

SENATE BILL 1104

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4lr2687
CF HB 1148

By: **The President (By Request – Office of the Attorney General)**

Introduced and read first time: February 2, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Facilities – Notice to Consumers – Out-of-Network Status**
3 **(Health Care Provider Out-of-Network Information Act)**

4 FOR the purpose of requiring certain out-of-network health care facilities to provide
5 certain information to a consumer and obtain certain consent before providing a
6 health care service; requiring that certain out-of-network status information be
7 provided in a certain consent form; prohibiting an out-of-network health care
8 facility from charging, billing, or attempting to collect an amount in excess of the
9 consumer's in-network cost unless the consumer is provided a certain notice and
10 provides a certain consent; making a violation of this Act an unfair, abusive, or
11 deceptive trade practice under the Maryland Consumer Protection Act; and
12 generally relating to notices provided by out-of-network health care facilities to
13 consumers.

14 BY repealing and reenacting, with amendments,
15 Article – Commercial Law
16 Section 13–301(14)(xl)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2023 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Commercial Law
21 Section 13–301(14)(xli)
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2023 Supplement)

24 BY adding to
25 Article – Commercial Law
26 Section 13–301(14)(xlii)
27 Annotated Code of Maryland
28 (2013 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Health – General
3 Section 19–2601 through 19–2604 to be under the new subtitle “Subtitle 26. Notice
4 of Out–of–Network Status”
5 Annotated Code of Maryland
6 (2023 Replacement Volume)

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

9 **Article – Commercial Law**

10 13–301.

11 Unfair, abusive, or deceptive trade practices include any:

12 (14) Violation of a provision of:

13 (xl) Title 14, Subtitle 13 of the Public Safety Article; [or]

14 (xli) Title 14, Subtitle 45 of this article; or

15 (XLII) **TITLE 19, SUBTITLE 26 OF THE HEALTH – GENERAL**
16 **ARTICLE; OR**

17 **Article – Health – General**

18 **SUBTITLE 26. NOTICE OF OUT–OF–NETWORK STATUS.**

19 **19–2601.**

20 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
21 **INDICATED.**

22 (B) **“AUTHORIZED REPRESENTATIVE” MEANS AN INDIVIDUAL AUTHORIZED**
23 **UNDER STATE LAW TO PROVIDE CONSENT ON BEHALF OF A CONSUMER.**

24 (C) **“CONSUMER” MEANS:**

25 (1) **AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS FROM A**
26 **HEALTH PLAN; OR**

27 (2) **THE AUTHORIZED REPRESENTATIVE OF AN INDIVIDUAL**
28 **DESCRIBED IN ITEM (1) OF THIS SUBSECTION.**

1 (D) (1) "HEALTH CARE FACILITY" MEANS A HEALTH CARE SETTING OR
2 CENTER PROVIDING PHYSICAL, MENTAL, OR SUBSTANCE USE DISORDER HEALTH
3 CARE SERVICES.

4 (2) "HEALTH CARE FACILITY" INCLUDES:

5 (I) AN AMBULATORY SURGICAL OR TREATMENT CENTER;

6 (II) AN URGENT CARE CENTER;

7 (III) A DIAGNOSTIC, LABORATORY, OR IMAGING CENTER;

8 (IV) A REHABILITATION FACILITY; AND

9 (V) ANY OTHER THERAPEUTIC HEALTH CARE SETTING.

10 (3) "HEALTH CARE FACILITY" DOES NOT INCLUDE A HOSPITAL OR
11 SKILLED NURSING FACILITY.

12 (E) (1) "HEALTH PLAN" MEANS AN INDIVIDUAL OR GROUP PLAN THAT
13 PROVIDES OR PAYS THE COST OF MEDICAL CARE.

14 (2) "HEALTH PLAN" INCLUDES LIMITED SCOPE DENTAL AND VISION
15 BENEFITS.

16 (F) "OUT-OF-NETWORK" MEANS THAT THE HEALTH CARE FACILITY IS NOT
17 A PARTICIPATING PROVIDER THAT CONTRACTS WITH THE CONSUMER'S HEALTH
18 PLAN TO PROVIDE HEALTH CARE SERVICES TO THE CONSUMER.

19 (G) "PROVIDER" MEANS:

20 (1) A HEALTH CARE FACILITY; OR

21 (2) A HEALTH CARE PRACTITIONER OR GROUP OF HEALTH CARE
22 PRACTITIONERS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO
23 PROVIDE HEALTH CARE SERVICES.

