

BY: Conference Committee

AMENDMENTS TO HOUSE BILL NO. 3
(Third Reading File Bill)

AMENDMENT NO. 1

On page 3, in line 29, after "Section" insert "2-104(i), 2-114,".

On page 10, after line 9, insert:

"2-104.

(i) The Commissioner may procure, on a fee or part-time basis or both, actuarial, legal, technical, or other professional services, INCLUDING THE SERVICES OF INDEPENDENT REVIEW ORGANIZATIONS AND MEDICAL EXPERTS.

(K) THE COMMISSIONER SHALL APPOINT OR CONTRACT WITH A PHYSICIAN AND MAY APPOINT OR CONTRACT WITH OTHER HEALTH CARE PROVIDERS FOR THE PURPOSE OF ASSISTING THE COMMISSIONER IN PERFORMING THOSE DUTIES OF THE COMMISSIONER THAT RELATE TO THE REGULATION OF HEALTH INSURANCE AND HEALTH MAINTENANCE ORGANIZATIONS."

AMENDMENT NO. 2

On page 2, in line 8, after "assessment;" insert "establishing a Health Care Regulatory Fund;".

On page 3, in line 35, strike "2-112.2" and substitute "2-104(k), 2-112.2, and 2-112.3".

On page 10, in line 14, after "INSURER" insert "THAT OFFERS HEALTH INSURANCE OTHER THAN LONG TERM CARE INSURANCE OR DISABILITY INSURANCE"; in line 22, after the second "TO" insert "HEALTH INSURANCE POLICIES OR CONTRACTS ISSUED OR DELIVERED IN"; in line 26, strike "IT IS" and substitute "THE AMOUNTS ARE"; in line 27,

(Over)

strike "IN ADDITION TO THE FEES COLLECTED UNDER § 2-112 OF THIS SUBTITLE,"; in line 28, after "SHALL" insert ":

(1)";

and in line 30, after "ARTICLE" insert "; AND

(2) DEPOSIT THE AMOUNTS COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION INTO THE HEALTH CARE REGULATORY FUND ESTABLISHED IN § 2-112.3 OF THIS SUBTITLE".

On page 11, in line 3, after "(B)" insert "(1)"; and after line 5, insert:

"2-112.3.

(A) IN THIS SECTION, "FUND" MEANS THE HEALTH CARE REGULATORY FUND.

(B) THERE IS A HEALTH CARE REGULATORY FUND.

(C) THE PURPOSE OF THE FUND IS TO PAY ALL COSTS AND EXPENSES INCURRED BY THE ADMINISTRATION RELATED TO THE IMPLEMENTATION OF TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS ARTICLE.

(D) THE FUND SHALL CONSIST OF:

(1) ALL REVENUE DEPOSITED INTO THE FUND THAT IS RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE HEALTH CARE REGULATORY ASSESSMENT UNDER § 2-112.2 OF THIS SUBTITLE; AND

(2) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES FOR THE FUND.

(E) (1) EXPENDITURES FROM THE FUND TO COVER THE COSTS AND EXPENSES FOR THE IMPLEMENTATION OF TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS

ARTICLE MAY ONLY BE MADE:

(I) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

(II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) (I) IF, IN ANY GIVEN FISCAL YEAR, THE AMOUNT OF THE HEALTH CARE REGULATORY ASSESSMENT REVENUE COLLECTED BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE ACTUAL EXPENDITURES INCURRED BY THE ADMINISTRATION FOR THE IMPLEMENTATION OF TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS ARTICLE, THE EXCESS AMOUNT SHALL BE CARRIED FORWARD WITHIN THE FUND FOR THE PURPOSE OF REDUCING THE ASSESSMENT IMPOSED BY THE ADMINISTRATION FOR THE FOLLOWING FISCAL YEAR.

