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IPATION, OR IF THE COMMISSIONER SHALL DETERMINE, PURSUANT TO THE STUDY AUTHORIZED IN THIS TITLE, THAT THE PROGRAM IS NOT MEETING AND CANNOT MEET ITS GOALS.

S 267. DEFINITIONS. AS USED IN THIS TITLE:

1. "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS WORKING OR LOOKING FOR WORK, OR WHO IS ENROLLED IN A JOB TRAINING PROGRAM, AND WHO IS ELIGIBLE FOR THE MEDICAL ASSISTANCE PROGRAM OR SUCH OTHER PROGRAMS AS WILL ALLOW SUCH INDIVIDUAL TO QUALIFY FOR THE DEMONSTRATION PROGRAM, AND WHO VOLUNTARILY ENROLLS IN THE DEMONSTRATION PROGRAM. SUCH ELIGIBLE INDIVIDUALS MAY INCLUDE INDIVIDUALS WHO ARE ENROLLED IN MEDICAID MANAGED CARE PLANS, IF THE COMMISSIONER, ON RECOMMENDATION OF THE ADVISORY COMMITTEE, DETERMINES TO INCLUDE THEM; PROVIDED HOWEVER THAT THE DETERMINATION TO INCLUDE SUCH INDIVIDUALS SHALL BE SUBJECT TO FEDERAL REQUIREMENTS AND LIMITATIONS CONCERNING SUCH INDIVIDUALS. AN ELIGIBLE INDIVIDUAL SHALL NOT INCLUDE INDIVIDUALS (A) WHO ARE SIXTY-FIVE YEARS OF AGE OR OLDER; OR (B) WHO ARE DISABLED; OR (C) WHO ARE ELIGIBLE FOR MEDICAL ASSISTANCE ONLY BECAUSE THEY ARE (OR WERE WITHIN THE PREVIOUS SIXTY DAYS) PREGNANT; OR (D) WHO HAVE BEEN ELIGIBLE FOR MEDICAL ASSISTANCE FOR A CONTINUOUS PERIOD OF LESS THAN THREE MONTHS; OR (E) ANY OTHERS PROHIBITED FROM ELIGIBILITY BY FEDERAL REQUIREMENTS, OR WHO ARE EXCLUDED BY THE COMMISSIONER ON RECOMMENDATION OF THE ADVISORY COMMITTEE.

2. "ENROLLMENT" MEANS THE VOLUNTARY ENROLLMENT BY AN ELIGIBLE INDIVIDUAL IN THE ALTERNATIVE BENEFITS PLAN AUTHORIZED BY THIS TITLE. ENROLLMENT SHALL BE FOR A PERIOD OF TWELVE MONTHS, AND MAY BE EXTENDED FOR ADDITIONAL PERIODS OF TWELVE MONTHS AT THE OPTION OF THE ELIGIBLE INDIVIDUAL. AN ELIGIBLE INDIVIDUAL WHO, FOR ANY REASON, UNENROLLS OR IS UNENROLLED FROM THE PROGRAM SHALL NOT BE PERMITTED TO REENROLL FOR A PERIOD OF TWELVE MONTHS FROM THE DATE OF SUCH UNENROLLMENT.

3. "DEDUCTIBLE" MEANS AN AMOUNT WHICH IS ONE HUNDRED TEN PERCENT OF THE ANNUALIZED AMOUNT OF STATE AND FEDERAL CONTRIBUTIONS MADE BY THE COMMISSIONER TO A HEALTH OPPORTUNITY ACCOUNT PURSUANT TO THIS SECTION. UPON RECOMMENDATION OF THE ADVISORY COMMITTEE, THE COMMISSIONER MAY ESTABLISH A TIERED SCHEDULE OF ANNUAL DEDUCTIBLES, BASED ON FAMILY OR INDIVIDUAL INCOME, CONSISTENT WITH FEDERAL REQUIREMENTS FOR SUCH TIERED SCHEDULE.

