
By: **Delegate Simmons**

Introduced and read first time: February 21, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Health Maintenance Organizations - Rate Increases -**
3 **Hearings**

4 FOR the purpose of requiring the Maryland Insurance Commissioner to hold a certain
5 hearing to determine if a proposed rate increase filed with the Commissioner by
6 a health maintenance organization meets certain requirements; providing that
7 the Commissioner may approve or disapprove a proposed rate increase filed by
8 a health maintenance organization only by a certain order issued by the
9 Commissioner; requiring a certain order to establish the effective date of a rate
10 increase approved by the Commissioner; providing that the effective date of a
11 rate increase shall be on or after a certain date; altering the circumstances
12 under which the Commissioner must hold a certain hearing; making certain
13 conforming and clarifying changes; providing for the application of this Act; and
14 generally relating to rate increases filed by a health maintenance organization.

15 BY repealing and reenacting, with amendments,
16 Article - Health - General
17 Section 19-713
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Insurance
22 Section 2-210
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2004 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article - Insurance
27 Section 2-214
28 Annotated Code of Maryland
29 (2003 Replacement Volume and 2004 Supplement)

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

3 **Article - Health - General**

4 19-713.

5 (a) Each health maintenance organization shall file with the Commissioner
6 and pay the applicable filing fee as provided in § 2-112 of the Insurance Article,
7 before they become effective:

8 (1) All rates that the health maintenance organization charges
9 subscribers or groups of subscribers; and

10 (2) The form and content of each contract between the health
11 maintenance organization and its subscribers or groups of subscribers.

12 (b) (1) Rates of a health maintenance organization may not be excessive,
13 inadequate, or unfairly discriminatory in relation to the services offered.

14 (2) A health maintenance organization that includes a subrogation
15 provision in its contract as authorized under § 19-713.1(d) of this subtitle shall:

16 (i) Use in its rating methodology an adjustment that reflects the
17 subrogation; and

18 (ii) Identify in its rate filing with the Maryland Insurance
19 Administration, and annually in a form approved by the Insurance Commissioner, all
20 amounts recovered through subrogation.

21 (c) (1) If, at any time, a health maintenance organization wishes to amend
22 any contract with its subscribers or change any rate charged, the health maintenance
23 organization shall file with the Commissioner the number of copies of the amendment
24 or rate change that the Commissioner requires.

25 (2) The Commissioner shall provide the Department with the number of
26 copies it requires.

27 (3) (I) IF A RATE CHANGE FILED BY A HEALTH MAINTENANCE
28 ORGANIZATION UNDER PARAGRAPH (1) OF THIS SUBSECTION PROPOSES A RATE
29 INCREASE, THE COMMISSIONER SHALL HOLD A HEARING UNDER § 2-210 OF THE
30 INSURANCE ARTICLE TO DETERMINE IF THE PROPOSED RATE INCREASE MEETS THE
31 REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

32 (II) THE COMMISSIONER MAY APPROVE OR DISAPPROVE A RATE
33 INCREASE ONLY BY AN ORDER OF THE COMMISSIONER ISSUED UNDER § 2-214 OF
34 THE INSURANCE ARTICLE.

35 (III) THE ORDER SHALL ESTABLISH THE EFFECTIVE DATE OF A
36 RATE INCREASE APPROVED BY THE COMMISSIONER.

1 (IV) THE EFFECTIVE DATE OF A RATE INCREASE SHALL BE ON OR
2 AFTER THE DATE OF THE ORDER ESTABLISHING THE EFFECTIVE DATE.

3 (d) The Commissioner shall coordinate the contract and related rate filing
4 review under this section.

5 (e) (1) If within 60 days after a FORM filing made pursuant to this section,
6 the Commissioner finds the filing does not meet the requirements of subsection (f) of
7 this section, the filer shall be sent notice of disapproval specifying in what respects
8 the Commissioner finds that the filing fails to meet the requirements of this section
9 and stating that the filing shall not become effective.

10 (2) The Commissioner may not issue a notice of disapproval of a filing
11 under subsection (f) of this section without a statutory or regulatory basis for the
12 disapproval and an explanation of the application of the statutory or regulatory basis
13 which resulted in the disapproval.

