

A Public Healthcare Advocate for Pennsylvania



What is a Public Healthcare Advocate?

A Public Healthcare Advocate is a public advocate or ombudsman who would oversee an office that would provide direct assistance to Pennsylvanians who face barriers to healthcare and would provide information to lawmakers to better understand and improve the state's healthcare system.

The Office of the Public Healthcare Advocate would help residents enroll in public and private insurance programs, make sense of their coverage, navigate existing appeals processes for denied claims, overbilling, and other problems. By helping reverse wrongful denial of coverage and claims, the Office would recover millions of dollars for patients and the State every year. It would also collect data and issue reports to the Governor and the Legislature in order to identify systemic problems and recommend solutions.

Why does Pennsylvania need a Public Healthcare Advocate?

Problems in Pennsylvania's health care system often arise because residents face complicated eligibility, coverage, and appeals processes across the state's many public and private insurers and medical providers:

- **Confusing coverage:** Patients' coverage on different insurance plans is extremely complicated, creating confusion for patients and costly administration for medical providers.
- **Confusing eligibility:** People with variable incomes, employment, places of residence, family status, partial disabilities, and other life circumstances frequently move in and out of eligibility for Medicaid, Affordable Care Act subsidies, workers' compensation, employer-sponsored insurance, and other programs.
- **Confusing appeals processes:** Depending on the specific nature of a patient's appeal and their insurance enrollment, they may have to pursue an appeal through one of several different processes with an insurance company, Pennsylvania Insurance Department (PID), Department of Human Services (DHS), Department of Labor and Industry (L&I), Attorney General, or a federal

agency. Each of these processes can be difficult if not impossible to complete, especially for Pennsylvanians with limited literacy, computer access, English proficiency, or other challenges.

- **Imbalances of information:** Insurance companies have far more information and expertise with coverage and claims than patients, and have made a business practice of denying many of the most expensive claims. This particularly affects people with chronic diseases like cancer and acute illnesses or accidents requiring expensive hospital stays.

This complexity, confusion, and imbalance of information, in turn, forces many residents to delay and forego care and take on medical debt. This, in turn, shifts costs onto our State budget, depresses our economy, and leaves both patients and lawmakers with inadequate solutions. Pervasive challenges facing the state include:

- **Delayed and denied care:** Confusion over coverage and eligibility and denial of insurance claims forces people to delay and forego care. In 2015 Put People First! PA surveyed over 300 people in 43 counties. One in seven people we surveyed said that their health had deteriorated because they had been forced to delay or forego care. This forces people into needless pain and suffering, hurts our public health, and prevents people from working, caring for loved ones, and otherwise participating in daily life.¹
- **Overbilling and medical debt:** When insurance eligibility and claims are denied, many patients find themselves hit with impossibly expensive medical bills. Medical bills for a single hospital stay can cost over \$100,000, yet 45% of Americans cannot afford even a \$500 bill.² According to the Urban Institute and FINRA Investor Education Foundation, 15-20% of adults in Pennsylvania have unpaid medical bills. Based on Pennsylvania's adult population, that means over 1.5 million people are in medical debt, and Pennsylvanians' total medical debt exceeds likely exceeds \$1 billion.³ Medical debt can be devastating. A survey by the Kaiser Family Foundation found that 35% of people in medical debt cannot

¹ Maciosek, Michael V., Ashley B. Coffield, Thomas J. Flottemesch, Nichol M. Edwards, and Leif I. Solberg. "Greater Use Of Preventive Services In U.S. Health Care Could Save Lives At Little Or No Cost." *Health Affairs*, Vol. 29, No. 9, September 2010.

<https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2008.0701>. Retrieved September 24, 2018.

² Kaiser Family Foundation, "Data Note: Americans' Challenges with Health Care Costs," March 2, 2017, <https://www.kff.org/health-costs/poll-finding/data-note-americans-challenges-with-health-care-costs/>. Retrieved September 24, 2018.

³ See Urban Institute, "Debt in America: An Interactive Map," <https://apps.urban.org/features/debt-interactive-map/> and FINRA Investor Education Foundation, "The National Financial Capability Study (NFCS)," 2015, <http://www.usfinancialcapability.org/downloads.php>. NBC10 also found that people in Southeast PA alone have \$631 million in medical debt: <https://www.nbcphiladelphia.com/news/local/NBC10-Responds-Erasing-Medical-Debt-474891783.html>. Retrieved September 24, 2018.

afford to pay for basic necessities like food, heat, or housing,⁴ and debt has caused some families to be stripped of their homes, their cars, and even their children.

