Senate of Pennsylvania Appropriations Program Statement



Joel Ario, Acting Insurance Commissioner Before the Senate of Pennsylvania Tuesday, February 26, 2008

Program Statement

I am pleased to submit our budget request for Fiscal Year 2008-09 for General Government Operations and other funds.

The priority of the Pennsylvania Insurance Department is to regulate insurance and protect the consumers in our state. Our primary roles are to:

- provide quality consumer service and outreach
- eliminate insurance insolvency and fraud
- provide access to affordable health insurance coverage
- make insurance pricing more transparent in all lines of business

Additionally, good consumer data is required for good market analysis. Much of what the Department knows about in the marketplace should come from should come from the Consumer Services Unit. We will be extracting and analyzing those data sources to go beyond our current studies to better understand trends in Pennsylvania's insurance marketplace.

The FY 2008-09 Budget Request highlights the Department's vision and mission statement. It is the Department's goal and expectation to continue to provide high level quality services to all Commonwealth insurance consumers within allocated budgetary resources. This budget submission reflects this objective.

Highlights of the Department's FY 2008-09 proposed spending plan include:

Consumer Education Services

The Office of Consumer Liaison serves consumers through education and outreach, and through policy and legislative representation. The Office partners with community groups, producers, consumer groups and other state and local agencies to provide outreach and educational opportunities to consumers. Included in the targeted consumer groups are senior citizens, college age students, teachers, the Hispanic community Chambers of Commerce and other business organizations.

To carry out its outreach and education efforts, the Department maintains a Speaker's Bureau consisting of 30 staff members conversant in numerous topics to address professional and consumer groups. The Department's consumer newsletter, "Consumer News You Can Use," issued quarterly, has a conservatively estimated distribution of approximately 10,000 people. The Office of Consumer Liaison distributes the newsletters, press releases and other pertinent correspondence to contact members, while continually maintaining and updating its consumer outreach database.

The Office of Consumer Liaison represents consumers by reviewing and commenting on proposed legislation, and by speaking at administrative hearings on behalf of consumers. The Office investigates and reports on various insurance matters that impact consumers, and is actively involved in conducting policy research for the Governor's Office of Health Care Reform.

Considering its current duties and looking toward the future, the Office of Consumer Liaison proposed for the next budget year a number of initiatives that would enhance the Department's ability to identify and address further consumer needs. One of the proposed initiatives include creating a consumer advisory council whose

purpose would be to report consumer trends and concerns that they experience and observe. Another initiative is to conduct market analysis studies. The Bureau of Consumer Services collects consumer data that has the potential to reveal problematic trends and systematic problems in consumer-producer interactions. The Office will analyze this data to determine the most beneficial application of resources, to assess the success of program initiatives, and partner with producers to be more effective consumer educators.

An opportunity exists for the Office of Consumer Liaison to promote the consumers' interests by studying Pennsylvania's External Appeal Process, comparing it to processes established in other states, and implement improvements as identified.

The citizens of Pennsylvania deserve to have the most up-to-date and user-friendly consumer insurance information on the Department's website. The Office of Consumer Liaison will work with the Communications Office to revise the various consumer online brochures and update online information.

CHIP and adultBasic

The Department administers two health insurance programs – the Children's Health Insurance Program (CHIP) and the adultBasic insurance program. In early 2007, Pennsylvania received approval from the Federal government to expand eligibility for CHIP as part of the *Cover All Kids* initiative, and in March 2007 the new eligibility guidelines were implemented. CHIP's mission is to provide access to affordable, comprehensive health insurance coverage for all eligible uninsured children and teens in Pennsylvania who do not qualify for Medicaid benefits. CHIP is comprised of three components which cover children up to age 19 with identical, comprehensive benefits, as follows:

- The free component covers children in families with a net family income no greater than 200% of the Federal Poverty Level (FPL). The free program is funded through a portion of cigarette tax revenue, the state general fund, and Federal Financial Participation (FFP) at the enhanced Medicaid rate. There are no premiums or co-pays associated with the free program.
- The low-cost component of CHIP covers children in families with a net income of greater than 200% but no greater than 300% of the FPL. The parent or guardian is required to pay a modest monthly premium on a sliding scale based upon household income, and is responsible for modest co-payments on certain services and prescriptions. The low-cost component is also funded through a portion of the cigarette tax revenue, the state general fund, and Federal FFP at the enhanced Medicaid rate.
- The third component covers uninsured children with a net family income greater than 300% of the FPL. The parent or guardian is required to pay the entire monthly premium as negotiated by the state. There are no state funds expended and no Federal reimbursement received for children in the at-cost group. Families pay an average of approximately \$163 per child per month for the premium, and slightly higher co-payments are collected for services and prescriptions. Comparable insurance must either be unavailable or unaffordable for a child to qualify.

