

HOUSE BILL 59

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2000 Regular Session
(01r0646)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegate Dembrow**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Adverse Decisions and Grievance Decisions -**
3 **Notification Requirements**

4 FOR the purpose of requiring insurance carriers to include certain information in ~~an~~
5 ~~initial~~ a notice of an adverse decision or grievance decision that is sent to a
6 member; eliminating a certain notification requirement; altering the
7 information that insurance carriers must include in certain policies, plans,
8 certificates, enrollment materials, or other evidences of coverage; and generally
9 relating to notification of an adverse decision or grievance decision under the
10 appeals and grievance process.

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 15-10A-02
14 Annotated Code of Maryland
15 (1997 Volume and 1999 Supplement)

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

3 **Article - Insurance**

4 15-10A-02.

5 (a) Each carrier shall establish an internal grievance process for its members.

6 (b) (1) An internal grievance process shall meet the same requirements
7 established under Subtitle 10B of this title.

8 (2) In addition to the requirements of Subtitle 10B of this title, an
9 internal grievance process established by a carrier under this section shall:

10 (i) include an expedited procedure for use in an emergency case for
11 purposes of rendering a grievance decision within 24 hours of the date a grievance is
12 filed with the carrier;

13 (ii) provide that a carrier render a final decision in writing on a
14 grievance within 30 working days after the date on which the grievance is filed
15 unless:

16 1. the grievance involves an emergency case under item (i) of
17 this paragraph;

18 2. the member or a health care provider filing a grievance on
19 behalf of a member agrees in writing to an extension for a period of no longer than 30
20 working days; or

21 3. the grievance involves a retrospective denial under item
22 (iv) of this paragraph;

23 (iii) allow a grievance to be filed on behalf of a member by a health
24 care provider; and

25 (iv) provide that a carrier render a final decision in writing on a
26 grievance within 45 working days after the date on which the grievance is filed when
27 the grievance involves a retrospective denial.

28 (3) For purposes of using the expedited procedure for an emergency case
29 that a carrier is required to include under paragraph (2)(i) of this subsection, the
30 Commissioner shall define by regulation the standards required for a grievance to be
31 considered an emergency case.

32 (c) Except as provided in subsection (d) of this section, the carrier's internal
33 grievance process shall be exhausted prior to filing a complaint with the
34 Commissioner under this subtitle.

1 (d) (1) (i) A member or a health care provider filing a complaint on behalf
2 of a member may file a complaint with the Commissioner without first filing a
3 grievance with a carrier and receiving a final decision on the grievance if the member
4 or the health care provider provides sufficient information and supporting
5 documentation in the complaint that demonstrates a compelling reason to do so.

6 (ii) The Commissioner shall define by regulation the standards that
7 the Commissioner shall use to decide what demonstrates a compelling reason under
8 subparagraph (i) of this paragraph.

9 (2) Subject to subsections (b)(2)(ii) and (h) of this section, a member or a
10 health care provider may file a complaint with the Commissioner if the member or
11 the health care provider does not receive a grievance decision from the carrier on or
12 before the 30th working day on which the grievance is filed.

13 (3) Whenever the Commissioner receives a complaint under paragraph
14 (1) or (2) of this subsection, the Commissioner shall notify the carrier that is the
15 subject of the complaint within 5 working days after the date the complaint is filed
16 with the Commissioner.

17 (e) Each carrier shall:

18 (1) file for review with the Commissioner and submit to the Health
19 Advocacy Unit a copy of its internal grievance process established under this subtitle;
20 and

21 (2) update the initial filing annually to reflect any changes made.

