
By: Senators Bromwell and Dorman

Introduced and read first time: January 22, 1996

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Consumer Information and Education Act**

3 FOR the purpose of requiring certain health insurers to disclose certain information
4 concerning the insurers operating practices in a certain manner to enrollees,
5 prospective enrollees, and providers; specifying the information that insurers are
6 required to disclose; prohibiting certain health insurers from preventing providers
7 from disclosing certain information to enrollees; specifying the application of this
8 Act; requiring certain health insurers to file certain information with the Insurance
9 Commissioner; authorizing the Commissioner to adopt regulations; defining certain
10 terms; and generally relating to requiring certain health insurers to disclose certain
11 information about the insurer's operating practices to certain persons under certain
12 circumstances.

13 BY adding to

14 Article 48A - Insurance Code
15 Section 490FF
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1995 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article - Health - General
20 Section 19-706(i)
21 Annotated Code of Maryland
22 (1990 Replacement Volume and 1995 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article 48A - Insurance Code**

26 490FF.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) "CARRIER" MEANS:

30 (I) AN INSURER;

2

1 (II) A NONPROFIT HEALTH SERVICE PLAN;

2 (III) A DENTAL PLAN ORGANIZATION; OR

3 (IV) ANY PERSON OR ENTITY ACTING AS A THIRD PARTY
4 ADMINISTRATOR.

5 (3) "CONTRACT" MEANS ANY WRITTEN AGREEMENT BETWEEN A
6 PROVIDER AND A CARRIER FOR THE PROVIDER TO RENDER HEALTH CARE
7 SERVICES TO ENROLLEES OF THE CARRIER.

8 (4) "ENROLLEE" MEANS ANY PERSON ENTITLED TO HEALTH CARE
9 BENEFITS FROM A CARRIER.

10 (5) "HEALTH CARE SERVICES" MEANS A HEALTH OR MEDICAL CARE
11 PROCEDURE OR SERVICE RENDERED BY A PROVIDER THAT:

12 (I) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN
13 DISEASE OR DYSFUNCTION; OR

14 (II) DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES,
15 OR MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR
16 DYSFUNCTION.

17 (6) "PRINCIPLE OPERATING PRACTICES" MEANS THE PROCESSES BY
18 WHICH CARRIERS MAKE DECISIONS ABOUT WHAT SERVICES TO COVER AND PAY
19 FOR AND WHAT PROVIDERS WITH WHICH TO CONTRACT, INCLUDING THE
20 IDENTIFICATION OF KEY ADMINISTRATIVE AND EXECUTIVE STAFF WHO MAKE THE
21 DECISIONS.

22 (7) (I) "PROVIDER" MEANS A PERSON OR ENTITY LICENSED,
23 CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS
24 ARTICLE OR THE HEALTH - GENERAL ARTICLE TO PROVIDE HEALTH CARE
25 SERVICES.

26 (II) "PROVIDER" INCLUDES:

27 1. A HEALTH CARE FACILITY;

28 2. A PHARMACY;

29 3. A PROFESSIONAL SERVICES CORPORATION;

30 4. A PARTNERSHIP;

31 5. A LIMITED LIABILITY COMPANY;

32 6. A PROFESSIONAL OFFICE; OR

33 7. ANY OTHER ENTITY LICENSED OR AUTHORIZED BY LAW
34 TO PROVIDE OR DELIVER PROFESSIONAL HEALTH CARE SERVICES THROUGH OR
35 ON BEHALF OF A PROVIDER.

1 (B) THIS SECTION APPLIES TO A CARRIER THAT PROVIDES HEALTH CARE
2 SERVICES TO ENROLLEES OR OTHERWISE MAKES HEALTH CARE SERVICES
3 AVAILABLE TO ENROLLEES THROUGH CONTRACTS WITH PROVIDERS.

