

SENATE BILL 497
EMERGENCY BILL

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2000 Regular Session
(01r1800)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senators Bromwell and Miller**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Health Insurance—Administrative Service Provider Contract Law—~~
3 ~~Clarification and Modification~~ Maintenance Organizations - Responsibility
4 for and Regulation of Downstream Risk

5 FOR the purpose of ~~clarifying that a health maintenance organization is responsible~~
6 ~~for certain obligations under an administrative service provider contract under~~
7 ~~certain circumstances; clarifying that certain responsibilities of a health~~
8 ~~maintenance organization are not subject to certain limitations and exist~~
9 ~~irrespective of certain conditions; requiring a health maintenance organization~~
10 ~~to create a segregated fund for certain purposes under certain circumstances;~~
11 ~~requiring a health maintenance organization to audit and inspect certain books,~~
12 ~~records, and operations of a contracting provider under certain circumstances;~~
13 ~~requiring a health maintenance organization to include certain information in a~~
14 ~~certain annual report; prohibiting the consideration of a certain segregated fund~~
15 ~~as an asset or account of a contracting provider under certain circumstances;~~
16 ~~applying to managed care organizations certain provisions of law that relate to~~
17 ~~health maintenance organizations; requiring the Maryland Insurance~~

1 Administration to make a certain report to the Governor and to the General
 2 Assembly in a certain manner by a certain date; making this Act an emergency
 3 measure; and generally relating to the clarification and modification requiring
 4 health maintenance organizations and certain other entities that enter into
 5 administrative service provider contracts to meet certain requirements; clarifying
 6 the responsibility of certain health maintenance organizations for certain claims
 7 and payments for health care services under an administrative service provider
 8 contract; specifying that certain requirements concerning administrative service
 9 provider contracts apply to managed care organizations under the Maryland
 10 Medical Assistance Program; requiring the Insurance Commissioner to consult
 11 with the Secretary of Health and Mental Hygiene before taking certain action;
 12 requiring the Commissioner, in consultation with the Secretary of Health and
 13 Mental Hygiene, to adopt certain regulations for a certain methodology;
 14 specifying that certain provisions of law apply to a certain contract; providing for
 15 a certain exemption; requiring a contracting provider to submit certain
 16 information to a health maintenance organization; specifying the time frames
 17 within which certain reports and financial statements must be filed with a
 18 certain health maintenance organization; requiring a certain health
 19 maintenance organization to establish a certain fund; authorizing the
 20 Commissioner to consider certain facts when determining the sufficiency of a
 21 certain fund; requiring a certain fund to be held in trust; specifying the frequency
 22 of certain reviews and inspections; specifying that a health maintenance
 23 organization shall meet certain requirements regardless of the existence of a
 24 certain fund or certain contract provisions; specifying the contents of a certain
 25 plan to be filed and approved by the Commissioner; requiring certain health
 26 maintenance organizations to file certain information with the Commissioner;
 27 specifying the responsibilities of certain entities upon a contracting provider's
 28 failure to comply with a certain plan; requiring a certain health maintenance
 29 organization to comply with the terms of a certain contract providing that a
 30 certain segregated fund is not the asset of a certain contracting provider for a
 31 certain purpose; establishing a certain registration system for certain contracting
 32 providers; establishing a certain fee; prohibiting a health maintenance
 33 organization from contracting with a certain unregistered contracting provider;
 34 providing for certain application procedures; authorizing the Commissioner to
 35 adopt certain regulations; establishing certain penalties; altering certain
 36 definitions; defining certain terms; providing for the application of this Act; and
 37 generally relating to health maintenance organizations, contracting providers,
 38 and regulation of administrative service provider ~~contract law~~ contracts.

