

# SENATE BILL 487

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CF HB 570

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By: **Senator Lam**

Introduced and read first time: January 24, 2024

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Maintenance Organizations – Payments to Nonparticipating Providers –**  
3 **Reimbursement Rate**

4 FOR the purpose of altering the reimbursement rate at which health maintenance  
5 organizations are required to pay certain nonparticipating health care providers for  
6 services; and generally relating to payments by health maintenance organizations to  
7 nonparticipating providers.

8 BY repealing and reenacting, with amendments,

9 Article – Health – General

10 Section 19–710.1

11 Annotated Code of Maryland

12 (2023 Replacement Volume)

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

15 **Article – Health – General**

16 19–710.1.

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

18 (2) “Adjunct claims documentation” means an abstract of an enrollee’s  
19 medical record which describes and summarizes the diagnosis and treatment of, and  
20 services rendered to, the enrollee, including, in the case of trauma rendered in a trauma  
21 center, an operative report, a discharge summary, a Maryland Ambulance Information  
22 Systems form, or a medical record.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) “Berenson–Eggers Type of Service Code” means a code in a  
2 classification system developed by the Centers for Medicare and Medicaid Services that  
3 groups Current Procedural Terminology codes together based on clinical consistency.

4 (4) “Enrollee” means a subscriber or member of a health maintenance  
5 organization.

6 (5) “Evaluation and management service” means any service with a  
7 Berenson–Eggers Type of Service Code in the category of evaluation and management.

8 (6) “Institute” means the Maryland Institute for Emergency Medical  
9 Services Systems.

10 (7) “Medicare Economic Index” means the fixed–weight input price index  
11 that:

12 (i) Measures the weighted average annual price change for various  
13 inputs needed to produce physician services; and

14 (ii) Is used by the Centers for Medicare and Medicaid Services in the  
15 calculation of reimbursement of physician services under Title XVIII of the federal Social  
16 Security Act.

17 (8) “Similarly licensed provider” means:

18 (i) For a physician:

19 1. A physician who is board certified or eligible in the same  
20 practice specialty; or

21 2. A group physician practice that contains board certified or  
22 eligible physicians in the same practice specialty;

23 (ii) For a health care provider that is not a physician, a health care  
24 provider that holds the same type of license.

25 (9) (i) “Trauma center” means a primary adult resource center, level I  
26 trauma center, level II trauma center, level III trauma center, or pediatric trauma center  
27 that has been designated by the institute to provide care to trauma patients.

28 (ii) “Trauma center” includes an out–of–state pediatric facility that  
29 has entered into an agreement with the institute to provide care to trauma patients.

30 (10) “Trauma patient” means a patient that is evaluated or treated in a  
31 trauma center and is entered into the State trauma registry as a trauma patient.

1 (11) "Trauma physician" means a licensed physician who has been  
2 credentialed or designated by a trauma center to provide care to a trauma patient at a  
3 trauma center.

4 (b) In addition to any other provisions of this subtitle, for a covered service  
5 rendered to an enrollee of a health maintenance organization by a health care provider not  
6 under written contract with the health maintenance organization, the health maintenance  
7 organization or its agent:

8 (1) Shall pay the health care provider within 30 days after the receipt of a  
9 claim in accordance with the applicable provisions of this subtitle; and

10 (2) Shall pay the claim submitted by:

11 (i) A hospital at the rate approved by the Health Services Cost  
12 Review Commission;

13 (ii) A trauma physician for trauma care rendered to a trauma  
14 patient in a trauma center, at the greater of:

15 1. 140% of the rate paid by the Medicare program, as  
16 published by the Centers for Medicare and Medicaid Services, for the same covered service,  
17 to a similarly licensed provider; or

18 2. The rate as of January 1, 2001 that the health  
19 maintenance organization paid in the same geographic area, as published by the Centers  
20 for Medicare and Medicaid Services, for the same covered service, to a similarly licensed  
21 provider; and

22 (iii) Any other health care provider:

23 1. For an evaluation and management service, no less than  
24 the greater of:

25 A. 125% of the average rate the health maintenance  
26 organization paid as of [January 1 of the previous calendar year] **JANUARY 31, 2019**, in  
27 the same geographic area, as defined by the Centers for Medicare and Medicaid Services,  
28 for the same covered service, to similarly licensed providers under written contract with  
29 the health maintenance organization, **INFLATED BY THE CHANGE IN THE MEDICARE**  
30 **ECONOMIC INDEX FROM 2019 TO THE CURRENT YEAR**; or