4 (C) (1) EACH CARRIER SHALL:

5 (I) DISCLOSE ITS PRINCIPLE OPERATING PRACTICES, AS
6 IDENTIFIED IN PARAGRAPH (2) OF THIS SUBSECTION, TO PROVIDERS, ENROLLEES,
7 AND PROSPECTIVE ENROLLEES PRIOR TO COMPLETING CONTRACTS WITH
8 PROVIDERS OR ENROLLING PERSONS AS MEMBERS OF THE CARRIER'S HEALTH
9 BENEFIT PLAN;

10 (II) PROVIDE TO PROVIDERS, ENROLLEES, AND PROSPECTIVE
11 ENROLLEES A UNIFORM SET OF DEFINITIONS AND DESCRIPTIONS OF THE
12 CARRIER'S PRINCIPLE OPERATING PRACTICES;

13 (III) MAKE THE DISCLOSURES IN A TIMELY MANNER IN ORDER TO
14 ALLOW PROVIDERS AND PROSPECTIVE ENROLLEES TO MAKE INFORMED DECISIONS
15 ABOUT WHICH HEALTH BENEFIT PLAN TO JOIN;

16 (IV) AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, MAKE
17 THE PRINCIPLE OPERATING PRACTICES AVAILABLE TO PROSPECTIVE ENROLLEES
18 DURING ANY OPEN ENROLLMENT PERIOD, AS WELL AS UPON REQUEST DURING AN
19 ENROLLEE'S PERIOD OF ENROLLMENT WITH THE CARRIER;

20 (V) AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, MAKE
21 THE PRINCIPLE OPERATING PRACTICES AVAILABLE TO A PROVIDER PRIOR TO
22 ENTERING INTO A CONTRACT WITH THE PROVIDER, AS WELL AS UPON THE
23 REQUEST OF A PROVIDER DURING THE TERM OF THE CONTRACT; AND

24 (VI) EXCEPT FOR THE DISCLOSURE REQUIRED IN PARAGRAPH (2)
25 (III) OF THIS SUBSECTION, EACH YEAR UPDATE AND FILE THE PRINCIPLE
26 OPERATING PRACTICES WITH THE COMMISSIONER.

27 (2) THE PRINCIPLE OPERATING PRACTICES REQUIRED TO BE
28 DISCLOSED IN PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL INCLUDE:

29 (I) AS IDENTIFIED AND DEFINED IN SUBSECTION (D) OF THIS
30 SECTION, THE PREDOMINANT REIMBURSEMENT SYSTEMS THAT THE CARRIER USES
31 TO PAY PROVIDERS FOR HEALTH CARE SERVICES RENDERED TO ENROLLEES;

32 (II) AS IDENTIFIED AND DEFINED IN SUBSECTION (E) OF THIS
33 SECTION, THE HEALTH CARE SERVICES FOR WHICH THE CARRIER PROVIDES
34 COVERAGE AND THE PROCESS THE CARRIER FOLLOWS TO DETERMINE THE
35 HEALTH CARE SERVICES FOR WHICH THE CARRIER WILL PROVIDE COVERAGE AND
36 PAYMENT;

37 (III) AS OUTLINED IN SUBSECTION (F) OF THIS SECTION, THE
38 METHOD OF DISTRIBUTION BY THE CARRIER OF EACH \$100 THE CARRIER RECEIVES
39 IN PREMIUM DOLLARS FROM PERSONS ENROLLED IN THE CARRIER'S HEALTH
40 BENEFIT PLAN; AND

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1 (IV) AS DESCRIBED IN SUBSECTION (G) OF THIS SECTION, THE
2 PROCESS THE CARRIER FOLLOWS IN DETERMINING WHAT PROVIDERS WITH WHICH
3 TO CONTRACT FOR THE PROVISION OF HEALTH CARE SERVICES TO THE CARRIER'S
4 ENROLLEES.

5 (3) THE DISCLOSURES REQUIRED IN PARAGRAPH (1)(I) OF THIS
6 SECTION SHALL BE UPDATED AND MADE, AT A MINIMUM, EACH YEAR TO:

7 (I) ENROLLEES AND PROSPECTIVE ENROLLEES DURING ANY
8 OPEN ENROLLMENT PERIOD IN THE MARKETING AND ENROLLMENT MATERIALS OF
9 THE CARRIER; AND

10 (II) PROVIDERS IN THE CONTRACT, OR AN ATTACHMENT TO THE
11 CONTRACT, THAT THE CARRIER IS OFFERING TO THE PROVIDER.

12 (D) (1) EACH CARRIER SHALL IDENTIFY AND DEFINE IN LAYMAN'S TERMS
13 THE PREDOMINANT REIMBURSEMENT METHODOLOGY USED BY THE CARRIER TO
14 REIMBURSE PROVIDERS FOR HEALTH CARE SERVICES RENDERED TO ENROLLEES,
15 INCLUDING CAPITATION, CASE RATES, DISCOUNTED FEE-FOR-SERVICE, AND
16 FEE-FOR-SERVICE REIMBURSEMENT METHODOLOGIES.