(II) IF, IN ANY GIVEN FISCAL YEAR, THE AMOUNT OF THE HEALTH CARE REGULATORY ASSESSMENT REVENUE COLLECTED BY THE COMMISSIONER AND DEPOSITED INTO THE FUND IS INSUFFICIENT TO COVER THE ACTUAL EXPENDITURES INCURRED BY THE ADMINISTRATION TO IMPLEMENT TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS ARTICLE BECAUSE OF AN UNFORESEEN EMERGENCY AND EXPENDITURES ARE MADE IN ACCORDANCE WITH THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AN ADDITIONAL HEALTH CARE REGULATORY ASSESSMENT MAY BE MADE.

(F) (1) THE STATE TREASURER IS THE CUSTODIAN OF THE FUND.

(2) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS STATE FUNDS.

(3) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE COMMISSIONER INTO THE FUND.

(Over)

(G) (1) THE FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

(2) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

(I) THE GENERAL FUND OF THE STATE; OR

(II) A SPECIAL FUND OF THE STATE, UNLESS OTHERWISE PROVIDED BY LAW.”.

AMENDMENT NO. 3

On page 11, before line 16, insert:

“2-114.

(a) Except as provided in subsections (b) [and (c)], (C), AND (D) of this section, the Commissioner shall pay all money collected under this article into the General Fund of the State.

(b) The Commissioner shall pay all money collected for travel expenses and living expense allowance under § 2-208(1) of this article into a special revolving fund held by the Comptroller for the sole purpose of paying the costs of examinations of insurers.

(c) The following moneys may not be considered general funds of the State and shall be deposited in the Insurance Fraud Division Fund:

(1) revenue derived from the fraud prevention fee under Title 6, Subtitle 2 of this article; and

(2) income from investments that the State Treasurer makes for the Insurance Fraud Division Fund.

(D) THE FOLLOWING MONEYS MAY NOT BE CONSIDERED GENERAL FUNDS OF THE STATE AND SHALL BE DEPOSITED INTO THE HEALTH CARE REGULATORY FUND

ESTABLISHED UNDER § 2-112.3 OF THIS TITLE:

(1) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE HEALTH CARE REGULATORY ASSESSMENT UNDER § 2-112.2 OF THIS TITLE; AND

(2) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES FOR THE HEALTH CARE REGULATORY FUND.”.

AMENDMENT NO. 4

On page 9, strike in their entirety lines 17 and 18, and substitute:

“(11) FAIL TO COMPLY WITH THE PROVISIONS OF TITLE 15, SUBTITLE 10A, 10B, OR 10C OR § 2-112.2 OF THE INSURANCE ARTICLE.”.

On page 42, strike in their entirety lines 6 and 7 and substitute:

“(8) FAIL TO COMPLY WITH THE PROVISIONS OF TITLE 15, SUBTITLE 10A OF THIS ARTICLE.”.

AMENDMENT NO. 5

On page 12, strike in their entirety lines 24 through 29, inclusive, and substitute:

“(B) (1) “ADVERSE DECISION” MEANS A UTILIZATION REVIEW DETERMINATION BY A PRIVATE REVIEW AGENT, A CARRIER, OR A HEALTH CARE PROVIDER ACTING ON BEHALF OF A CARRIER THAT:

(I) A PROPOSED OR DELIVERED HEALTH CARE SERVICE COVERED UNDER THE MEMBER’S CONTRACT IS OR WAS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT; AND

(II) MAY RESULT IN NONCOVERAGE OF THE HEALTH CARE SERVICE.

(2) “ADVERSE DECISION” DOES NOT INCLUDE A DECISION CONCERNING A SUBSCRIBER’S STATUS AS A MEMBER.”;

and in line 31, after “INSURER” insert “THAT OFFERS HEALTH INSURANCE OTHER THAN LONG TERM CARE INSURANCE OR DISABILITY INSURANCE”.

AMENDMENT NO. 6

On page 14, in line 21, strike “OR”; in line 24, strike “AND”; and substitute “OR

3. THE GRIEVANCE INVOLVES A RETROSPECTIVE DENIAL UNDER ITEM (IV) OF THIS PARAGRAPH;”; and in line 26, after “PROVIDER” insert “; AND

(IV) PROVIDE THAT A CARRIER RENDER A FINAL DECISION IN WRITING ON A GRIEVANCE WITHIN 45 WORKING DAYS AFTER THE DATE ON WHICH THE GRIEVANCE IS FILED WHEN THE GRIEVANCE INVOLVES A RETROSPECTIVE DENIAL”.