- **Drain on the economy, state budget, and hospitals:** According to Kaiser Family Foundation, 29% of people struggling to pay medical bills reported losing a job or having to take a cut in hours or pay.⁵ That takes an enormous toll on families' economic wellbeing and the state economy. Hospitals are also forced to absorb costs for unpaid insurance claims, putting some hospitals on the brink of insolvency. In 2017 Pennsylvania hospitals bore \$761 million in uncompensated care,⁶ threatening the survival of hospitals in Lancaster and other communities and shifting costs onto the state budget. The State pays millions of dollars through the hospital uncompensated care program each year and indirectly absorbs far more. According to the Kaiser Family Foundation, state and local governments absorb 37% of the costs of uncompensated care through Medicaid, public assistance, community health centers, and other programs.⁷
- **Inadequate support services:** Although PID, DHS, L&I, the Attorney General, federal agencies, and nonprofits including the Pennsylvania Health Access Network and Pennsylvania Health Law Project offer information and assistance to patients appealing denial of insurance claims and neglect and mistreatment by medical providers, the fragmentation of the state's insurance and medical delivery systems and the complexity of eligibility, coverage, and appeals processes in each program mean that existing information and support services are falling far short of meeting Pennsylvanians' needs. This fragmented appeals system also produces duplication, inefficiencies, and additional costs for the State.
- **Inadequate information for lawmakers and the public:** Because administration of Pennsylvania's health care system is so fragmented, it is

⁴ Kaiser Family Foundation, "The Burden of Medical Debt: Results from the Kaiser Family Foundation/New York Times Medical Bills Survey," January 5, 2016, <https://www.kff.org/health-costs/report/the-burden-of-medical-debt-results-from-the-kaiser-family-foundati-onnew-york-times-medical-bills-survey/>. Retrieved September 24, 2018.

⁵ Kaiser Family Foundation, "The Burden of Medical Debt: Results from the Kaiser Family Foundation/New York Times Medical Bills Survey," January 5, 2016, <https://www.kff.org/health-costs/report/the-burden-of-medical-debt-results-from-the-kaiser-family-foundati-onnew-york-times-medical-bills-survey/>. Retrieved September 24, 2018.

⁶ Pennsylvania Health Care Cost Containment Council, "PHC4 RELEASES 2017 HOSPITAL FINANCIAL REPORT – UNCOMPENSATED CARE LEVELS DECREASED 9.8%," May 8, 2018. <http://www.phc4.org/reports/fin/17/nr050818.htm>. Retrieved September 24, 2018.

⁷ Kaiser Family Foundation, "Uncompensated Care for the Uninsured in 2013: A Detailed Examination," May 30, 2014, <https://www.kff.org/uninsured/report/uncompensated-care-for-the-uninsured-in-2013-a-detailed-examinati-on/>. Retrieved September 24, 2018.

difficult for policy analysts and lawmakers to grasp how Pennsylvania residents are experiencing healthcare across the full spectrum of insurance programs and medical providers and to identify solutions to problems that span multiple programs.

What would the Public Healthcare Advocate do?

A Public Healthcare Advocate would perform several key roles:

- **Direct assistance:** All Pennsylvania residents, regardless of whether they are on Medicaid, Medicare, private insurance, or are uninsured, would be eligible for direct assistance from the Office of the Public Healthcare Advocate. The Office would help residents choose a plan, navigate the enrollment process, and understand how to use their plans. It would also refer people to free and low-cost clinics, help residents communicate with insurers and medical providers to secure care and prescriptions, negotiate billing disputes, and make use of existing grievance processes to appeal denied coverage, denied claims, and problems with the delivery of care.
- **Public education:** The Public Healthcare Advocate would, in coordination with state agencies and community-based organizations, develop and disseminate information to help residents understand their insurance coverage, their legal rights, and the various complaint and grievance processes available to them. In order to ensure that the Office's services are available to the communities that need them most (including poor and working class communities, communities of color, rural communities, immigrants, people with language barriers, people with disabilities, people with addiction or mental health needs, and people who are homeless, among others), the Advocate would work collaboratively with community-based organizations to develop and execute targeted community outreach and would provide community organizations with grants to enable them to conduct effective outreach.
- **Advocacy:** The Public Healthcare Advocate would monitor legislation, submit recommendations to lawmakers on behalf of patients, and issue self-initiated reports to lawmakers highlighting pervasive problems and recommending solutions. The Advocate would also be empowered to advocate for patients in public processes such as the Insurance Department's annual rate review process and legislative hearings on relevant bills.
- **Reporting and recommendations:** The Public Healthcare Advocate would respond to requests for information from legislators and the Governor's Office and would be required to submit annual reports on healthcare costs, access, and

outcomes for people on all public and private health insurance programs as well as the uninsured.