4. "HEALTH OPPORTUNITY ACCOUNT" MEANS AN ACCOUNT OPENED BY OR ON BEHALF OF AN ELIGIBLE INDIVIDUAL PURSUANT TO THE DEMONSTRATION PROGRAM AUTHORIZED BY THIS TITLE. SUCH ELIGIBLE INDIVIDUAL SHALL BE DEEMED THE OWNER OF THE ACCOUNT, SUBJECT TO THE RESTRICTIONS AND REQUIREMENTS OF THIS TITLE AND OF ANY FEDERAL REQUIREMENTS AND LIMITATIONS CONCERNING SUCH ACCOUNTS. CONTRIBUTIONS TO A HEALTH OPPORTUNITY ACCOUNT MAY BE MADE FROM THE STATE AND FEDERAL GOVERNMENTS, AND OTHER PERSONS AND ENTITIES, INCLUDING CHARITABLE ORGANIZATIONS, AS MAY BE PERMITTED BY THE SECRETARY UNDER THE TERMS OF THE DEMONSTRATION PROGRAM, PROVIDED HOWEVER THAT THE COMBINED STATE AND FEDERAL SHARE OF CONTRIBUTIONS TO A HEALTH OPPORTUNITY ACCOUNT ON BEHALF OF AN INDIVIDUAL SHALL NOT EXCEED TWENTY-FIVE HUNDRED DOLLARS ANNUALLY FOR EACH INDIVIDUAL OR FAMILY MEMBER WHO IS AN ADULT AND ONE THOUSAND DOLLARS FOR EACH INDIVIDUAL OR FAMILY MEMBER WHO IS A CHILD, AND PROVIDED FURTHER THAT THE LIMITATIONS ON SUCH CONTRIBUTIONS SHALL BE ANNUALLY ADJUSTED BY THE ANNUAL PERCENTAGE INCREASE IN THE MEDICAL CARE COMPONENT OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS PERMITTED BY THE SECRETARY. THE COMMISSIONER SHALL SEEK TO MAXIMIZE FEDERAL CONTRIBUTIONS TO HEALTH OPPORTUNITY ACCOUNTS ESTABLISHED PURSUANT TO THIS SECTION.

1 5. "SECRETARY" MEANS THE SECRETARY OF THE FEDERAL DEPARTMENT OF HEALTH
2 AND HUMAN SERVICES.

3 6. "ADVISORY COMMITTEE" MEANS AN ADVISORY COMMITTEE APPOINTED BY THE
4 COMMISSIONER TO AID IN THE DESIGN AND IMPLEMENTATION OF THE DEMON-
5 STRATION PROGRAM AUTHORIZED BY THIS TITLE. THE COMMITTEE SHALL CONSIST
6 OF TEN PERSONS, OF WHOM FOUR SHALL BE PERSONS WITH AT LEAST FIVE YEARS
7 EXPERIENCE AT EXECUTIVE LEVELS IN THE PROVISION OF HEALTH CARE IN THIS
8 STATE, THREE SHALL BE EXPERTS IN THE ELECTRONIC TRANSMISSION OF FUNDS
9 AND PAYMENT FOR SERVICES, OR PERSONS WITH EXPERTISE IN THE USE OF
10 SAVINGS ACCOUNTS FOR THE PAYMENT OF HEALTH CARE SERVICES, AND THREE
11 SHALL BE CONSUMERS OR ADVOCATES FOR CONSUMERS LIKELY TO BE OR BECOME
12 ELIGIBLE INDIVIDUALS PURSUANT TO THE TERMS OF THIS DEMONSTRATION.

13 7. "MEDICAID ASSISTANCE PROGRAM" MEANS MEDICAL ASSISTANCE FOR NEEDY
14 PERSONS AS AUTHORIZED BY TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL
15 SERVICES LAW AND OTHER APPLICABLE STATE LAW.

16 S 268. IMPLEMENTATION. 1. THE COMMISSIONER SHALL TAKE SUCH STEPS AS
17 SHALL BE NECESSARY TO DEVELOP THE APPLICATION FOR THE ALTERNATIVE BENE-
18 FITS PROGRAM AUTHORIZED BY THIS SECTION AND SECTION 6082 OF THE DEFICIT
19 REDUCTION ACT OF 2005 (P.L. 109-171), AND TO ESTABLISH AGREEMENTS WITH
20 AT LEAST THREE BUT NOT MORE THAN TEN COUNTIES FOR THE IMPLEMENTATION OF
21 THE PROGRAM IF APPROVED BY THE SECRETARY. IF APPROVED BY THE SECRETARY,
22 THE COMMISSIONER IS AUTHORIZED TO AND SHALL IMPLEMENT THE PROGRAM IN
23 COUNTIES SELECTED PURSUANT TO THIS SUBDIVISION. THE COMMISSIONER SHALL
24 CONSULT WITH THE ADVISORY COMMITTEE IN THE DESIGN AND DEVELOPMENT OF THE
25 APPLICATION.