On page 16, in line 27, after “30-DAY” insert “OR 45-DAY”.

On page 17, in line 13, after “OF” insert “:

1.”;

in the same line, strike “PHYSICIAN THAT” and substitute “MEDICAL DIRECTOR OR ASSOCIATE MEDICAL DIRECTOR, AS APPROPRIATE, WHO”; in line 14, after “DECISION” insert “IF THE CARRIER IS A HEALTH MAINTENANCE ORGANIZATION; OR

2. THE DESIGNATED EMPLOYEE OR REPRESENTATIVE OF THE CARRIER WHO HAS RESPONSIBILITY FOR THE CARRIER’S INTERNAL GRIEVANCE PROCESS IF THE CARRIER IS NOT A HEALTH MAINTENANCE ORGANIZATION”;

strike beginning with “(IV)” in line 15 down through “ORGANIZATION;” in line 17; in line 18, strike “(V)” and substitute “(IV)”; in line 28, after “USE” insert “SOLELY”; and in line 34, strike

“WORKING”.

On page 18, after line 9, insert:

“(L) (1) NOTHING IN THIS SUBTITLE PROHIBITS A CARRIER FROM DELEGATING ITS INTERNAL GRIEVANCE PROCESS TO A PRIVATE REVIEW AGENT THAT HAS A CERTIFICATE ISSUED UNDER SUBTITLE 10B OF THIS TITLE AND IS ACTING ON BEHALF OF THE CARRIER.

(2) IF A CARRIER DELEGATES ITS INTERNAL GRIEVANCE PROCESS TO A PRIVATE REVIEW AGENT, THE CARRIER SHALL BE:

(I) BOUND BY THE GRIEVANCE DECISION MADE BY THE PRIVATE REVIEW AGENT ACTING ON BEHALF OF THE CARRIER; AND

(II) RESPONSIBLE FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE REGARDLESS OF THE DELEGATION MADE BY THE CARRIER UNDER PARAGRAPH (1) OF THIS SUBSECTION.”.

AMENDMENT NO. 7

On page 19, in line 2, strike “WITHIN 30 WORKING DAYS AFTER THE COMPLAINT IS FILED” and substitute “:

(I) WITHIN 30 WORKING DAYS AFTER A COMPLAINT REGARDING A PENDING HEALTH CARE SERVICE IS FILED; AND

(II) WITHIN 45 WORKING DAYS AFTER A COMPLAINT IS FILED REGARDING A RETROSPECTIVE DENIAL OF SERVICES ALREADY PROVIDED”;

strike in their entirety lines 3 through 7, inclusive, and substitute:

“(2) THE COMMISSIONER MAY EXTEND THE PERIOD WITHIN WHICH A FINAL DECISION IS TO BE MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR UP TO AN ADDITIONAL 30 WORKING DAYS IF THE COMMISSIONER HAS NOT YET

(Over)

RECEIVED:

(I) INFORMATION REQUESTED BY THE COMMISSIONER; AND

(II) THE INFORMATION REQUESTED IS NECESSARY FOR THE COMMISSIONER TO RENDER A FINAL DECISION ON THE COMPLAINT.”;

and after line 40, insert:

“(III) THE COMMISSIONER’S USE OF ADDITIONAL INFORMATION MAY NOT DELAY THE COMMISSIONER’S DECISION ON THE COMPLAINT BY MORE THAN 5 WORKING DAYS.”.

On page 20, after line 7, insert:

“(1) NOTWITHSTANDING THE PROVISIONS OF § 15-10A-03(C)(1)(II) OF THIS SUBTITLE, FOR THE PURPOSE OF MAKING FINAL DECISIONS ON COMPLAINTS, PRIORITIZE COMPLAINTS REGARDING PENDING HEALTH CARE SERVICES OVER COMPLAINTS REGARDING HEALTH CARE SERVICES ALREADY DELIVERED.”; in lines 8 and 11, strike “(1)” and “(2)”, respectively, and substitute “(2)” and “(3)”, respectively; and in line 23, strike “SUBSECTION (A)(2)” and substitute “SUBSECTION (A)(3)”.

