

**SPONSOR: HOUSE OF REPRESENTATIVES  
145<sup>TH</sup> GENERAL ASSEMBLY  
HOUSE BILL NO.**

**AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO  
THE PROHIBITION OF POSTCLAIMS UNDERWRITING**

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

1       Section 1. Amend Title 18 of the Delaware Code by adding a new Chapter 84 to:

2       read as follows:

3       “Chapter 84. Prohibition of Post Claims Underwriting.

4       **§8401. Postclaims Underwriting Barred.**

5       Unless approval is granted pursuant to §8402 hereunder, no insurer may rescind,  
6       cancel or limit any health insurance policy, contract, evidence of coverage or  
7       certificate that provides coverage of the types specified in §8403 on the basis of  
8       written information submitted on, with or omitted from an insurance application  
9       by the insured if the insurer failed to complete medical underwriting and resolve  
10       all reasonable medical questions related to the written information submitted on,  
11       with or omitted from the insurance application before issuing the policy, contract,  
12       evidence of coverage or certificate. No insurer may rescind, cancel or limit any  
13       such health insurance policy, contract, evidence of coverage or certificate once  
14       the enrollee is covered under such plan or coverage involved, except this section  
15       shall not apply to a covered individual who has performed an act or practice that  
16       constitutes fraud or makes an intentional misrepresentation of material fact as  
17       prohibited by the terms of the plan or coverage. Such plan or coverage may not

18 be cancelled except with prior notice to the enrollee, and as permitted under  
19 §2702 or §2742(b) of US Code (42 U.S.C. 300gg-1).

20 **§8402. Approval of Rescission.**

21 An insurer shall apply for approval of such rescission, cancellation or limitation  
22 by submitting such written information to the Insurance Commissioner on an  
23 application in such form as the Commissioner prescribes. Such insurer shall  
24 provide a copy of the application for such approval to the insured or the insured's  
25 representative. Not later than seven business days after receipt of the application  
26 for such approval, the insured or the insured's representative shall have an  
27 opportunity to respond and submit relevant information to the Commissioner  
28 with respect to such application. Not later than fifteen business days after the  
29 submission of information by the insured or the insured's representative, the  
30 Commissioner shall issue a written decision on such application. The  
31 Commissioner may approve such rescission, cancellation or limitation if the  
31 Commissioner finds that:

32 (1) The written information submitted on or with the insurance application was  
33 false at the time such application was made and the insured or such insured's  
34 representative knew or should have known of the falsity therein, and such  
35 submission materially affects the risk or the hazard assumed by the insurer or  
36 health care center, or

37 (2) The information omitted from the insurance application was knowingly  
38 omitted by the insured or such insured's representative, or the insured or such  
39 insured's representative should have known of such omission, and such omission

40 materially affects the risk or the hazard assumed by the insurer or health care  
41 center.

42 Such decision shall be mailed to the insured, the insured's representative, if any,  
43 and the insurer.

44 **§8403. Affected health insurance policies.**

45 As used in this Chapter, "health insurance policy, contract, evidence of coverage  
46 or certificate " means insurance providing benefits due to illness or injury,  
47 resulting in loss of life, loss of earnings, or expenses incurred, and includes the  
48 following types of coverage:

- 49 (1) Basic hospital expense coverage;
- 50 (2) Basic medical-surgical expense coverage;
- 51 (3) Hospital confinement indemnity coverage;
- 52 (4) Major medical expense coverage;
- 53 (5) Disability income protection coverage;
- 54 (6) Accident only coverage;
- 55 (7) Long term care coverage;
- 56 (8) Specified accident coverage;
- 57 (9) Medicare supplement coverage;
- 58 (10) Limited benefit health coverage;
- 59 (11) Hospital or medical service plan contract; or
- 60 (12) Specified disease coverage.

61 **§8404. Authority of Insurance Commissioner to Promulgate Regulations.**

62 The Insurance Commissioner may promulgate regulations to implement the

63 provisions of this Chapter.”

64 Section 2. This Act takes effect on September 23, 2010.

### SYNOPSIS

This Act is intended to bar the use of postclaims underwriting with respect to enumerated health insurance policies except as otherwise provided and to comply with the requirements of the federal insurance reform laws-The Patient Protection and Affordable Care Act-P.L. 111-148 and The Health Care and Education Act of 2010-P.L. 111-152.