24 19-2602.

25 (A) UNLESS OTHERWISE PROVIDED IN ACCORDANCE WITH THE GOOD FAITH
26 ESTIMATE REQUIREMENTS OF THE FEDERAL NO SURPRISES ACT AND DIVISION BB,
27 TITLE I, § 112 OF THE FEDERAL CONSOLIDATED APPROPRIATIONS ACT, 2021, EACH

1 OUT-OF-NETWORK HEALTH CARE FACILITY SHALL PROVIDE THE FOLLOWING
2 INFORMATION TO A CONSUMER BEFORE PROVIDING A HEALTH CARE SERVICE:

3 (1) A NOTICE INFORMING THE CONSUMER THAT THE HEALTH CARE
4 FACILITY IS OUT-OF-NETWORK AND THAT THE CONSUMER WILL LIKELY INCUR
5 HIGHER OUT-OF-POCKET COSTS AS A RESULT;

6 (2) EXCEPT AS PROVIDED IN SUBSECTION (C)(2) OF THIS SECTION, A
7 WRITTEN ESTIMATE OF THE COSTS FOR RECEIVING SERVICES AT THE
8 OUT-OF-NETWORK FACILITY; AND

9 (3) INFORMATION ABOUT OBTAINING ASSISTANCE FROM THE
10 HEALTH EDUCATION AND ADVOCACY UNIT OF THE OFFICE OF THE ATTORNEY
11 GENERAL.

12 (B) THE OUT-OF-NETWORK HEALTH CARE FACILITY SHALL OBTAIN SIGNED
13 CONSENT FROM THE CONSUMER BEFORE PROVIDING A HEALTH CARE SERVICE TO
14 THE CONSUMER.

15 (C) (1) (I) THIS PARAGRAPH DOES NOT APPLY TO AN
16 OUT-OF-NETWORK HEALTH CARE FACILITY THAT ACCEPTS PATIENTS WITHOUT
17 APPOINTMENTS OR THAT ACCEPTS PATIENTS WITH APPOINTMENTS MADE LESS
18 THAN 3 HOURS IN ADVANCE OF THE APPOINTMENT.

19 (II) AN OUT-OF-NETWORK HEALTH CARE FACILITY SHALL
20 PROVIDE THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
21 TO A PATIENT AND OBTAIN THE CONSENT REQUIRED UNDER SUBSECTION (B) OF
22 THIS SECTION FROM A PATIENT:

23 1. AT LEAST 72 HOURS BEFORE A SCHEDULED
24 APPOINTMENT; OR

25 2. IF THE APPOINTMENT WAS SCHEDULED WITHIN 72
26 HOURS BEFORE THE APPOINTMENT, ON THE SAME DAY AS THE APPOINTMENT.

27 (2) AN OUT-OF-NETWORK HEALTH CARE FACILITY THAT ACCEPTS
28 PATIENTS WITHOUT APPOINTMENTS OR THAT ACCEPTS PATIENTS WITH
29 APPOINTMENTS MADE LESS THAN 3 HOURS IN ADVANCE OF THE APPOINTMENT IS
30 NOT REQUIRED TO PROVIDE AN ESTIMATE UNDER SUBSECTION (A)(2) OF THIS
31 SECTION.

1 (D) THE INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS
2 SECTION SHALL BE PROVIDED IN A NOTICE, ESTIMATE, AND CONSENT FORM IN
3 SUBSTANTIALLY THE SAME TYPE AND FORM AS SET FORTH BELOW:

4 **“OUT-OF-NETWORK STATUS NOTICE**

5 (NAME OF FACILITY) IS AN OUT-OF-NETWORK FACILITY. THIS MEANS THE FACILITY
6 DOES NOT HAVE AN AGREEMENT WITH YOUR HEALTH PLAN, AND THE SERVICES YOU
7 WILL RECEIVE AT THIS FACILITY WILL LIKELY COST YOU MORE THAN IF YOU
8 RECEIVED THESE SAME SERVICES AT A FACILITY IN YOUR HEALTH PLAN’S
9 NETWORK. GETTING CARE FROM THIS FACILITY COULD COST YOU MORE.