Since the program's inception, enrollment has followed an overall upward trend. As of February 2008, enrollment has reached an all-time high of 168,377. Of those enrolled in February, there are 147,646 in the free program, 19,625 in the low-cost program, and 1,106 children in the at-cost program. These enrollment increases were achieved through enhanced marketing and outreach efforts for CHIP beginning as early as January 2007, the Federally approved increases in income eligibility for subsidized coverage, and new opportunities for higher-income families to purchase healthcare coverage at the same amount it costs the Commonwealth.

The Insurance Department, the Departments of Health and Public Welfare, and various child-based organizations continue to collaborate in outreach and enrollment efforts for children who may be eligible for health care through either Medicaid or CHIP. With the expansion of CHIP through the *Cover All Kids* initiative, estimates from the Health Insurance Study conducted in 2004 indicated that there are approximately 133,500 uninsured children who qualify for either Medicaid or CHIP. The Department will continue working with other Commonwealth agencies in FY 2008-09 to reach eligible children and coordinating with various child-based organizations, advocacy groups, local community organizations, non-profit associations, and CHIP contractors to promote the program.

The Insurance Department also administers the adult health insurance program, adultBasic, which provides basic health insurance coverage for adults between the ages of 19 and 64 who have incomes no greater than 200 percent of the FPL and who do not qualify for Medicaid benefits. Individuals enrolled in the program contribute \$33.50 monthly toward the cost of their health insurance. Enrollees also pay modest co-payments for services. Enrollment in adultBasic began in July 2002. A waiting list was implemented in March 2003 due to the extraordinary public response to adultBasic and the fact that maximum enrollment supportable with available funding had been achieved. Individuals who are on the waiting list have the option to purchase adultBasic at full cost until an offer for enrollment is made. The statewide average cost for enrollment is approximately \$300 per month. As of February 2008, enrollment in the program was 48,679, and the waiting list included 75,514 adults and 2,224 at cost.

So far in the 2007-08 fiscal year, the Department has offered enrollment to 64,492 persons on the waiting list. Offers have been made to 258,740 persons since the waiting list was created in 2003. Offers of enrollment from the waiting list are possible because of monthly attrition from the program. Approximately \$60 million was appropriated for state FY 07-08 from the Tobacco Settlement Agreement and another \$103 million came from the Community Health Reinvestment (CHR) Agreement. These two sources of funding provided a total of \$163 million for fiscal year 2007-08.

The data warehouse provides a decision support environment that provides reporting, analytic, and predictive capabilities around enrollment activities, expenditures and operational performance of the CHIP and adultBasic programs. Analyzing and trending this information helps influence policy decisions that result in the efficient and cost-effective administration of services to our constituents. We continue to expand our emphasis beyond enrollment and retention and are focusing more on utilization of services and quality of care. The implementation of Phase 2 of the data warehouse will permit the Department to better track and report on utilization patterns (over and under), quality of care, adequacy of provider networks; assist in alerting us to fraudulent claim patterns; assist in making policy decisions regarding medical services/benefits, assist in developing and initiating disease management initiatives; and assist in developing pay-for-performances guidelines. It will take at least until 2009 before data can be considered reliable for internal and external purposes. The challenge remains in interpreting this data and properly using it to undertake system and program improvements as deemed necessary.

Funds are requested to continue to maintain and enhance the capabilities of the Commonwealth of Pennsylvania Access to Social Services (COMPASS) system. The Pennsylvania Insurance Department uses the Department of Public Welfare's COMPASS system for CHIP and adultBasic applications and renewals, and thus must pay its share of the maintenance costs for the system as well as fund any CHIP or adultBasic-specific enhancements.

Funding for Payment Error Rate Measurement (PERM) is requested because the Centers for Medicare and Medicaid Services (CMS), the Federal agency responsible for oversight of CHIP throughout the country, has implemented this new requirement. Programs in each state must undergo an audit for the purpose of detecting and correcting eligibility and medical payment errors. Pennsylvania's CHIP has been selected for PERM

review for Federal fiscal year 2009, which will begin in October 2008. Preparation for the PERM review must occur during state fiscal year 2007-08.