26 2. THE COMMISSIONER MAY COORDINATE ADMINISTRATION OF HEALTH OPPORTU-
27 NITY ACCOUNTS THROUGH THE USE OF A THIRD ADMINISTRATOR, TO THE EXTENT
28 PERMITTED BY FEDERAL REQUIREMENTS FOR THE PROGRAM. THE COMMISSIONER
29 SHALL NOT USE A THIRD PARTY ADMINISTRATOR IF EXPENDITURES FOR THE USE OF
30 SUCH ADMINISTRATOR ARE NOT REIMBURSABLE IN THE SAME MANNER AS OTHER
31 ADMINISTRATIVE EXPENDITURES PURSUANT TO SECTION 1903(A)(7) OF THE SOCIAL
32 SECURITY ACT. THE COMMISSIONER MAY USE A REQUEST FOR PROPOSALS OR
33 REQUEST FOR QUALIFICATIONS PROCESS IN SELECTING SUCH THIRD PARTY ADMIN-
34 ISTRATOR, AND SHALL CONSULT WITH THE ADVISORY COMMITTEE IN THE DESIGN OF
35 SUCH RFP AND RFQ.

36 3. THE COMMISSIONER SHALL REQUIRE THAT PROVIDERS OF SERVICE PROVIDE
37 SUCH SERVICES TO THE OWNER OF A HEALTH OPPORTUNITY ACCOUNT IN THE SAME
38 MANNER AND FOR THE SAME RATES AND PAYMENTS AS IF THE INDIVIDUAL WAS
39 ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM AND NOT THIS DEMONSTRATION
40 PROGRAM, AND AS IF THE DEDUCTIBLE WAS NOT APPLICABLE.

41 4. THE COMMISSIONER, AFTER CONSULTING WITH THE SUPERINTENDENT OF
42 BANKS, THE ADVISORY COMMITTEE, AND OTHERS THE COMMISSIONER DEEMS APPRO-
43 PRIATE, SHALL PROVIDE FOR A METHOD WHEREBY WITHDRAWALS MAY BE MADE FROM
44 A HEALTH OPPORTUNITY ACCOUNT FOR PAYMENT OF ELIGIBLE MEDICAL CARE
45 EXPENSES USING AN ELECTRONIC SYSTEM. IN NO CASE SHALL WITHDRAWALS FROM
46 THE ACCOUNT BE PERMITTED IN CASH.

47 S 269. USE OF HEALTH OPPORTUNITY ACCOUNTS. THE COMMISSIONER SHALL
48 PRESCRIBE BY RULE AND REGULATION THE PERMITTED USES OF FUNDS IN HEALTH
49 OPPORTUNITY ACCOUNTS. SUCH RULE AND REGULATION SHALL REQUIRE:

50 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FUNDS IN A HEALTH
51 OPPORTUNITY ACCOUNT SHALL ONLY BE USED FOR PAYMENT OF MEDICAL CARE, AS
52 SUCH TERM IS DEFINED IN SECTION 213(D) OF THE INTERNAL REVENUE CODE, OR
53 FOR THE PURCHASE OF HEALTH INSURANCE COVERAGE; IN THE CASE OF AN ACCOUNT
54 OWNER WHO HAS BEEN ENROLLED IN THE PROGRAM FOR AT LEAST ONE YEAR, SUCH
55 FUNDS MAY ALSO BE USED FOR EDUCATIONAL EXPENDITURES FOR JOB TRAINING AND
56 TUITION EXPENSES OR OTHER EXPENDITURES APPROVED BY THE COMMISSIONER ON

1 RECOMMENDATION OF THE ADVISORY COMMITTEE, PROVIDED (A) THAT SUCH EXPEND-
2 ITURES SHALL BE MADE ONLY TO INSTITUTIONS AND PROGRAMS APPROVED BY THE
3 COMMISSIONER, (B) THAT THE PURPOSE OF SUCH EXPENDITURES IS TO ENABLE THE
4 INDIVIDUAL TO ACQUIRE SKILLS AND TRAINING, AND (C) THAT ANY SUCH EXPEND-
5 ITURES FOR ITEMS OTHER THAN MEDICAL CARE ARE APPROVED BY THE SECRETARY.