14 (f) The Commissioner shall disapprove any form filed, or withdraw any
15 previous approval, if the form:

16 (1) Is in any respect in violation or does not comply with this article or
17 applicable regulations;

18 (2) Contains, or incorporates by reference, any inconsistent or
19 inapplicable clauses, exceptions, or conditions which affect the risk purported to be
20 assumed in the general coverage of the contract;

21 (3) Has any title, heading, or other indication of its provisions which is
22 likely to mislead the subscriber or member;

23 (4) Includes provisions that are inequitable, or provisions that lack any
24 substantial benefit to the subscriber or member;

25 (5) Is printed or otherwise reproduced in a manner as to render any
26 provision of the form substantially illegible; or

27 (6) Provides benefits that are unreasonable in relation to the premium
28 charged.

29 (g) (1) Except as provided in paragraph (2) of this subsection AND
30 SUBSECTION (C)(3) OF THIS SECTION, unless the Commissioner disapproves a filing
31 under this section, the filing becomes effective 60 days after the office of the
32 Commissioner receives the filing or on any other date that the Commissioner sets.

33 (2) The Commissioner may adopt regulations to allow a type or kind of
34 form to be effective upon receipt of the filing by the Commissioner.

35 (3) If a health maintenance organization uses a form which becomes
36 effective in accordance with the provisions of paragraph (2) of this subsection and the

1 form would be subject to disapproval under subsection (f) of this section, the
2 Commissioner may:

3 (i) Subsequently disapprove the form; and

4 (ii) Find the health maintenance organization to be in violation of §
5 19-729 of this subtitle and impose a penalty as provided in § 19-730 of this subtitle.

6 (4) If a health maintenance organization files a form with the
7 Commissioner which becomes effective in accordance with the provisions of
8 paragraph (2) of this subsection, the health maintenance organization shall pay the
9 applicable filing fee provided in § 2-112 of the Insurance Article.

10 **Article - Insurance**

11 2-210.

12 (a) (1) The Commissioner may hold hearings that the Commissioner
13 considers necessary for any purpose under this article.

14 (2) The Commissioner shall hold a hearing:

15 (i) if required by any provision of this article OR THE HEALTH -
16 GENERAL ARTICLE; or

17 (ii) on written demand by a person aggrieved by any act of,
18 threatened act of, or failure to act by the Commissioner or by any report, regulation,
19 or order of the Commissioner, except an order to hold a hearing or an order resulting
20 from a hearing.

21 (b) (1) A demand for a hearing shall state the grounds for the relief to be
22 demanded at the hearing.

23 (2) Within 30 consecutive days after receiving a demand for a hearing,
24 the Commissioner shall:

25 (i) grant and, unless postponed by mutual consent of the parties,
26 hold the hearing; or

27 (ii) issue an order refusing the hearing.

28 (3) If the Commissioner does not grant or refuse a hearing within the
29 30-day period, the hearing is deemed to have been refused.

30 (c) (1) Except as provided in paragraph (2) of this subsection, a hearing held
31 under this section shall be conducted in accordance with Title 10, Subtitle 2 of the
32 State Government Article (Administrative Procedure Act - Contested Cases).

33 (2) A hearing held under this section is not subject to § 10-223 of the
34 State Government Article.

1 (d) The Commissioner may delegate to the Deputy Commissioner, an associate
2 deputy commissioner, or an associate commissioner the responsibility for holding a
3 hearing under this section or § 4-114 of this article.

4 2-214.

5 (a) In holding a hearing under this subtitle the Commissioner sits in a
6 quasi-judicial capacity.

7 (b) (1) Within 30 days after a hearing or any rehearing or reargument of
8 matters involved in the hearing, the Commissioner shall issue an order that covers
9 matters involved in the hearing and in any rehearing or reargument.

10 (2) The Commissioner shall serve a copy of the order on the same
11 persons that were served notice of the hearing.

12 (c) The order shall contain:

13 (1) a concise statement of the facts found by the Commissioner;

14 (2) the Commissioner's conclusions from the facts; and

15 (3) the information required by § 2-204(b) of this subtitle.

16 (d) The order may:

17 (1) affirm, modify, or nullify an action already taken; or

18 (2) constitute the taking of new action within the scope of the notice of
19 the hearing.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
21 construed to apply retroactively to any rate increase filed by a health maintenance
22 organization with the Maryland Insurance Commissioner on or after January 1, 2005.
23 A rate increase that is subject to the requirements of § 19-713(c)(3) of the Health -
24 General Article, as enacted by Section 1 of this Act, may not be implemented until it
25 is approved in accordance with § 19-713(c)(3).

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 June 1, 2005.