Funding is requested to continue the external quality review contract with IPRO which became effective July 2007. Contract is for three-years with two one year extensions. This contract replaces the contract with the National Committee for Quality Assurance (NCQA) for HEDIS and CAPHS reviews, for which we use the data to report to CMS annually. The contract with NCQA expires December 2007. IPRO is also contracted to develop and implement performance measures, e.g. obesity, as well as to develop pay-for-performance guidelines.

Funding is also requested to contract for program monitoring services. For the 2006 program year, we have contracted with the Comptroller's Office. Due to continued staffing issues, it is anticipated that it will be necessary to continue to outsource this function, either via the Comptroller's Office or a private vendor, in order to meet CMS monitoring requirements, as well as state requirements as determined by the Auditor General's Office.

Consumer and Insurance Producer Initiatives

Funds are requested in this budget to continue to enhance services provided to consumers by representing their interests in an increasingly sophisticated, diverse and changing insurance marketplace. This budget submission includes a request for funds to staff a complaint handling unit, within the Bureau of Consumer Services, dedicated to the analyzing, monitoring and investigating complaints from older Pennsylvanians, as outlined in the Department's vision 2020 submission to the Governor's Office. Additional funds are requested for the Bureau of Producer Services to maintain services for 174,000 licensees. The funds are offset by a reduction in contract costs related to the IVRS (Interactive Voice Response System) that would run in excess of \$50,000 per year.

Direct assistance is provided to consumers through the Bureau of Consumer Services. Through its three (3) regional offices (Harrisburg, Pittsburgh and Philadelphia), staff process more than 150,000 consumer complaints and inquiries annually. The Bureau serves as the eyes and ears of the Department in monitoring the insurance marketplace. The information gathered by the Bureau serves as the foundation for market analysis. The Bureau also handles consumer walk-ins, phone calls, e-mails, and general complaints. Staff also participates in numerous consumer education and outreach programs sponsored by the General Assembly, consumer associations, insurance trade associations and other governmental entities. The Department responds to state or Federally declared disasters by providing on-site staffing assistance at Disaster Recovery Centers (DRCs) established by Federal Emergency Management Agency / Pennsylvania Emergency Management Agency to assist those affected by disasters in the Commonwealth.

The Bureau of Producer Services is responsible for administering licensing and pre-license and continuing education programs for insurance professionals doing business in Pennsylvania. The Department's licensing program serves as an integral component of the Department's consumer protection and market place regulatory mission. The Department develops the regulatory program leading to licensing of insurance producers, title agents, public adjusters, public adjuster solicitors, surplus line agents, motor vehicle physical damage appraisers, viatical settlement brokers, and professional bondsmen in the Commonwealth. The underlying criteria for a person to conduct business in this Commonwealth are the ability to prove technical proficiency and worthiness to conduct the business of insurance as evidenced by market place knowledge and a rigorous review of background information. The Department licenses more than 174,000 individuals in Pennsylvania to conduct the business of insurance with the general public. Over 158,000 of these licenses represent insurance producers.

In a given year, more than 30,000 new applications and over 700,000 insurance company appointments are processed. Additionally, the Bureau reviews and renews approximately 88,000 licenses annually and monitors compliance with the mandatory continuing education requirements for individual licensees as well as reporting requirements for both individuals and business entities in accordance with statutory timeframes.

Pennsylvania is one of 30 states that have enacted the Interstate Insurance Product Regulation Compact legislation, Act 78 of 2005. The Compact establishes a national central point for filing life insurance, annuities, disability income, and long-term care insurance products. Once a product is filed and approved by the Compact Commission, it can be sold to consumers in any of the 30 participating states.

Thus, the Compact will enhance the speed and efficiency of regulatory form approvals for insurance products and allow companies to compete more effectively in the modern financial marketplace, while continuing to provide protection for consumers by ensuring that insurance policies are uniform, fair and equitable.

This budget request contains funds for other important consumer protections and enforcement initiatives, including the market surveillance and field investigation programs. The Department has a grant from the Insurance Fraud Prevention Authority (IFPA) that enables staff to work with the insurance industry and law enforcement representatives in promulgating anti-fraud best practices. The current grant expires June 30, 2009.

Solvency Monitoring

A critical regulatory responsibility of the Department is monitoring the financial solvency of insurance companies and minimizing the number and impact of insurer insolvencies. Our diligent efforts to prevent insurer financial insolvencies have been successful. Since 2003, these solvency monitoring and financial regulation efforts helped save a total of 30 insurers from imminent financial difficulties or collapse, and there have been no insolvencies of Pennsylvania domestic insurance companies over the last three years.