AMENDMENT NO. 8

On page 19, in line 13, strike “, APPROPRIATE, OR EFFICIENT”.

On page 21, in line 24, strike “APPROPRIATE, OR EFFICIENT,”; and in line 29, strike “OR” and substitute “AND”.

AMENDMENT NO. 9

On page 21, in line 15, after “ARTICLE” insert “OR UNDER THIS ARTICLE”; after line 15, insert:

“(3) IN ADDITION TO PARAGRAPH (1) OF THIS SUBSECTION, IT IS A VIOLATION OF THIS SUBTITLE, IF THE COMMISSIONER, IN CONSULTATION WITH AN INDEPENDENT REVIEW ORGANIZATION, MEDICAL EXPERT, THE DEPARTMENT, OR

OTHER APPROPRIATE ENTITY, DETERMINES THAT THE CRITERIA AND STANDARDS USED BY A HEALTH MAINTENANCE ORGANIZATION TO CONDUCT UTILIZATION REVIEW ARE NOT:

(I) OBJECTIVE;

(II) CLINICALLY VALID;

(III) COMPATIBLE WITH ESTABLISHED PRINCIPLES OF HEALTH CARE; OR

(IV) FLEXIBLE ENOUGH TO ALLOW DEVIATIONS FROM NORMS WHEN JUSTIFIED ON A CASE BY CASE BASIS.”.

AMENDMENT NO. 10

On page 22, in line 6, after the semicolon insert “AND”; and strike beginning with “; AND” in line 12 down through “ARISES” in line 15.

On pages 22 and 23, strike in their entirety the lines beginning with line 37 on page 22 through line 2 on page 23, inclusive, and substitute:

“(F) AN EXPERT REVIEWER ASSIGNED BY AN INDEPENDENT REVIEW ORGANIZATION OR THE INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT SELECTED BY THE COMMISSIONER UNDER THIS SECTION MAY NOT HAVE A MATERIAL PROFESSIONAL, FAMILIAL, OR FINANCIAL CONFLICT OF INTEREST WITH ANY OF THE FOLLOWING:”.

AMENDMENT NO. 11

On page 23, after line 26, insert:

“(2) THE INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT SHALL:

(I) PRESENT TO THE CARRIER FOR PAYMENT A DETAILED ACCOUNT OF THE EXPENSES INCURRED BY THE INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT; AND

(II) PROVIDE A COPY OF THE DETAILED ACCOUNT OF EXPENSES TO THE COMMISSIONER.”.

On page 24, in line 8, strike “(2)” and substitute “(3)”.

AMENDMENT NO. 12

On page 24, in line 37, after “PROVIDED” insert “:

(I)”;

in the same line, strike “AND THE” and substitute “; AND

(II)”.

On page 25, in line 1, strike “INFORMATION PROVIDED”.

AMENDMENT NO. 13

On page 26, in line 8, before “THE” insert “(A)”;

and after line 9, insert:
“(B) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, ON OR BEFORE JANUARY 1, 1999, THE COMMISSIONER SHALL ADOPT BY REGULATION A REQUIREMENT THAT EACH CARRIER PROVIDE A MECHANISM IN A FORM AND MANNER THAT THE COMMISSIONER MAY REQUIRE TO ENABLE A MEMBER TO BE INFORMED OF THE MEMBER’S RIGHT TO CHALLENGE A DECISION MADE BY A CARRIER THAT RESULTED IN THE NONPAYMENT OF A HEALTH CARE SERVICE.”.

AMENDMENT NO. 14

On page 4, after line 12, insert:

“BY adding to

Article - Insurance

Section 15-10B-05(e)

Annotated Code of Maryland

(1997 Volume)

(As enacted by Section 1 of this Act)”.