22 [(f) Except for an emergency case under subsection (b)(2)(i) of this section, at
23 the time a member first contacts a carrier about an adverse decision, the carrier shall
24 send in writing to the member within 2 working days after the initial contact:

25 (1) the details of its internal grievance process and procedures under the
26 provisions of this subtitle;

27 (2) information stating that:

28 (i) the Health Advocacy Unit:

29 1. is available to assist the member with filing a grievance
30 under the carrier's internal grievance process; but

31 2. is not available to represent or accompany the member
32 during the proceedings of the internal grievance process;

33 (ii) the Health Advocacy Unit can assist the member in mediating a
34 resolution of the adverse decision with the carrier, but that any time during the
35 mediation, the member or a health care provider on behalf of the member may file a
36 grievance; and

1 (iii) the member or a health care provider on behalf of the member
2 may file a complaint with the Commissioner without first filing a grievance if
3 sufficient information and supporting documentation is filed with the complaint that
4 demonstrates a compelling reason to do so;

5 (3) the address, telephone number, facsimile number, and e-mail
6 address of the Health Advocacy Unit;

7 (4) the address, telephone number, and facsimile number of the
8 Commissioner; and

9 (5) information on where the information required by this subsection can
10 be found in the member's policy, plan, certificate, enrollment materials, or other
11 evidence of coverage.]

12 (F) FOR NONEMERGENCY CASES, WHEN A CARRIER RENDERS AN ADVERSE
13 DECISION, THE CARRIER SHALL:

14 (1) DOCUMENT THE ADVERSE DECISION IN WRITING AFTER THE
15 CARRIER HAS PROVIDED ORAL COMMUNICATION OF THE DECISION TO THE MEMBER
16 OR THE HEALTH CARE PROVIDER ACTING ON BEHALF OF THE MEMBER; AND

17 (2) SEND, WITHIN 5 WORKING DAYS AFTER THE ADVERSE DECISION HAS
18 BEEN MADE, A WRITTEN NOTICE TO THE MEMBER AND ~~THE~~ A HEALTH CARE
19 PROVIDER ACTING ON BEHALF OF THE MEMBER THAT:

20 (I) STATES IN DETAIL IN CLEAR, UNDERSTANDABLE LANGUAGE
21 THE SPECIFIC FACTUAL BASES FOR THE CARRIER'S DECISION;

22 (II) REFERENCES THE SPECIFIC CRITERIA AND STANDARDS,
23 INCLUDING INTERPRETIVE GUIDELINES, ON WHICH THE DECISION WAS BASED, AND
24 DOES NOT SOLELY USE GENERALIZED TERMS SUCH AS "EXPERIMENTAL PROCEDURE
25 NOT COVERED", "COSMETIC PROCEDURE NOT COVERED", "SERVICE INCLUDED
26 UNDER ANOTHER PROCEDURE", OR "NOT MEDICALLY NECESSARY";

27 (III) STATES THE NAME, BUSINESS ADDRESS, AND BUSINESS
28 TELEPHONE NUMBER OF:

29 1. THE MEDICAL DIRECTOR OR ASSOCIATE MEDICAL
30 DIRECTOR, AS APPROPRIATE, WHO MADE THE DECISION IF THE CARRIER IS A
31 HEALTH MAINTENANCE ORGANIZATION; OR

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

35 (IV) GIVES WRITTEN DETAILS OF THE CARRIER'S INTERNAL
36 GRIEVANCE PROCESS AND PROCEDURES UNDER THIS SUBTITLE; AND

37 (V) INCLUDES THE FOLLOWING INFORMATION:

1 1. THAT THE MEMBER OR A HEALTH CARE PROVIDER ON
 2 BEHALF OF THE MEMBER HAS A RIGHT TO FILE A COMPLAINT WITH THE
 3 COMMISSIONER WITHIN 30 DAYS AFTER RECEIPT OF A CARRIER'S GRIEVANCE
 4 DECISION;

5 2. THAT A COMPLAINT MAY BE FILED WITHOUT FIRST
 6 FILING A GRIEVANCE IF THE MEMBER OR A HEALTH CARE PROVIDER FILING A
 7 GRIEVANCE ON BEHALF OF THE MEMBER CAN DEMONSTRATE A COMPELLING
 8 REASON TO DO SO AS DETERMINED BY THE COMMISSIONER;

9 3. THE COMMISSIONER'S ADDRESS, TELEPHONE NUMBER,
 10 AND FACSIMILE NUMBER;