39 BY renumbering

40 Article - Health - General
 41 Section 19-713.3 and 19-713.4, respectively
 42 to be Section 19-713.4 and 19-713.5, respectively
 43 Annotated Code of Maryland
 44 (1996 Replacement Volume and 1999 Supplement)

45 BY repealing and reenacting, with amendments,

1 Article - Health - General
 2 Section 15-102.3
 3 Annotated Code of Maryland
 4 (1994 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article - Health - General
 7 Section 19-712(b) ~~and~~ 19-713.2, and 19-730
 8 Annotated Code of Maryland
 9 (1996 Replacement Volume and 1999 Supplement)

10 BY adding to
 11 Article - Health - General
 12 Section 19-712(c) and (d) and 19-713.3
 13 Annotated Code of Maryland
 14 (1996 Replacement Volume and 1999 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Article - Insurance
 17 Section 15-605(a)
 18 Annotated Code of Maryland
 19 (1997 Volume and 1999 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 21 MARYLAND, That Section(s) 19-713.3 and 19-713.4, respectively, of Article - Health
 22 - General of the Annotated Code of Maryland be renumbered to be Section(s) 19-713.4
 23 and 19-713.5, respectively.

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

26 **Article - Health - General**

27 15-102.3.

28 (a) The provisions of § 15-112 of the Insurance Article (Provider panels) shall
 29 apply to managed care organizations in the same manner they apply to carriers.

30 (b) The provisions of § 15-1005 of the Insurance Article shall apply to
 31 managed care organizations in the same manner they apply to health maintenance
 32 organizations.

33 (C) (1) THE PROVISIONS OF §§ 19-712(B), (C), AND (D), AND 19-713.2, AND
 34 19-713.3 OF THIS ARTICLE SHALL APPLY TO MANAGED CARE ORGANIZATIONS IN THE
 35 SAME MANNER THEY APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

1 (2) THE INSURANCE COMMISSIONER SHALL CONSULT WITH THE
 2 SECRETARY BEFORE TAKING ANY ACTION AGAINST A MANAGED CARE
 3 ORGANIZATION UNDER THIS SUBSECTION.

4 [(c)] (D) (1) Except as otherwise provided in this subsection, the provisions
 5 of § 19-718 of this article (Financial affairs examination) shall apply to managed care
 6 organizations in the same manner they apply to health maintenance organizations.

7 (2) The Insurance Commissioner or an agent of the Commissioner shall
 8 examine the financial affairs and status of each managed care organization at least
 9 once every 5 years.

10 19-712.

11 (b) (1) ~~(I) [A] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A~~ A
 12 person who holds a certificate of authority to operate a health maintenance
 13 organization under this subtitle and who enters into any administrative service
 14 provider contract, as defined in ~~§ 19-713.1~~ § 19-713.2 of this subtitle, with a person or
 15 entity for the provision of health care services to subscribers shall be ~~FINANCIALLY~~
 16 ~~AND ADMINISTRATIVELY~~ responsible for all claims or payments for health care
 17 services:

18 {(i)} ~~1.~~ Covered under the subscriber's contract; and

19 {(ii)} ~~2.~~ Rendered by a provider, who is not the person or entity
 20 which entered into the administrative service provider contract with the health
 21 maintenance organization, pursuant to a referral by a person or entity which entered
 22 into the administrative service provider contract with the health maintenance
 23 organization.

24 ~~(II) THE FINANCIAL AND ADMINISTRATIVE RESPONSIBILITIES OF A~~
 25 ~~HEALTH MAINTENANCE ORGANIZATION UNDER AN ADMINISTRATIVE SERVICE~~
 26 ~~PROVIDER CONTRACT:~~

27 ~~1. ARE NOT LIMITED BY THE VALUE OF THE ASSETS OF A~~
 28 ~~SEGREGATED FUND ESTABLISHED UNDER AN ADMINISTRATIVE SERVICE PROVIDER~~
 29 ~~CONTRACT;~~

30 ~~2. EXIST IRRESPECTIVE OF WHETHER THE CONTRACTING~~
 31 ~~PROVIDER IS INSOLVENT; AND~~

32 ~~3. EXIST IRRESPECTIVE OF ANY CONTRARY OR LIMITING~~
 33 ~~CONTRACT PROVISION.~~

34 (2) Responsibility for claims and payments under this subsection is
 35 subject to the provisions of ~~§ 19-712.1 of this subtitle~~ § 15-1005 OF THE INSURANCE
 36 ARTICLE.