On page 31, in line 17, strike “(C)” and substitute “(E)”.

On page 33, in lines 2, 3, and 14, in each instance, before “DENTIST” insert “LICENSED”; and strike beginning with the second “DENTIST” in line 15 down through “REVIEW” in line 17 and substitute “LICENSED DENTIST WHO SHALL CONSULT WITH A DENTIST WHO IS BOARD CERTIFIED OR ELIGIBLE IN THE SAME SPECIALTY AS THE SERVICE UNDER REVIEW”.

AMENDMENT NO. 15

On page 39, in line 22, after “(F)” insert “(1)”; in lines 25, 27, 28, 29, and 32, strike “(1)”, “(I)”, “(II)”, “(2)”, and “(3)”, respectively, and substitute “(I)”, “1.”, “2.”, “(II)”, and “(III)”, respectively; and after line 34, insert:

“(2) “MEDICAL DIRECTOR” INCLUDES AN ASSOCIATE MEDICAL DIRECTOR OR AN ASSISTANT MEDICAL DIRECTOR, AS DEFINED BY THE COMMISSIONER BY REGULATION.”.

On page 40, in line 19, after “POLICIES” insert “TO BE USED BY THE HEALTH MAINTENANCE ORGANIZATION”; after line 29, insert:

“(C) THE DELEGATION BY A MEDICAL DIRECTOR OF ANY OF THE MEDICAL DIRECTOR’S RESPONSIBILITIES UNDER THIS SUBTITLE TO AN ASSOCIATE MEDICAL DIRECTOR OR AN ASSISTANT MEDICAL DIRECTOR DOES NOT PREVENT THE MEDICAL DIRECTOR, REGARDLESS OF THE DELEGATION, FROM BEING HELD RESPONSIBLE FOR ANY VIOLATION OF THIS SUBTITLE.”.

On page 41, in line 15, strike “AND” and substitute “OR”.

(Over)

AMENDMENT NO. 16

On page 2, in line 30, after the semicolon insert “requiring the Commissioner to submit a certain report by a certain date;”; and in line 33, after “Act;” insert “providing for the application of this Act;”.

On page 44, strike in their entirety lines 1 through 8, inclusive, and substitute:

“SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) On or before January 1, 2000, the Insurance Commissioner shall submit a report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, assessing the implementation of Title 15, Subtitles 10A, 10B, and 10C of the Insurance Article, as enacted by Section 2 of this Act; and

(b) The report shall include an evaluation:

(1) of the correlation between the health care regulatory assessment collected by the Insurance Commissioner from each carrier under § 2-112.2 of the Insurance Article, as enacted by this Act, and the costs incurred by the Maryland Insurance Administration in implementing Title 15, Subtitles 10A, 10B, and 10C of the Insurance Article;

(2) on whether the provisions of Title 15, Subtitle 10A of the Insurance Article should be expanded to include complaints based on adverse decisions made by carriers and not just those adverse decisions arising from utilization review determinations, as provided in § 15-10A-01 of the Insurance Article, as enacted by this Act; and

(3) on whether Title 15, Subtitle 10A of the Insurance Article should be altered to exclude those types and kinds of complaints involving adverse decisions made by carriers that offer fixed indemnity or indemnity health insurance products.”;

after line 12, insert:

“SECTION 8. AND BE IT FURTHER ENACTED, That the provisions of this Act shall apply to:

(1) all health insurance policies, plans, and contracts existing on and issued on or after January 1, 1999; and

(2) all adverse decisions rendered on or after January 1, 1999.”;

after line 14, insert:

“SECTION 10. AND BE IT FURTHER ENACTED, That the provisions of §§ 2-112.2, 2-112.3, and 2-114 of the Insurance Article shall take effect June 1, 1998.”;

in lines 13, 15, and 19, strike “8.”, “9.”, and “10.”, respectively, and substitute “9.”, “11.”, and “12.”, respectively; and in line 20, strike “Section” and substitute “Sections”; and in the same line, strike “8” and substitute “9 and 10”.