX: (717) 787-1339

PHILADELPHIA OFFICE:  
9811 ACADEMY ROAD, LOWER LEVEL  
PHILADELPHIA, PA 19114-1715  
PHONE: (215) 632-5150  
FAX: (215) 560-5904



*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

February 14, 2000

COMMITTEES

HEALTH AND HUMAN SERVICES  
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POLICY

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INDEPENDENT REGULATORY REVIEW COMMISSION

Independent Regulatory Review Commission  
The Honorable Robert E. Nyce  
333 Market St., 14th Floor  
Harristown 2  
Harrisburg, PA 17101

ORIGINAL: 2079/BUSH

Original letters to:  
Coccodrilli, Harbison,  
Mizner, Nyce

COPIES: Harris, Jewett,  
Markham, Smith,  
Wilmarth, Sandusky,  
Wyatte, Notebook

Dear Executive Director Nyce:

I am writing in reference to the Department of Health's proposed Act 68 regulations for managed care organizations. Previously, you heard from me in my capacity as Chairman of the Health and Human Services Committee. Today I am writing personally from my standpoint as an advocate, especially for children who have disabilities.

I am concerned about several provisions of the regulations that I believe fail to prohibit plans from imposing undue burdens on children with disabilities and their families. I have similar concerns about the extent to which the regulations take away many of the fundamental fairness standards that previously governed the complaint and grievance process. These provisions are extremely important to children with disabilities, who often face HMO denials of their more costly and more specialized care.

Some of the specific regulations that I fear may negatively impact children with disabilities are provisions relating to plan networks and access to care. For example, the regulations allow plans to limit their networks so long as they make adequate provisions for enrollees to access care outside the network. Additionally, the regulations do not impose limits on how far an enrollee may be required to travel to a provider, nor how long the enrollee may have to wait to get an appointment with a provider. Children with disabilities generally require greater levels and frequencies of care. I am concerned that these regulations allow plans to impose burdensome travel or paperwork requirements on children with disabilities and their families. While an obvious answer may be "let them change plans," you should be aware that approximately half of employers offer no choice of plans to their employees and, thus, there often is no other plan available.

Some of the fundamental fairness provisions that are missing from the regulations are protections for enrollees such as requiring plans to schedule second level complaint and grievance hearings at mutually convenient times and with 15 days advanced written

notice. For children with disabilities who may require time to make travel arrangements to be present at a hearing, it is important that there be adequate notice. Additionally, children with disabilities often require specialists and experts. The proposed regulations do not require plans to identify the individual making the decision by name, position or credentials. This makes it impossible for the enrollee or the Department of Health to determine whether the decision maker had the degree of knowledge necessary to render a decision about the special area of medicine.

I am also concerned about the Utilization Review provisions to the extent that they may negatively impact children with disabilities. The regulations allow plans to base up to half of their risk pool distribution on utilization, having the potential effect of creating an underclass of people who need greater care and for whom accessing care is already an ongoing battle. Plans must not be allowed to punish those who provide care to children with disabilities who, by definition have greater utilization rates than others. The Department should aggressively oversee utilization review practices to assure that they will not have a chilling effect on access to health care. Additionally, the Department needs to insure that the plans have in place effective quality assurance programs to help monitor care to special needs populations.

The Department must re-examine its regulations with an eye toward the vulnerable members of our population who may face burdensome obstacles to care if health plans are not required to assure their access. As always, I am ready to work on addressing these and other issues of concern to the General Assembly in regard to the promulgation of good regulations to implement Act 68.

Sincerely,



DENNIS M. O'BRIEN, Chairman  
Health and Human Services Committee

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