- **Interagency coordination:** The Advocate would have authority to work with other agencies to standardize and collect data and would help agencies improve and coordinate their rules, regulations, and practices (particularly appeals processes) so as to improve protections and outcomes for patients. The Advocate would have access to all materials related to insurance rate review processes.

Connecticut's Office of the Healthcare Advocate

Connecticut's Office of the Healthcare Advocate was created by statute in 1999. In the years since, the Office has established itself as an indispensable resource for the public and for lawmakers. In 2017 alone, the Office fielded 6,023 calls and complaints from the public and, by assisting patients to dispute erroneous bills and appeal wrongfully denied claims, returned \$10 million to Connecticut residents.⁸ ***With a population three to four times as large as Connecticut, Pennsylvania could reasonably expect a similar Office of the Healthcare Advocate to return \$30-40 million a year to state residents.***

What's more, the Office provides critical assistance to the Governor's Office, administrative agencies, and the legislature by collecting and reporting data, responding to requests for information, tracking and testifying on bills, and reducing cost shifting from private insurance companies to the State. By partnering with the Department of Children and Families to assist people in using their private health insurance plans, for example, the Office of the Healthcare Advocate has saved the state's Medicaid and CHIP programs millions of dollars they would have otherwise have had to absorb, including \$3 million in 2016 alone.⁹

All this has established the Office as a trusted resource among the public and lawmakers from both parties. As the Altarum Center for Value in Health Care reports, "The office receives widespread support among the state legislature. The OHA is

⁸ Connecticut Office of the Healthcare Advocate, "2017 Annual Report," March 1, 2018. https://www.ct.gov/oha/lib/oha/OHA_2017_Annual_Report_3.1.18.pdf. Retrieved September 24, 2018.

⁹ Connecticut Office of the Healthcare Advocate, "Office of Healthcare Advocate Saves \$11 million for Consumers in 2016," March 30, 2017. <https://www.ct.gov/oha/cwp/view.asp?Q=591600&A=11>. Retrieved September 24, 2018.

considered a trusted resource that legislators and their staff can turn to for information.”

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Key considerations for an independent, effective Public Healthcare Advocate

In our research thus far, several things have emerged as key considerations for establishing an office that is both independent and effective:

- Creation by statute (to create a strong office with earmarked funding and to build strong legislative support);
- Financing through an earmarked, non-lapsing fund with revenue from an assessment on insurance companies;
- Independence from the insurance department and other administrative agencies;
- Creation of an appointed advisory committee;
- Nomination of the Public Healthcare Advocate by the committee with appointment by the governor and confirmation by the Legislature;
- A term of office of the Public Healthcare Advocate spanning two governors' terms; and
- Collaboration between the Public Healthcare Advocate and the Governor's Office, administrative agencies, Legislature, and community-based organizations.

Further information

Put People First! PA is working with the National Economic and Social Rights Initiative to expand this document into a white paper proposing a more detailed framework for a Public Healthcare Advocate in Pennsylvania. In the meantime, we also recommend the following resources:

- Altarum Center for Value in Health Care: Research Brief No. 25, “The Office of the Healthcare Advocate: Giving Consumers a Seat at the Table,” April 2018, (updated May 2018), <https://www.healthcarevaluehub.org/advocate-resources/publications/office-healthcare-advocate-giving-consumers-seat-table/>
- Connecticut Office of the Healthcare Advocate: “2017 Annual Report,” March 1, 2018, https://www.ct.gov/oha/lib/oha/OHA_2017_Annual_Report_3.1.18.pdf.

¹⁰ Altarum Center for Value in Health Care, “The Office of the Healthcare Advocate: Giving Consumers a Seat at the Table.” Research Brief No. 25, April 2018 (updated May 2018). <https://www.healthcarevaluehub.org/advocate-resources/publications/office-healthcare-advocate-giving-consumers-seat-table/>. Retrieved September 24, 2018.