37 (C) THE RESPONSIBILITY OF A HEALTH MAINTENANCE ORGANIZATION FOR
 38 CLAIMS OR PAYMENTS FOR HEALTH CARE SERVICES IN ACCORDANCE WITH

1 SUBSECTION (B) OF THIS SECTION UNDER AN ADMINISTRATIVE SERVICE PROVIDER
 2 CONTRACT:

3 (1) IS NOT LIMITED BY THE AMOUNT IN A SEGREGATED FUND
 4 ESTABLISHED UNDER § 19-713.2 OF THIS TITLE;

5 (2) EXISTS IRRESPECTIVE OF THE INSOLVENCY OR OTHER INABILITY
 6 OR FAILURE OF A CONTRACTING PROVIDER, AS DEFINED IN § 19-713.2 OF THIS
 7 SUBTITLE, TO PAY;

8 (3) EXISTS IRRESPECTIVE OF THE DELEGATION OR FURTHER
 9 SUBCONTRACTING OF HEALTH CARE SERVICES BY A CONTRACTING PROVIDER TO
 10 AN EXTERNAL PROVIDER, AS DEFINED IN § 19-713.2 OF THIS SUBTITLE;

11 (4) MAY NOT BE ALTERED BY CONTRACT; AND

12 (5) APPLIES TO ALL HEALTH CARE SERVICES, INCLUDING THOSE
 13 PROVIDED UNDER STATE AND FEDERAL PROGRAMS, UNLESS PREEMPTED BY
 14 FEDERAL LAW.

15 (D) SUBSECTIONS (B) AND (C) OF THIS SECTION APPLY TO A CONTRACT
 16 BETWEEN A HEALTH MAINTENANCE ORGANIZATION AND ANY COMPANY AFFILIATED
 17 WITH THE HEALTH MAINTENANCE ORGANIZATION THROUGH COMMON OWNERSHIP
 18 WITHIN AN INSURANCE HOLDING COMPANY SYSTEM, THAT MEETS THE DEFINITION
 19 OF A CONTRACTING PROVIDER UNDER § 19-713.2 OF THIS SUBTITLE.

20 19-713.2.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "Administrative service provider contract" means a contract or
 23 capitation agreement between a health maintenance organization and a contracting
 24 provider which includes requirements that:

25 (i) The contracting provider accept payments from a health
 26 maintenance organization for health care services to be provided to members of the
 27 health maintenance organization that the contracting provider arranges to be
 28 provided by external providers; and

29 (ii) The contracting provider administer payments pursuant to the
 30 contract ~~within~~ WITH the health maintenance organization for the health care
 31 services to the external providers.

32 (3) "Contracting provider" means a ~~physician or other health care~~
 33 ~~provider~~ PERSON who enters into an administrative service provider contract with a
 34 health maintenance organization.

35 (4) "External provider" means a health care provider, including a
 36 physician or hospital, who is not:

- 1 (i) A contracting provider; or
- 2 (ii) An employee, shareholder, or partner of a contracting provider.

3 (B) THIS SECTION DOES NOT APPLY TO A CONTRACT BETWEEN A HEALTH
 4 MAINTENANCE ORGANIZATION AND A CONTRACTING PROVIDER THAT IS
 5 AFFILIATED WITH THE HEALTH MAINTENANCE ORGANIZATION THROUGH COMMON
 6 OWNERSHIP WITHIN AN INSURANCE HOLDING COMPANY SYSTEM, IF THE HEALTH
 7 MAINTENANCE ORGANIZATION:

8 (1) FILES WITH THE COMMISSIONER CONSOLIDATED FINANCIAL
 9 STATEMENTS THAT INCLUDE THE CONTRACTING PROVIDER; AND

10 (2) RECORDS A RESERVE FOR THE LIABILITIES OF THE CONTRACTING
 11 PROVIDER IN ACCORDANCE WITH § 5-201 OF THIS ARTICLE.