In 2006, the U.S. life/health insurance industry as a whole continued to report strong financial results, and the industry is expected to maintain its financial strength and stability in 2007. Operating results have shown that the life insurance industry is adapting to the changing needs of insurance consumers, particularly in the development and marketing of hybrid life insurance and retirement products. Health insurers also experienced increased growth and revenue in 2006, impacted by moderating trends in medical costs, the implementation of Medicare Part D and Medicare Advantage products and increasing competition. Older insurance policies for long-term care continue to create pricing and reserving problems, frequently resulting in the need for substantial rate increases, market conduct concerns and the withdrawal of insurers from the long-term care market. The U.S. property/casualty insurance industry also performed very well in 2006, with strong operating results and underwriting profits. Favorable results have continued in the first half of 2007, attributed to relatively low losses from catastrophic events, stable pricing for reinsurance and persistently sound underwriting and risk management practices. The overall adequacy of the industry's reserves has improved, although there is a continued need to strengthen reserves in workers' compensation and other long-tail liability lines.

The Department continues to closely monitor the financial performance of insurance companies, assessing both the short and long-term impact of economic, regulatory and global marketplace events on the insurance industry. In FY 2008-09, the Department will continue to develop and implement new tools designed to strengthen state regulation of insurer financial solvency. Current initiatives include strengthening risk-based capital and actuarial requirements for property/casualty insurers, identifying requirements from the Sarbanes-Oxley Act of 2002 that should be added to state requirements for all types of insurers, determining adequate

capitalization and regulatory requirements for increasing complex, rapidly-changing investment vehicles, and updating standards used to identify insurers trending toward a hazardous financial condition.

The Department will continue to work through the National Association of Insurance Commissioners to address these and other solvency concerns on a national scale, including monitoring the insurance industry's exposure to losses from higher risk or lower quality investments.

The Department will also continue to identify and respond to problematic financial results of Pennsylvania's domestic insurance companies, particularly in the medical malpractice and long-term care insurance markets. Since 2002, there have been a number of new entrants into the medical malpractice insurance market, including 7 new start-up domestic insurers. The Department will continue to closely monitor the progress of these new insurers in this volatile market. The Department's enhanced early warning capabilities have resulted in a trend toward more solvent run-offs of unprofitable business and less insurer insolvencies. This is a national trend that requires determined efforts to monitor the continued viability of run-off operations.

The Department constantly strives to improve upon the timeliness and effectiveness of its financial examination and financial analysis processes. In FY 2008-09 this work will continue to focus on moving to a risk-assessment approach to enhance both the efficiency and results of our regulatory efforts directed at individual insurers. The Department's "paperless" technology will continue to be refined and expanded in both the financial examination and financial analysis processes, with a focus on improving the ability to track work flow throughout the solvency monitoring system.

The Department's solvency monitoring activities are monitored by the National Association of Insurance Commissioners (NAIC) for compliance with the NAIC Financial Regulation Standards and Accreditation Program. The Department submits a compliance report for review by the NAIC every year, and an independent review team conducts an on-site review every 5 years. The Department's next 5-year anniversary review will be in February 2009. Funds included in this budget request will enable the Department to continue its solvency monitoring activities and to maintain its accreditation for compliance with NAIC standards for state regulation of insurer solvency.

Medical Malpractice Insurance

Recognizing the importance of available and affordable health care for all Pennsylvanians, in 2003 the administration and the General Assembly established the Health Care Provider Retention Program, also known as the abatement program. The abatement program reduces or eliminates the amounts that health care providers are required to pay for the second layer of medical malpractice insurance they are mandated to carry, which is provided by the state's Medical Care Availability and Reduction of Error (Mcare) Fund.

The law initially abated the Mcare assessments paid by doctors and midwives. Podiatrists were added effective in 2005, and nursing homes effective in 2006. The 2003 law provided the abatement for 2003 and 2004. Each year since then, the abatement has been extended by the legislature for a one-year time period for policy years 2005, 2006 and 2007.

High risk specialists including orthopedic surgeons, neurosurgeons, obstetricians and other high-risk surgeons and most emergency medicine physicians, along with midwives, receive a full 100% abatement of their Mcare assessments. Remaining eligible providers receive a 50% abatement of their Mcare assessments.

