

HOUSE BILL 59

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2000 Regular Session
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(PRE-FILED)

By: **Delegate Dembrow**
Requested: October 6, 1999
Introduced and read first time: January 12, 2000
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Adverse Decisions - Notification Requirements**

3 FOR the purpose of requiring insurance carriers to include certain information in an
4 initial notice of an adverse decision that is sent to a member; eliminating a
5 certain notification requirement; and generally relating to notification of an
6 adverse decision under the appeals and grievance process.

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

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

14 **Article - Insurance**

15 15-10A-02.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (e) Each carrier shall:

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

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

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

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

10 (2) information stating that:

11 (i) the Health Advocacy Unit:

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

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

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

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

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

26 (4) the address, telephone number, and facsimile number of the
27 Commissioner; and

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

31 [(g)] (F) If within 5 working days after a member or a health care provider,
32 who has filed a grievance on behalf of a member, files a grievance with the carrier,
33 and if the carrier does not have sufficient information to complete its internal
34 grievance process, the carrier shall:

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

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

3 [(h)] (G) A carrier may extend the 30-day or 45-day period required for
4 making a final grievance decision under subsection (b)(2)(ii) of this section with the
5 written consent of the member or the health care provider who filed the grievance on
6 behalf of the member.

7 [(i)] (H) (1) For nonemergency cases, each carrier's internal grievance
8 process established under subsection (a) of this section shall include a provision that
9 requires the carrier to:

10 (i) document in writing any adverse decision or grievance decision
11 made by the carrier after the carrier has provided oral communication of the decision
12 to the member or the health care provider who filed the grievance on behalf of the
13 member; and

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

16 1. the member; and

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

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

21 (i) state in detail in clear, understandable language the specific
22 factual bases for the carrier's decision;

23 (ii) reference the specific criteria and standards, including
24 interpretive guidelines, on which the adverse decision or grievance decision was
25 based;

26 (iii) state the name, business address, and business telephone
27 number of:

28 1. the medical director or associate medical director, as
29 appropriate, who made the adverse decision or grievance decision if the carrier is a
30 health maintenance organization; or

31 2. the designated employee or representative of the carrier
32 who has responsibility for the carrier's internal grievance process if the carrier is not
33 a health maintenance organization; and

34 (iv) include the following information:

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

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

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

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