12 ~~(b)~~ (C) A health maintenance organization may not enter into an
 13 administrative service provider contract unless:

14 (1) The health maintenance organization files with the Insurance
 15 Commissioner a plan that satisfies the requirements of subsection (c) of this section;
 16 and

17 (2) The Insurance Commissioner does not disapprove the filing within 30
 18 days after the plan is filed.

19 ~~(c)~~ (D) The plan required under subsection ~~(b)~~ (C) of this section shall:

20 (1) Require the contracting provider to provide the health maintenance
 21 organization with regular MONTHLY reports, ~~at least quarterly~~ WITHIN 30 DAYS OF
 22 THE END OF THE MONTH REPORTED, that identify payments made or owed to
 23 external providers in sufficient detail to determine if the payments are being made in
 24 compliance with law;

25 (2) Require the contracting provider to provide to the health
 26 maintenance organization a current annual financial statement of the contracting
 27 provider each year, WITHIN 90 DAYS OF THE END OF THE YEAR REPORTED;

28 (3) Require the ~~creation by the~~ [contracting provider, or on the
 29 contracting provider's behalf,] HEALTH MAINTENANCE ORGANIZATION of TO
 30 ESTABLISH AND MAINTAIN a segregated fund, IN A FORM AND AN AMOUNT
 31 APPROVED BY THE COMMISSIONER, ~~(which may include withheld funds, escrow~~
 32 ~~accounts, letters of credit, or similar arrangements), or require the availability of~~
 33 ~~other resources that are~~ WHICH MAY INCLUDE WITHHELD FUNDS, ESCROW
 34 ACCOUNTS, LETTERS OF CREDIT, OR SIMILAR ARRANGEMENTS, OR REQUIRE THE
 35 AVAILABILITY OF OTHER RESOURCES THAT ARE sufficient to satisfy the contracting
 36 provider's obligations to external providers for services rendered to members of the
 37 health maintenance organization;

1 (4) Require an explanation of how THE CONTRACTING PROVIDER TO
 2 SUBMIT TO THE HEALTH MAINTENANCE ORGANIZATION INFORMATION
 3 DEMONSTRATING THAT the fund or resources required ESTABLISH under paragraph
 4 ITEM(3) of this subsection create funds or other resources IS sufficient to satisfy the
 5 contracting provider's obligations to external providers for services rendered to
 6 members of the health maintenance organization; {and}

7 (5) [Permit] REQUIRE the health maintenance organization, at
 8 mutually agreed upon times and upon reasonable prior notice, to audit and inspect
 9 the contracting provider's books, records, and operations relevant to the provider's
 10 contract for the purpose of determining the contracting provider's compliance with
 11 the plan; ~~AND~~

12 (6) ~~REQUIRE THE HEALTH MAINTENANCE ORGANIZATION TO INCLUDE~~
 13 ~~A COPY OF EACH CURRENT ANNUAL FINANCIAL STATEMENT OBTAINED UNDER ITEM~~
 14 ~~(2) OF THIS SUBSECTION IN ITS ANNUAL REPORT FILED UNDER § 19-717 OF THIS~~
 15 ~~SUBTITLE.~~

16 (D) ~~A SEGREGATED FUND ESTABLISHED AS A RESULT OF AN ADMINISTRATIVE~~
 17 ~~SERVICE PROVIDER CONTRACT MAY NOT BE CONSIDERED AN ASSET OR AN ACCOUNT~~
 18 ~~OF THE CONTRACTING PROVIDER FOR THE PURPOSES OF DETERMINING THE ASSETS~~
 19 ~~AND ACCOUNTS OF A BANKRUPT CONTRACTING PROVIDER.~~

20 (E) IN DETERMINING THE SUFFICIENCY OF A SEGREGATED FUND, THE
 21 COMMISSIONER MAY CONSIDER WHETHER EXTERNAL PROVIDERS ARE OWNED OR
 22 CONTROLLED BY THE CONTRACTING PROVIDER.