11 4. A STATEMENT THAT THE HEALTH ADVOCACY UNIT IS
 12 AVAILABLE TO ASSIST THE MEMBER IN BOTH MEDIATING AND FILING A GRIEVANCE
 13 UNDER THE CARRIER'S INTERNAL GRIEVANCE PROCESS; AND

14 4. 5. THE ADDRESS, TELEPHONE NUMBER, FACSIMILE
 15 NUMBER, AND E-MAIL ADDRESS OF THE HEALTH ADVOCACY UNIT; AND

16 5. THE COMMISSIONER'S ADDRESS, TELEPHONE NUMBER,
 17 AND FACSIMILE NUMBER.

18 ~~{(g)}~~ ~~(F)~~ If within 5 working days after a member or a health care provider,
 19 who has filed a grievance on behalf of a member, files a grievance with the carrier,
 20 and if the carrier does not have sufficient information to complete its internal
 21 grievance process, the carrier shall:

22 (1) notify the member or health care provider that it cannot proceed with
 23 reviewing the grievance unless additional information is provided; and

24 (2) assist the member or health care provider in gathering the necessary
 25 information without further delay.

26 ~~{(h)}~~ ~~(G)~~ A carrier may extend the 30-day or 45-day period required for
 27 making a final grievance decision under subsection (b)(2)(ii) of this section with the
 28 written consent of the member or the health care provider who filed the grievance on
 29 behalf of the member.

30 ~~{(i)}~~ ~~(H)~~ ~~(1)~~ For nonemergency cases, each carrier's internal grievance
 31 process established under subsection (a) of this section shall include a provision that
 32 requires the carrier to:

33 ~~(i)~~ document in writing any adverse decision or grievance decision
 34 made by the carrier after the carrier has provided oral communication of the decision
 35 to the member or the health care provider who filed the grievance on behalf of the
 36 member; and

37 ~~(ii)~~ within 5 working days after the decision has been made, send
 38 notice of the adverse decision or grievance decision to:

1 1. ~~the member; and~~
 2 2. ~~if the grievance was filed on behalf of the member under~~
 3 ~~subsection (b)(2)(iii) of this section, the health care provider.~~

4 (2) ~~Notice of the adverse decision or grievance decision required to be~~
 5 ~~sent under paragraph (1) of this subsection shall:~~

6 (I) (1) FOR NONEMERGENCY CASES, WHEN A CARRIER RENDERS A
 7 GRIEVANCE DECISION, THE CARRIER SHALL:

8 (I) *DOCUMENT THE GRIEVANCE DECISION IN WRITING AFTER THE*
 9 *CARRIER HAS PROVIDED ORAL COMMUNICATION OF THE DECISION TO THE MEMBER*
 10 *OR THE HEALTH CARE PROVIDER ACTING ON BEHALF OF THE MEMBER; AND*

11 (II) *SEND, WITHIN 5 WORKING DAYS AFTER THE GRIEVANCE*
 12 *DECISION HAS BEEN MADE, A WRITTEN NOTICE TO THE MEMBER AND THE A HEALTH*
 13 *CARE PROVIDER WHO FILED THE GRIEVANCE ACTING ON BEHALF OF THE MEMBER*
 14 *THAT:*

15 (i) 1. *state STATES* in detail in clear, understandable language
 16 ~~the specific factual bases for the carrier's decision;~~

17 (ii) 2. *reference REFERENCES* the specific criteria and
 18 standards, including interpretive guidelines, on which the ~~adverse decision or~~
 19 ~~grievance decision was based;~~

20 (iii) 3. *state STATES* the name, business address, and business
 21 telephone number of:

22 1. A. *the medical director or associate medical director, as*
 23 ~~appropriate, who made the adverse decision or grievance decision if the carrier is a~~
 24 ~~health maintenance organization; or~~

25 2. B. *the designated employee or representative of the*
 26 ~~carrier who has responsibility for the carrier's internal grievance process if the carrier~~
 27 ~~is not a health maintenance organization; and~~

