

By: **Delegate Love**

Introduced and read first time: February 26, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Penalties**

3 FOR the purpose of altering certain penalties that may be imposed on insurers for
4 committing an unfair claims settlement practice and for committing an unfair
5 claims settlement practice as a general business practice; requiring the
6 Insurance Commissioner to adopt certain regulations; and generally relating to
7 altering certain penalties that may be imposed on insurers for certain unfair
8 claims settlement practices.

9 BY repealing and reenacting, with amendments,

- 10 Article - Insurance
- 11 Section 4-113(d) and (e) and 27-305
- 12 Annotated Code of Maryland
- 13 (1997 Volume)

14 BY repealing and reenacting, without amendments,

- 15 Article - Insurance
- 16 Section 27-303 and 27-304
- 17 Annotated Code of Maryland
- 18 (1997 Volume)

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

21 **Article - Insurance**

22 4-113.

23 (d) Instead of or in addition to suspending or revoking a certificate of
24 authority, the Commissioner may:

25 (1) impose on the holder a penalty of not less than \$100 but not
26 [exceeding \$50,000] MORE THAN \$250,000 for each violation of this article; and

1 (2) require the holder to make restitution to any person who has suffered
2 financial injury because of the violation of this article.

3 (e) The Commissioner shall adopt regulations to:

4 (1) ESTABLISH STANDARDS FOR THE IMPOSITION OF A PENALTY UNDER
5 SUBSECTION (D) OF THIS SECTION; AND

6 (2) carry out the provisions of subsection (b)(11) of this section.

7 27-303.

8 It is an unfair claim settlement practice and a violation of this subtitle for an
9 insurer or nonprofit health service plan to:

10 (1) misrepresent pertinent facts or policy provisions that relate to the
11 claim or coverage at issue;

12 (2) refuse to pay a claim for an arbitrary or capricious reason based on
13 all available information;

14 (3) attempt to settle a claim based on an application that is altered
15 without notice to, or the knowledge or consent of, the insured;

16 (4) fail to include with each claim paid to an insured or beneficiary a
17 statement of the coverage under which payment is being made;

18 (5) fail to settle a claim promptly whenever liability is reasonably clear
19 under one part of a policy, in order to influence settlements under other parts of the
20 policy;

21 (6) fail to provide promptly on request a reasonable explanation of the
22 basis for a denial of a claim; or

23 (7) fail to meet the requirements of Title 19, Subtitle 13 of the Health -
24 General Article for preauthorization for a health care service.

25 27-304.

26 It is an unfair claim settlement practice and a violation of this subtitle for an
27 insurer or nonprofit health service plan, when committed with the frequency to
28 indicate a general business practice, to:

29 (1) misrepresent pertinent facts or policy provisions that relate to the
30 claim or coverage at issue;

31 (2) fail to acknowledge and act with reasonable promptness on
32 communications about claims that arise under policies;

33 (3) fail to adopt and implement reasonable standards for the prompt
34 investigation of claims that arise under policies;

1 (4) refuse to pay a claim without conducting a reasonable investigation
2 based on all available information;

3 (5) fail to affirm or deny coverage of claims within a reasonable time
4 after proof of loss statements have been completed;

5 (6) fail to make a prompt, fair, and equitable good faith attempt, to settle
6 claims for which liability has become reasonably clear;

7 (7) compel insureds to institute litigation to recover amounts due under
8 policies by offering substantially less than the amounts ultimately recovered in
9 actions brought by the insureds;

10 (8) attempt to settle a claim for less than the amount to which a
11 reasonable person would expect to be entitled after studying written or printed
12 advertising material accompanying, or made part of, an application;

13 (9) attempt to settle a claim based on an application that is altered
14 without notice to, or the knowledge or consent of, the insured;

15 (10) fail to include with each claim paid to an insured or beneficiary a
16 statement of the coverage under which the payment is being made;

17 (11) make known to insureds or claimants a policy of appealing from
18 arbitration awards in order to compel insureds or claimants to accept a settlement or
19 compromise less than the amount awarded in arbitration;

20 (12) delay an investigation or payment of a claim by requiring a claimant
21 or a claimant's licensed health care provider to submit a preliminary claim report and
22 subsequently to submit formal proof of loss forms that contain substantially the same
23 information;

24 (13) fail to settle a claim promptly whenever liability is reasonably clear
25 under one part of a policy, in order to influence settlements under other parts of the
26 policy;

27 (14) fail to provide promptly a reasonable explanation of the basis for
28 denial of a claim or the offer of a compromise settlement; or

29 (15) fail to meet the requirements of Title 19, Subtitle 13 of the Health -
30 General Article for preauthorization for a health care service.

31 27-305.

32 (a) The Commissioner may impose a penalty not exceeding [\$500] \$5,000 for
33 each violation of § 27-303 of this subtitle or a regulation adopted under § 27-303 of
34 this subtitle.

35 (b) The penalty for a violation of § 27-304 of this subtitle is as provided in §§
36 1-301, 4-113, 4-114, and 27-103 of this article.

1 (c) (1) On finding a violation of this subtitle, the Commissioner may require
2 an insurer or nonprofit health service plan to make restitution to each claimant who
3 has suffered actual economic damage because of the violation.

4 (2) Restitution may not exceed the amount of actual economic damage
5 sustained, subject to the limits of any applicable policy.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1998.