10 **ESTIMATE OF YOUR COSTS**

11 **PATIENT NAME:** _____

12 **OUT-OF-NETWORK FACILITY NAME:** _____

13 **TOTAL COST ESTIMATE OF WHAT YOU MAY BE ASKED TO PAY BY THE FACILITY: \$**

14 **REVIEW YOUR DETAILED ESTIMATE (ATTACHED).**

15 **CALL YOUR HEALTH PLAN. YOUR PLAN MAY HAVE BETTER INFORMATION ABOUT**
16 **HOW MUCH YOU WILL BE ASKED TO PAY. YOU CAN ASK ABOUT WHAT IS COVERED**
17 **UNDER YOUR PLAN AND YOUR PROVIDER OPTIONS.**

18 **QUESTIONS ABOUT THIS NOTICE AND ESTIMATE? CALL (ENTER CONTACT**
19 **INFORMATION FOR A REPRESENTATIVE OF THE FACILITY TO EXPLAIN THE**
20 **DOCUMENTS AND ESTIMATES TO THE INDIVIDUAL, AND ANSWER ANY QUESTIONS, AS**
21 **NECESSARY).**

22 **QUESTIONS ABOUT YOUR RIGHTS OR ABOUT A MEDICAL BILLING DISPUTE?**
23 **CONTACT THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE OFFICE OF THE**
24 **ATTORNEY GENERAL AT 877-261-8807, OR HEAU@OAG.STATE.MD.US.**

25 **PRIOR AUTHORIZATION OR OTHER CARE MANAGEMENT LIMITATIONS**

26 **EXCEPT IN AN EMERGENCY, YOUR HEALTH PLAN MAY REQUIRE PRIOR**
27 **AUTHORIZATION (OR OTHER LIMITATIONS) FOR CERTAIN ITEMS AND SERVICES.**
28 **THIS MEANS YOU MAY NEED YOUR PLAN’S APPROVAL TO COVER AN ITEM OR**
29 **SERVICE BEFORE YOU GET IT. IF PRIOR AUTHORIZATION IS REQUIRED, ASK YOUR**
30 **HEALTH PLAN ABOUT WHAT INFORMATION IS NECESSARY TO GET COVERAGE.**

1 **UNDERSTANDING YOUR OPTIONS**

2 **IN MOST CASES, YOU CAN ALSO GET THE ITEMS OR SERVICES DESCRIBED IN THIS**
3 **NOTICE FROM ANOTHER FACILITY THAT IS IN-NETWORK WITH YOUR HEALTH PLAN.**
4 **CALL YOUR HEALTH PLAN FOR MORE INFORMATION ABOUT COVERAGE.**

5 **MORE DETAILS ABOUT YOUR TOTAL COST ESTIMATE**

6 **PATIENT NAME:** _____

7 **OUT-OF-NETWORK FACILITY NAME:** _____

8 **SERVICES TO BE PROVIDED:** _____

9 **THE AMOUNT BELOW IS ONLY AN ESTIMATE OF THE FACILITY'S CHARGES; IT IS NOT**
10 **AN OFFER OR CONTRACT FOR SERVICES. THE ESTIMATE SHOWS THE FULL COST OF**
11 **THE ITEMS AND SERVICES LISTED AND EXPECTED TO BE PROVIDED BY THE**
12 **FACILITY. ADDITIONAL ITEMS AND SERVICES MIGHT BE REQUIRED IF MEDICALLY**
13 **INDICATED AND OTHERWISE AUTHORIZED BY YOU. THE ESTIMATE DOES NOT**
14 **INCLUDE ANY INFORMATION ABOUT WHAT YOUR HEALTH PLAN MAY COVER. THIS**
15 **MEANS THAT THE FINAL COST MAY BE DIFFERENT FROM THIS ESTIMATE.**

16 **CONTACT YOUR HEALTH PLAN TO FIND OUT IF YOUR PLAN WILL PAY FOR ANY**
17 **PORTIONS OF THESE COSTS, AND HOW MUCH YOU MAY HAVE TO PAY**
18 **OUT-OF-POCKET.**

19 **DATE OF SERVICE; SERVICE CODE; DESCRIPTION; ESTIMATED AMOUNT TO BE**
20 **BILLED**

21 **TOTAL ESTIMATE OF WHAT YOU MIGHT OWE:**

22 **THE FOLLOWING PROVIDERS WILL ALSO BE PART OF YOUR CARE TEAM, MAY BE**
23 **OUT-OF-NETWORK, AND MAY BILL YOU FOR THEIR SERVICES. YOU SHOULD**
24 **CONTACT EACH OF THESE PROVIDERS TO ASK ABOUT THEIR COSTS AND NETWORK**
25 **STATUS.**