28 (iv) 4. *include INCLUDES* the following information:

29 1. ~~THAT THE MEMBER HAS A RIGHT TO APPEAL THE~~
 30 ~~ADVERSE DECISION THROUGH THE CARRIER'S INTERNAL GRIEVANCE PROCESS;~~

31 2. ~~THE DETAILS OF THE CARRIER'S INTERNAL GRIEVANCE~~
 32 ~~PROCESS AND PROCEDURES UNDER THE PROVISIONS OF THIS SUBTITLE;~~

33 3. ~~A STATEMENT THAT THE HEALTH ADVOCACY UNIT IS~~
 34 ~~AVAILABLE TO ASSIST THE MEMBER IN BOTH MEDIATING AND FILING A GRIEVANCE~~
 35 ~~UNDER THE CARRIER'S INTERNAL GRIEVANCE PROCESS;~~

1 4. ~~THE ADDRESS, TELEPHONE NUMBER, FACSIMILE~~
 2 ~~NUMBER, AND E-MAIL ADDRESS OF THE HEALTH ADVOCACY UNIT;~~

3 ~~{1-}~~ A. 5. that the member has a right to file a complaint
 4 with the Commissioner within 30 days after receipt of a carrier's grievance decision;
 5 AND

6 ~~{2-}~~ 6. ~~that a complaint may be filed without first filing a~~
 7 ~~grievance if the member or a health care provider filing a grievance on behalf of the~~
 8 ~~member can demonstrate a compelling reason to do so; and~~

9 ~~{3-}~~ 7. 2. B. the Commissioner's address, telephone number,
 10 and facsimile number.

11 ~~{3}~~ (2) A carrier may not use solely in a notice sent under paragraph
 12 (1) of this subsection generalized terms such as "experimental procedure not covered",
 13 "cosmetic procedure not covered", "service included under another procedure", or "not
 14 medically necessary" to satisfy the requirements of ~~paragraph (2)(i) or (ii)~~ of this
 15 subsection.

16 ~~{j}~~ ~~{4}~~ (1) For an emergency case under subsection (b)(2)(i) of this section,
 17 within 1 day after a decision has been orally communicated to the member or health
 18 care provider, the carrier shall send notice in writing of any adverse decision or
 19 grievance decision to:

20 (i) the member; and

21 (ii) if the grievance was filed on behalf of the member under
 22 subsection (b)(2)(iii) of this section, the health care provider.

23 (2) ~~The A~~ notice REQUIRED TO BE SENT UNDER PARAGRAPH (1) OF THIS
 24 SUBSECTION shall include the ~~information required under subsection (i)(2) of this~~
 25 ~~section~~ FOLLOWING:

26 (I) FOR AN ADVERSE DECISION, THE INFORMATION REQUIRED
 27 UNDER SUBSECTION (F) OF THIS SECTION; AND

28 (II) FOR A GRIEVANCE DECISION, THE INFORMATION REQUIRED
 29 UNDER SUBSECTION (I) OF THIS SECTION.

30 ~~{k}~~ ~~{4}~~ Each carrier shall include the information required by [subsections
 31 (f) and (i)(2)(iii)] SUBSECTION (F)(2)(III), (IV), AND (V) of this section in the
 32 policy, plan, certificate, enrollment materials, or other evidence of coverage that the
 33 carrier provides to a member at the time of the member's initial coverage or renewal
 34 of coverage.

35 ~~{l}~~ ~~{K}~~ (1) Nothing in this subtitle prohibits a carrier from delegating its
 36 internal grievance process to a private review agent that has a certificate issued
 37 under Subtitle 10B of this title and is acting on behalf of the carrier.

1 (2) If a carrier delegates its internal grievance process to a private
2 review agent, the carrier shall be:

3 (i) bound by the grievance decision made by the private review
4 agent acting on behalf of the carrier; and

5 (ii) responsible for a violation of any provision of this subtitle
6 regardless of the delegation made by the carrier under paragraph (1) of this
7 subsection.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2000.