6 2. IF THE OWNER OF A HEALTH OPPORTUNITY ACCOUNT BECOMES INELIGIBLE TO
7 CONTINUE AS AN ELIGIBLE INDIVIDUAL UNDER THIS SECTION BECAUSE OF AN
8 INCREASE IN INCOME OR ASSETS, (A) NO ADDITIONAL CONTRIBUTION SHALL BE
9 MADE TO THE ACCOUNT BY THE COMMISSIONER, (B) THE BALANCE IN THE ACCOUNT
10 SHALL BE REDUCED BY TWENTY-FIVE PERCENT OF THE AMOUNT OF STATE AND
11 FEDERAL FUNDS DEPOSITED INTO THE ACCOUNT BY THE COMMISSIONER, EXCEPT AS
12 OTHERWISE PROVIDED HEREIN; PROVIDED HOWEVER THAT (C) THE ACCOUNT SHALL
13 REMAIN AVAILABLE TO THE ACCOUNT HOLDER FOR THREE YEARS AFTER THE DATE ON
14 WHICH SUCH OWNER BECOMES INELIGIBLE FOR WITHDRAWALS UNDER THE SAME TERMS
15 AND CONDITIONS AS IF SUCH OWNER REMAINED ELIGIBLE, AND SUCH WITHDRAWALS
16 SHALL BE TREATED AS MEDICAL ASSISTANCE IN ACCORDANCE WITH THIS DEMON-
17 STRATION PROGRAM. FOR PURPOSES OF COMPUTING THE REDUCTION OF TWENTY-FIVE
18 PER CENT REQUIRED BY PARAGRAPH (B) OF THIS SUBDIVISION, ANY WITHDRAWALS
19 FROM THE ACCOUNT FOR PAYMENT OF ELIGIBLE EXPENSES SHALL FIRST BE CREDIT-
20 ED TO STATE AND FEDERAL CONTRIBUTIONS, AND NOT TO CONTRIBUTIONS BY OTHER
21 INDIVIDUALS AND ENTITIES.

22 3. THE OWNER OF A HEALTH OPPORTUNITY ACCOUNT WHO BECOMES INELIGIBLE TO
23 CONTINUE AS AN ELIGIBLE INDIVIDUAL UNDER THIS SECTION SHALL NOT BE
24 REQUIRED TO PURCHASE INSURANCE AS A CONDITION OF CONTINUING TO USE OR
25 MAINTAIN THE ACCOUNT.

26 4. AMOUNTS CONTAINED IN OR CONTRIBUTED TO A HEALTH OPPORTUNITY ACCOUNT
27 SHALL NOT BE COUNTED AS INCOME OR ASSETS FOR PURPOSES OF DETERMINING
28 ELIGIBILITY FOR BENEFITS UNDER MEDICAL ASSISTANCE.

29 5. THE COMMISSIONER, UPON RECOMMENDATION OF THE ADVISORY COMMITTEE,
30 SHALL ESTABLISH PROCEDURES TO PENALIZE AN INDIVIDUAL WHO MAKES UNQUALI-
31 FIED WITHDRAWALS FROM A HEALTH OPPORTUNITY ACCOUNT, INCLUDING DISQUALI-
32 FYING SUCH PERSON FROM CONTINUING ENROLLMENT IN THE PROGRAM AND CLOSING
33 THE ACCOUNT, RECOUPING COSTS FROM SUCH NONQUALIFIED WITHDRAWALS, AND
34 OTHER APPROPRIATE ACTIONS.

35 6. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTAND-
36 ING, THE COMMISSIONER MAY, UPON RECOMMENDATION OF THE ADVISORY COMMITTEE
37 AND IF THE SECRETARY SHALL APPROVE, PROVIDE APPROPRIATE INCENTIVES FOR
38 THE USE OF PREVENTATIVE CARE BY THE OWNER OF THE ACCOUNT, INCLUDING
39 WAIVING THE DEDUCTIBLE FOR USE OF PREVENTATIVE CARE AND REDUCING THE
40 REDUCTION REQUIRED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS
41 SECTION FOR AN OWNER WHO BECOMES INELIGIBLE TO CONTINUE AS AN ELIGIBLE
42 INDIVIDUAL, OR WAIVING OF CO-PAYS FOR SUCH CARE. FOR PURPOSES OF THIS
43 SUBDIVISION, PREVENTATIVE CARE IS ANY CARE THAT QUALIFIES AS PREVENTA-
44 TIVE CARE FOR PURPOSES OF SECTION 223(C)(2)(C) OF THE INTERNAL REVENUE
45 CODE, INCLUDING BUT NOT LIMITED TO, PERIODIC HEALTH EVALUATIONS, INCLUD-
46 ING TESTS AND DIAGNOSTIC PROCEDURES ORDERED IN CONNECTION WITH ROUTINE
47 EXAMINATIONS, SUCH AS ANNUAL PHYSICALS; ROUTINE PRENATAL AND WELL-CHILD
48 CARE; CHILD AND ADULT IMMUNIZATIONS; TOBACCO CESSATION PROGRAMS; OBESITY
49 WEIGHT-LOSS PROGRAMS; SCREENING SERVICES; AND OTHER CARE WHICH QUALIFIES
50 UNDER SUCH SECTION.