23 (F) THE SEGREGATED FUND OR OTHER RESOURCES ESTABLISHED AS A
 24 RESULT OF AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT:

25 (1) SHALL BE HELD IN TRUST FOR PAYMENT TO EXTERNAL PROVIDERS;
 26 AND

27 (2) MAY NOT BE CONSIDERED AN ASSET OR AN ACCOUNT OF THE
 28 CONTRACTING PROVIDER FOR THE PURPOSE OF DETERMINING THE ASSETS OR
 29 ACCOUNTS OF A BANKRUPT CONTRACTING PROVIDER.

30 [(d)] (G) The health maintenance organization and the contracting
 31 provider shall comply with the plan.

32 [(e)] (H) (1) The health maintenance organization shall monitor the
 33 contracting provider to assure compliance with the plan, and the health maintenance
 34 organization shall notify the contracting provider whenever a failure to comply with
 35 the plan occurs.

36 (2) (I) {Upon} ~~SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,~~
 37 ~~UPON~~ the failure of the contracting provider to comply with the plan following notice
 38 of noncompliance, or upon termination of the administrative service provider contract
 39 for any reason, the health maintenance organization shall NOTIFY THE
 40 COMMISSIONER AND SHALL assume the ~~FINANCIAL RESPONSIBILITY FOR AND THE~~

1 administration of any payments due ~~UNDER THE ADMINISTRATIVE SERVICE~~
 2 ~~PROVIDER CONTRACT~~ from the contracting provider to external providers on behalf of
 3 the contracting provider, AS REQUIRED UNDER § 19-712 OF THIS SUBTITLE.

4 ~~(H) THE FINANCIAL AND ADMINISTRATIVE RESPONSIBILITIES OF A~~
 5 ~~HEALTH MAINTENANCE ORGANIZATION UNDER AN ADMINISTRATIVE SERVICE~~
 6 ~~PROVIDER CONTRACT:~~

7 1. ~~ARE NOT LIMITED BY THE VALUE OF THE ASSETS OF A~~
 8 ~~SEGREGATED FUND ESTABLISHED UNDER AN ADMINISTRATIVE SERVICE PROVIDER~~
 9 ~~CONTRACT;~~

10 2. ~~EXIST IRRESPECTIVE OF WHETHER THE CONTRACTING~~
 11 ~~PROVIDER IS INSOLVENT; AND~~

12 3. ~~EXIST IRRESPECTIVE OF ANY CONTRARY OR LIMITING~~
 13 ~~CONTRACT PROVISION.~~

14 (I) THE HEALTH MAINTENANCE ORGANIZATION SHALL FILE WITH THE
 15 COMMISSIONER THE RESULTS OF EACH QUARTERLY REVIEW REQUIRED UNDER
 16 SUBSECTION (D)(5) OF THIS SECTION.

17 [(f)] ~~(G)~~ (J) The plan and all supporting documentation submitted in
 18 connection with the plan shall be treated as confidential and proprietary, and may not
 19 be disclosed except as otherwise required by law.