17 (2) A CARRIER THAT USES A CAPITATED REIMBURSEMENT
18 METHODOLOGY TO PAY PROVIDERS SHALL IDENTIFY:

19 (I) THOSE HEALTH CARE SERVICES FOR WHICH CAPITATION
20 APPLIES AND FOR WHICH PROVIDERS ARE AT FINANCIAL RISK;

21 (II) THE LEVEL OF FINANCIAL RISK THAT PROVIDERS ARE
22 ASSUMING; AND

23 (III) THE PRESENCE OF ANY STOP-LOSS PROVISIONS THAT
24 MITIGATE THE PROVIDER'S LEVEL OF FINANCIAL RISK.

25 (3) IN ADDITION TO PARAGRAPH (2) OF THIS SUBSECTION, THE
26 CARRIER SHALL:

27 (I) DISCLOSE IF AND TO WHAT DEGREE A CAPITATED PROVIDER
28 IS RESPONSIBLE FOR PAYING FOR PARTICULAR HEALTH CARE SERVICES,
29 INCLUDING:

30 1. LABORATORY AND DIAGNOSTIC TESTING;

31 2. REFERRALS TO SPECIALTY PHYSICIANS;

32 3. HOSPITAL CARE; AND

33 4. PRESCRIPTION DRUGS; AND

34 (II) PROVIDE A BRIEF EXAMPLE OF HOW CAPITATED PAYMENT
35 SYSTEMS OPERATE.

36 (E) (1) EACH CARRIER SHALL IDENTIFY AND DEFINE IN LAYMAN'S TERMS:

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1 (I) THOSE HEALTH CARE SERVICES FOR WHICH THE CARRIER
2 PROVIDES COVERAGE AND PAYMENT; AND

3 (II) THE PROCESS THAT THE CARRIER FOLLOWS TO DETERMINE
4 WHICH HEALTH CARE SERVICES FOR WHICH TO PROVIDE COVERAGE OR
5 ELIMINATE COVERAGE.

6 (2) THE CARRIER SHALL:

7 (I) IDENTIFY KEY PERSONNEL OF THE CARRIER WHO ARE
8 INVOLVED IN MAKING COVERAGE DECISIONS; AND

9 (II) DISCLOSE WHETHER OUTSIDE CONSULTANTS OR EXTERNAL
10 RESOURCES, INCLUDING FEDERAL OR STATE AGENCIES, TRADE GROUPS, AND
11 TECHNOLOGY COUNCILS, ARE USED BY THE CARRIER TO ASSIST THE CARRIER IN
12 MAKING COVERAGE DECISIONS FOR INDIVIDUAL ENROLLEES OR FOR THE
13 CARRIER'S ENTIRE ENROLLED POPULATION.

14 (3) WHENEVER THERE IS A DISPUTE OVER WHETHER A PARTICULAR
15 HEALTH CARE SERVICE IS A COVERED SERVICE EITHER FOR AN INDIVIDUAL
16 ENROLLEE OR FOR THE CARRIER'S ENTIRE ENROLLED POPULATION, THE CARRIER
17 SHALL DISCLOSE TO A PROVIDER OR ENROLLEE UPON REQUEST THE NAMES,
18 ADDRESSES, AND PHONE NUMBERS OF ANY OUTSIDE CONSULTANTS OR EXTERNAL
19 RESOURCES USED BY THE CARRIER THAT ASSISTED THE CARRIER IN MAKING THE
20 COVERAGE DECISION CONCERNING THE DISPUTED HEALTH CARE SERVICE.

21 (F) (1) EACH CARRIER SHALL DISCLOSE THE DISTRIBUTION OF EACH \$100
22 IT RECEIVES IN PREMIUM DOLLARS FROM ENROLLEES.