31 B. 140% of the rate paid by Medicare, as published by the  
32 Centers for Medicare and Medicaid Services, for the same covered service to a similarly  
33 licensed provider in the same geographic area as of August 1, 2008, inflated by the change  
34 in the Medicare Economic Index from 2008 to the current year; and

1                   2.     For a service that is not an evaluation and management  
2 service, no less than 125% of the average rate the health maintenance organization paid as  
3 of [January 1 of the previous calendar year] **JANUARY 31, 2019**, in the same geographic  
4 area, as defined by the Centers for Medicare and Medicaid Services, to a similarly licensed  
5 provider under written contract with the health maintenance organization for the same  
6 covered service, **INFLATED BY THE CHANGE IN THE MEDICARE ECONOMIC INDEX**  
7 **FROM 2019 TO THE CURRENT YEAR.**

8           (c)     For the purposes of subsection (b)(2)(iii) of this section, a health maintenance  
9 organization shall calculate the average rate paid to similarly licensed providers under  
10 written contract with the health maintenance organization for the same covered service by  
11 summing the contracted rate for all occurrences of the Current Procedural Terminology  
12 Code for that service and then dividing by the total number of occurrences of the Current  
13 Procedural Terminology Code.

14           (d)     A health maintenance organization shall disclose, on request of a health care  
15 provider not under written contract with the health maintenance organization, the  
16 reimbursement rate required under subsection (b)(2)(ii) and (iii) of this section.

17           (e)     (1)    Subject to paragraph (2) of this subsection, a health maintenance  
18 organization may require a trauma physician not under contract with the health  
19 maintenance organization to submit appropriate adjunct claims documentation and to  
20 include on the uniform claim form a provider number assigned to the trauma physician by  
21 the health maintenance organization.

22                   (2)    If a health maintenance organization requires a trauma physician to  
23 include a provider number on the uniform claim form in accordance with paragraph (1) of  
24 this subsection, the health maintenance organization shall assign a provider number to a  
25 trauma physician not under contract with the health maintenance organization at the  
26 request of the physician.

27                   (3)    A trauma center, on request from a health maintenance organization,  
28 shall verify that a licensed physician is credentialed or otherwise designated by the trauma  
29 center to provide trauma care.

30                   (4)    Notwithstanding the provisions of § 19–701(d) of this subtitle, for  
31 trauma care rendered to a trauma patient in a trauma center by a trauma physician, a  
32 health maintenance organization may not require a referral or preauthorization for a  
33 service to be covered.

34           (f)     (1)    A health maintenance organization may seek reimbursement from an  
35 enrollee for any payment under subsection (b) of this section for a claim or portion of a claim  
36 submitted by a health care provider and paid by the health maintenance organization that  
37 the health maintenance organization determines is the responsibility of the enrollee.

1           (2)     The health maintenance organization may request and the health care  
2 provider shall provide adjunct claims documentation to assist in making the determination  
3 under paragraph (1) of this subsection or under subsection (b) of this section.

4           (g)     (1)    A health care provider may enforce the provisions of this section by  
5 filing a complaint against a health maintenance organization with the Maryland Insurance  
6 Administration or by filing a civil action in a court of competent jurisdiction under § 1–501  
7 or § 4–201 of the Courts Article.

8           (2)     The Maryland Insurance Administration or a court shall award  
9 reasonable attorney fees if the complaint of the health care provider is sustained.

10          (h)     The Maryland Health Care Commission annually shall review payments to  
11 health care providers to determine the compliance of health maintenance organizations  
12 with the requirements of this section and report its findings to the Maryland Insurance  
13 Administration.

14          (i)     The Maryland Insurance Administration may take any action authorized  
15 under this subtitle or the Insurance Article, including conducting an examination under  
16 Title 2, Subtitle 2 of the Insurance Article, to investigate and enforce a violation of the  
17 provisions of this section.

18          (j)     In addition to any other penalties under this subtitle, the Commissioner may  
19 impose a penalty not to exceed \$5,000 on any health maintenance organization which  
20 violates the provisions of this section if the violation is committed with such frequency as  
21 to indicate a general business practice of the health maintenance organization.

22          (k)     The Maryland Insurance Administration, in consultation with the Maryland  
23 Health Care Commission, shall adopt regulations to implement this section.

24          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2024.