20 ~~[(g)] (H) On July 1, 1991, any health maintenance organization which has~~
 21 ~~existing contracts or arrangements subject to this section shall file a plan under this~~
 22 ~~section within 120 days.~~

23 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance~~
 24 ~~Administration shall report to the Governor, and, in accordance with § 2-1246 of the~~
 25 ~~State Government Article, to the General Assembly on or before December 1, 2000 on~~
 26 ~~the effects of this Act and any recommendations for further legislative or regulatory~~
 27 ~~action related to administrative service provider contracts.~~

28 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency~~
 29 ~~measure, is necessary for the immediate preservation of the public health and safety,~~
 30 ~~has been passed by a ye and nay vote supported by three fifths of all the members~~
 31 ~~elected to each of the two Houses of the General Assembly, and shall take effect from~~
 32 ~~the date it is enacted.~~

33 (K) A HEALTH MAINTENANCE ORGANIZATION AND A CONTRACTING
 34 PROVIDER SHALL COMPLY WITH THE TERMS OF AN ADMINISTRATIVE SERVICE
 35 PROVIDER CONTRACT AS REQUIRED UNDER THIS SECTION AND § 19-712 OF THIS
 36 SUBTITLE.

37 (L) IF A CONTRACTING PROVIDER FAILS TO COMPLY WITH THE PLAN OR THE
 38 ADMINISTRATIVE SERVICE PROVIDER CONTRACT, AS REQUIRED UNDER
 39 SUBSECTIONS (G) AND (K) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A

1 FINE NOT EXCEEDING \$125,000 OR SUSPEND OR REVOKE THE REGISTRATION OF THE
2 CONTRACTING PROVIDER UNDER § 19-713.3 OF THIS SUBTITLE, OR BOTH.

3 19-713.3.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (2) "ADMINISTRATIVE SERVICE PROVIDER CONTRACT" HAS THE
7 MEANING STATED IN § 19-713.2 OF THIS SUBTITLE.

8 (3) "CONTRACTING PROVIDER" HAS THE MEANING STATED IN § 19-713.2
9 OF THIS SUBTITLE.

10 (B) (1) A PERSON MUST REGISTER WITH THE COMMISSIONER BEFORE THE
11 PERSON ACTS AS A CONTRACTING PROVIDER IN THIS STATE.

12 (2) A HEALTH MAINTENANCE ORGANIZATION MAY NOT ENTER INTO AN
13 ADMINISTRATIVE SERVICE PROVIDER CONTRACT WITH A CONTRACTING PROVIDER
14 THAT HAS NOT REGISTERED WITH THE COMMISSIONER.

15 (C) (1) AN APPLICANT FOR REGISTRATION SHALL SUBMIT AN APPLICATION
16 TO THE COMMISSIONER IN A FORM APPROVED BY THE COMMISSIONER AND
17 INCLUDE ANY INFORMATION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION.

18 (2) A REGISTRATION UNDER THIS SECTION EXPIRES 2 YEARS FROM THE
19 DATE THAT THE APPLICATION IS APPROVED.

20 (D) THE COMMISSIONER MAY CHARGE A REGISTRATION FEE SUFFICIENT TO
21 COVER THE COST OF IMPLEMENTING THIS SECTION.

22 (E) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE
23 PROVISIONS OF THIS SECTION AND § 19-713.2 OF THIS SUBTITLE.

24 19-730.

25 (a) If any person violates any provision of § 19-729 of this subtitle, the
26 Commissioner may:

27 (1) Issue an administrative order that requires the health maintenance
28 organization to:

29 (i) Cease inappropriate conduct or practices by it or any of the
30 personnel employed or associated with it;

31 (ii) Fulfill its contractual obligations;

32 (iii) Provide a service that has been denied improperly;

33 (iv) Take appropriate steps to restore its ability to provide a service
34 that is provided under a contract;

1 (v) Cease the enrollment of any additional enrollees except newborn
 2 children or other newly acquired dependents or existing enrollees; or

3 (vi) Cease any advertising or solicitation; [(2)Impose a penalty of not
 4 more than \$5,000 for each unlawful act committed;

5 (3) Impose any penalty that could be imposed on an insurer under §
 6 4-113(d) of the Insurance Article;]

7 (2) IN ADDITION TO SUSPENDING OR REVOKING A CERTIFICATE OF
 8 AUTHORITY:

9 (I) IMPOSE A PENALTY OF NOT LESS THAN \$100, BUT NOT MORE
 10 THAN \$125,000 FOR EACH VIOLATION; AND

11 (II) ORDER THE HEALTH MAINTENANCE ORGANIZATION TO PAY
 12 RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF
 13 THE VIOLATION.