51 7. THE COMMISSIONER SHALL ESTABLISH ACCESS TO NEGOTIATED PROVIDER
52 PAYMENT RATES. IN THE CASE OF AN ELIGIBLE INDIVIDUAL PARTICIPATING IN
53 THIS DEMONSTRATION PROGRAM WHO (A) IS NOT ENROLLED WITH A MEDICAID
54 MANAGED CARE ORGANIZATION, THE COMMISSIONER SHALL PROVIDE THAT THE INDI-
55 VIDUAL MAY OBTAIN SERVICES FROM (I) ANY PARTICIPATING PROVIDER UNDER
56 THIS TITLE AT THE SAME PAYMENT RATES THAT WOULD BE APPLICABLE TO SUCH

1 SERVICES IF THE DEDUCTIBLE WAS NOT APPLICABLE; OR (II) ANY OTHER PROVID-
2 ER AT PAYMENT RATES THAT DO NOT EXCEED ONE HUNDRED TWENTY-FIVE PERCENT
3 OF THE PAYMENT RATE THAT WOULD BE APPLICABLE TO SUCH SERVICES FURNISHED
4 BY A PARTICIPATING PROVIDER UNDER THIS TITLE IF THE DEDUCTIBLE WAS NOT
5 APPLICABLE; OR (B) WHO IS ENROLLED WITH A MEDICAID MANAGED CARE ORGAN-
6 IZATION, THE COMMISSIONER SHALL ENTER INTO AN ARRANGEMENT WITH THE
7 ORGANIZATION UNDER WHICH THE INDIVIDUAL MAY OBTAIN SERVICES FROM ANY
8 OTHER PROVIDER AT PAYMENT RATES THAT DO NOT EXCEED ONE HUNDRED
9 TWENTY-FIVE PERCENT OF THE PAYMENT RATE THAT WOULD BE APPLICABLE TO SUCH
10 SERVICES FURNISHED BY A PARTICIPATING PROVIDER UNDER THIS TITLE IF THE
11 DEDUCTIBLE WAS NOT APPLICABLE. SUCH PAYMENT RATES SHALL BE COMPUTED
12 WITHOUT REGARD TO ANY COST SHARING THAT WOULD BE OTHERWISE APPLICABLE.

13 8. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PREVENTING AN EMPLOY-
14 ER FROM PROVIDING HEALTH BENEFITS COVERAGE TO AN ELIGIBLE INDIVIDUAL
15 UNDER THE DEMONSTRATION PROJECT AUTHORIZED BY THIS SECTION, AND THE
16 COMMISSIONER SHALL MAKE APPROPRIATE EFFORTS TO PARTNER WITH EMPLOYERS
17 FOR THE PROVISION OF HEALTH CARE TO SUCH ELIGIBLE INDIVIDUALS.

18 S 269-A. REPORTS. THE COMMISSIONER SHALL REPORT TO THE GOVERNOR AND
19 THE LEGISLATURE FROM TIME TO TIME ON THE IMPLEMENTATION OF THE DEMON-
20 STRATION PROGRAM, AND SHALL PROVIDE AN INTERIM REPORT NOT LATER THAN THE
21 THIRD YEAR OF THE PROGRAM, AND A FINAL REPORT NOT LATER THAN MAY FIRST
22 OF THE FIFTH YEAR OF THE PROGRAM. THE INTERIM AND FINAL REPORTS SHALL
23 PROVE STATISTICAL NARRATIVES OF THE LEVELS OF ENROLLMENT IN THE PROGRAM,
24 THE COSTS AND SAVINGS ASSOCIATED WITH THE PROGRAM, AND AN EVALUATION OF
25 THE SUCCESS OF THE PROGRAM IN ATTAINING ITS GOALS.

26 S 2. This act shall take effect immediately.