23 (2) THE DISCLOSURE SHALL BE IN THE FORM OF A PIE CHART OR BAR
24 GRAPH WITH DESCRIPTIVE TERMS IN LAYMAN'S LANGUAGE THAT IDENTIFIES:

25 (I) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
26 THE CARRIER USES TO PAY PROVIDERS FOR THE DIRECT PROVISION OF HEALTH
27 CARE SERVICES TO ENROLLEES, INCLUDING WHAT PROPORTION IS FOR
28 PHYSICIANS' SERVICES, INPATIENT AND OUTPATIENT HOSPITAL CARE, OTHER
29 OUTPATIENT FACILITY SERVICES, PHARMACY SERVICES, AND, IF APPLICABLE,
30 EMERGENCY ROOM SERVICES;

31 (II) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
32 THE CARRIER USES TO PAY THE SALARIES AND BONUSES, INCLUDING DEFERRED
33 COMPENSATION, STOCK OPTIONS, AND ANY OTHER INCENTIVE PAY, OF THE
34 ADMINISTRATIVE AND EXECUTIVE STAFF OF THE CARRIER WHO ARE NOT
35 PROVIDERS AND DO NOT PROVIDE HEALTH CARE SERVICES TO ENROLLEES;

36 (III) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
37 THE CARRIER USES TO PAY FOR THE MARKETING AND ADVERTISING ACTIVITIES OF
38 THE CARRIER; AND

39 (IV) IF THE CARRIER IS A FOR-PROFIT PUBLICLY TRADED ENTITY,
40 THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT THE CARRIER OR ITS

6

1 PARENT CORPORATION USES TO PAY FOR CASH DIVIDENDS DISTRIBUTED TO
2 SHAREHOLDERS OF THE CARRIER.

3 (G) (1) EACH CARRIER SHALL DISCLOSE THE PROCESS THE CARRIER USES
4 TO DECIDE WHAT PROVIDERS WITH WHICH THE CARRIER DECIDES TO CONTRACT
5 TO PROVIDE HEALTH CARE SERVICES TO ENROLLEES.

6 (2) THE CARRIER SHALL IDENTIFY:

7 (I) THE KEY PERSONNEL OF THE CARRIER THAT NEGOTIATE AND
8 DECIDE PROVIDER CONTRACT PROVISIONS; AND

9 (II) THE CRITERIA THAT THE CARRIER USES TO SELECT
10 PROVIDERS.

11 (H) IN ADDITION TO ANY OTHER PROVISIONS OF THIS SECTION, A CARRIER
12 MAY NOT PREVENT A PROVIDER IT EMPLOYS OR A PROVIDER WITH WHICH THE
13 CARRIER CONTRACTS TO RENDER HEALTH CARE SERVICES TO ENROLLEES FROM
14 PROVIDING ENROLLEES WITH:

15 (1) FULL AND OPEN DISCLOSURE OF ALL THE DIAGNOSTIC OR
16 THERAPEUTIC HEALTH CARE SERVICES THAT MAY BE APPROPRIATE FOR AN
17 ENROLLEE'S PARTICULAR DISEASE OR DYSFUNCTION; AND

18 (2) INFORMATION ON WHETHER THE CARRIER COVERS AND PAYS FOR
19 EMERGING MEDICAL AND SURGICAL TREATMENTS AND THE BASIS FOR THE
20 CARRIER'S POSITION.

21 (I) THE COMMISSIONER:

22 (1) SHALL ESTABLISH A PROCESS FOR:

23 (I) THE ANNUAL FILING OF THE DISCLOSURES REQUIRED UNDER
24 SUBSECTION (C)(1) OF THIS SECTION; AND

25 (II) MAKING THE DISCLOSURES AVAILABLE FOR INSPECTION AND
26 REVIEW BY THE GENERAL PUBLIC; AND

27 (2) MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

28 (J) A CARRIER THAT FAILS TO PROVIDE THE REQUIRED DISCLOSURES
29 UNDER THIS SECTION SHALL BE CONSIDERED IN VIOLATION OF THIS SECTION AND
30 SUBJECT TO THE PENALTIES ESTABLISHED UNDER SUBSECTION (K) OF THIS
31 SECTION.

32 (K) AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, A CARRIER THAT
33 VIOLATES THIS SECTION IS SUBJECT TO A CIVIL FINE OF \$10,000 FOR A FIRST
34 VIOLATION AND A CIVIL FINE OF \$25,000 FOR EACH SUBSEQUENT VIOLATION.

35 **Article - Health - General**

36 19-706.

37 (i) The provisions of Article 48A, §§ 490U, 490AA, 490CC, [and] 490DD, AND
38 490FF of the Code shall apply to health maintenance organizations.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1996.