In 2007, some 35,000 physicians, 200 nurse midwives and almost 1,000 podiatrists received the abatement, and since 2003, health care providers have received nearly \$1 billion in Mcare payment relief as a result of the program.

Since April of 2002, the Pennsylvania Insurance Department has licensed or approved 57 new entities to offer medical malpractice coverage to hospitals, physicians, and other health care providers. This list includes risk retention groups, insurance exchanges, as well as, insurance companies. The expectation is that the new entities offering malpractice coverage in Pennsylvania will, over time, substantially increase the capacity of the malpractice market.

The Mcare program has actively promoted alternative dispute resolution (ADR) methods. Mediation was used in 107 cases between September 1, 2006, and August 31, 2007. Mcare used arbitration in an additional 21 cases in 2007. Trials with pre-determined award ranges (high/low) were utilized in 7 cases. Thus, ADR techniques were used in a total of 135 cases in the 2007 Mcare claim year. Mediation or arbitration were considered in 75 other cases, but these cases are either pending or these methods were not used to resolve these cases for various reasons.

Funds requested in this budget will enable the Department to continue to monitor the malpractice marketplace

Other Funding Priorities and Issues

The Insurance Department has become an integral partner with the Governor's Office of Health Care Reform in developing new health care related initiatives. The Department is serving a key role by reviewing and advising on policy options developed by consumers, stakeholders and legislators.

- 1. Reviewing policy options developed by consultants hired under the planning grant, stakeholders, and legislators.
- 2. Participating on numerous committees and task forces investigating health care reform issues and data collection and analysis.
- 3. Leading the "Study of Insurance in Pennsylvania" and the "Medicaid Undercount Study."
- 4. Helping to meet the needs of the aging consumer, the Department, in collaboration with the Department of Aging, Department of Welfare, and the Office of Health Care Reform, as they work towards the creation and implementation of a Long Term Care Partnership (LTCP) program. The LTCP will help Pennsylvanians finance long-term care without impoverishing themselves or signing over their life's savings, with the accompanying loss of dignity. In the long run, the program will help reduce Pennsylvania's Medicaid expenditure.

The Department will continue to work with the Office of Health Care Reform to develop these and other important health care initiatives.

Department senior staff continue to consider ways to reduce expenditures while continuing to meet statutory and regulatory mandates and obligations to protect and serve consumers. While approximately 87% of the Department's general government expenditures are for salaries and related expenses, a number of steps will continue to reduce expenditures in FY 2008-09. These steps will include continuing to scrutinize agency expenses, IT purchases, staff overtime, training and travel requests.

The Department will continue to explore ways to reduce costs and operate more efficiently and to allocate its human, fiscal and technology resources in a manner to best achieve its mission. At the same time, the

Department must consider challenges facing insurance regulators today. The continued possibility of Federal intervention, technological innovation, increased globalization, product diversity, a fluctuating economy and complexities of the marketplace are formidable factors facing the Department and should be taken into consideration while reviewing this funding request.

In accordance with the Governor's Program Performance Guidance the Department recognizes the need for fiscal constraint and budgetary scrutiny. This budget request seeks only to increase the personnel cost for authorized complement based on the contractual wage and benefit increases and holds operating cost to a zero increase. In considering this request, please note that the Department continues to generate revenue thru fees and fines at approximately \$40,000,000 annually. Additionally, insurance companies pay over \$400,000,000 in premium taxes to the General Fund annually.

The Department performs its regulatory and other responsibilities effectively and efficiently. This is underscored by a comparison with other states. The NAIC publishes annually the Insurance Department Resources Report*. The report's most recent edition contains the following information regarding the top five states in terms of premium volume for calendar year ending December 31, 2006:

<u>State</u>	<u>Premium Volume</u>	No. of Licensed <u>Producers</u>	No. of Licensed <u>Insurers</u>	No. of Employees
New York	\$125,601,281,658	202,937	1,576	934
California	\$123,730,185,644	264,462	1,385	1337
Florida	\$104,356,004,403	306,174	2,166	2813
Texas	\$88,984,109,864	233,028	2,038	1598
Pennsylvania	\$75,340,790,223	163,898	1,811	297

The Commonwealth of Pennsylvania ranks third among these states with 1,811 domestic and foreign insurers licensed to do business. Florida ranks first with 2,166. Texas ranks second with 2,038 insurers. In comparison, the Department's staffing ratio comparing the number of licensees is significantly less than other states with comparable market size. This illustration is a clear indicator of the Department's commitment to do more with less within modest budgetary resources.