14 [(4)] (3) Suspend, revoke, or refuse to renew the certificate of authority to
 15 do business as a health maintenance organization;

16 [(5)] (4) Suspend, revoke, or refuse to renew the certificate of a medical
 17 director of a health maintenance organization; OR

18 [(6) Impose any penalty that could be imposed on an insurer under §
 19 4-113(d) of the Insurance Article; or

20 [(7)] (5) Apply to any court for legal or equitable relief considered
 21 appropriate by the Commissioner or the Department, in accordance with the joint
 22 internal procedures.

23 (b) If the Commissioner issues an order or imposes any penalty under this
 24 section, the Commissioner immediately shall provide written notice of the order or
 25 penalty to the Secretary.

26 **Article - Insurance**

27 15-605.

28 (a) (1) On or before March 1 of each year, an annual report that meets the
 29 specifications of paragraph (2) of this subsection shall be submitted to the
 30 Commissioner by:

31 (i) each authorized insurer that provides health insurance in the
 32 State;

33 (ii) each nonprofit health service plan that is authorized by the
 34 Commissioner to operate in the State;

1 (iii) each health maintenance organization that is authorized by the
2 Commissioner to operate in the State; and

3 (iv) as applicable in accordance with regulations adopted by the
4 Commissioner, each managed care organization that is authorized to receive Medicaid
5 prepaid capitation payments under Title 15, Subtitle 1 of the Health - General Article.

6 (2) The annual report required under this subsection shall:

7 (i) be submitted in a form required by the Commissioner; and

8 (ii) include for the preceding calendar year the following data for all
9 health benefit plans specific to the State:

10 1. premiums written;

11 2. premiums earned;

12 3. total amount of incurred claims including reserves for
13 claims incurred but not reported at the end of the previous year;

14 4. total amount of incurred expenses, including commissions,
15 acquisition costs, general expenses, taxes, licenses, and fees, estimated if necessary;

16 5. loss ratio; and

17 6. expense ratio.

18 (3) The data required under paragraph (2) of this subsection shall be
19 reported:

20 (i) by product delivery system for health benefit plans that are
21 issued under Subtitle 12 of this title;

22 (ii) in the aggregate for health benefit plans that are issued to
23 individuals;

24 (iii) in the aggregate for a managed care organization that operates
25 under Title 15, Subtitle 1 of the Health - General Article; and

26 (iv) in a manner determined by the Commissioner in accordance
27 with this subsection for all other health benefit plans.

28 (4) THE COMMISSIONER, IN CONSULTATION WITH THE SECRETARY OF
29 HEALTH AND MENTAL HYGIENE, SHALL ESTABLISH AND ADOPT BY REGULATION A
30 METHODOLOGY TO BE USED IN THE ANNUAL REPORT THAT ENSURES A CLEAR
31 SEPARATION OF ALL MEDICAL AND ADMINISTRATIVE EXPENSES WHETHER
32 INCURRED DIRECTLY OR THROUGH A SUBCONTRACTOR.

33 [4] (5) The Commissioner may conduct an examination to ensure that
34 an annual report submitted under this subsection is accurate.

1 ~~[(5)]~~ (6) Failure of an insurer, nonprofit health service plan, or health
2 maintenance organization to submit the information required under this subsection in
3 a timely manner shall result in a penalty of \$500 for each day after March 1 that the
4 information is not submitted.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act applies to an
6 administrative service provider contract entered into on or after June 1, 2000. An
7 administrative service provider contract in effect before June 1, 2000, shall comply
8 with the provisions of this Act no later than January 1, 2001.

9 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 June 1, 2000.