26 **LIST NAME AND CONTACT INFORMATION OF EACH PROVIDER:**

27 **CONSENT FOR OUT-OF-NETWORK CARE**

28 **BY SIGNING THIS FORM, I GIVE UP IMPORTANT CONSUMER PROTECTIONS AND**
29 **AGREE TO PAY MORE FOR OUT-OF-NETWORK CARE.**

30 **WITH MY SIGNATURE, I AM SAYING THAT I AGREE TO GET THE ITEMS OR SERVICES**
31 **FROM (FACILITY NAME).**

1 WITH MY SIGNATURE, I ACKNOWLEDGE THAT I AM CONSENTING OF MY OWN FREE
2 WILL AND AM NOT BEING COERCED OR PRESSURED. I ALSO UNDERSTAND THAT:

3 I AM GIVING UP SOME CONSUMER BILLING PROTECTIONS.

4 I MAY GET A BILL FOR THE FULL CHARGES FOR THESE ITEMS AND SERVICES, OR
5 HAVE TO PAY OUT-OF-NETWORK COST-SHARING UNDER MY HEALTH PLAN.

6 I WAS GIVEN A WRITTEN NOTICE ON (ENTER DATE OF NOTICE) EXPLAINING THAT
7 THE FACILITY IS NOT IN MY HEALTH PLAN'S NETWORK, THE ESTIMATED COST OF
8 SERVICES, AND WHAT I MAY OWE IF I AGREE TO BE TREATED BY THIS FACILITY.

9 I WAS GIVEN THE NOTICE EITHER ON PAPER OR ELECTRONICALLY, CONSISTENT
10 WITH MY CHOICE.

11 I FULLY AND COMPLETELY UNDERSTAND THAT SOME OR ALL AMOUNTS I PAY MIGHT
12 NOT COUNT TOWARD MY HEALTH PLAN'S DEDUCTIBLE OR OUT-OF-POCKET LIMIT.

13 I CAN END THIS AGREEMENT BY NOTIFYING THE FACILITY IN WRITING BEFORE
14 GETTING SERVICES.

15 **IMPORTANT: YOU DO NOT HAVE TO SIGN THIS FORM. BUT IF YOU DO NOT SIGN,**
16 **THIS PROVIDER OR FACILITY MIGHT NOT TREAT YOU. YOU CAN CHOOSE TO GET**
17 **CARE FROM A PROVIDER OR FACILITY IN YOUR HEALTH PLAN'S NETWORK.**

18 _____
19 PATIENT'S SIGNATURE OR GUARDIAN/AUTHORIZED REPRESENTATIVE'S
20 SIGNATURE

21 _____
22 PRINT NAME OF PATIENT OR PRINT NAME OF GUARDIAN/AUTHORIZED
23 REPRESENTATIVE

24 _____
25 DATE AND TIME OF SIGNATURE DATE AND TIME OF SIGNATURE

26 TAKE A PICTURE AND KEEP A COPY OF THIS FORM FOR YOUR RECORDS.”.

27 (E) (1) THE NOTICE, ESTIMATE, AND COST CONSENT FORM SHALL BE
28 GIVEN TO THE CONSUMER:

1 (I) PHYSICALLY SEPARATE FROM AND NOT ATTACHED TO OR
2 INCORPORATED INTO OTHER DOCUMENTS;

3 (II) WITHOUT BEING HIDDEN OR INCLUDED AMONG OTHER
4 FORMS;

5 (III) WHEN A REPRESENTATIVE OF THE FACILITY IS PHYSICALLY
6 PRESENT OR AVAILABLE BY PHONE TO EXPLAIN THE DOCUMENTS AND ESTIMATES
7 TO THE CONSUMER, AND ANSWER QUESTIONS, AS NECESSARY;

8 (IV) IN THE CONSUMER'S PREFERRED LANGUAGE, BY WRITTEN
9 TRANSLATION OR BY PROVIDING A QUALIFIED INTERPRETER, AS APPLICABLE,
10 WHEN NECESSARY; AND

11 (V) ON PAPER OR, WHEN FEASIBLE, ELECTRONICALLY, AS
12 SELECTED BY THE CONSUMER.

13 (2) THE OUT-OF-NETWORK HEALTH CARE FACILITY SHALL PROVIDE
14 TO THE CONSUMER A COPY OF THE SIGNED CONSENT DOCUMENT IN PERSON, BY
15 MAIL, OR BY ELECTRONIC MAIL, AS SELECTED BY THE CONSUMER.

16 19-2603.

17 AN OUT-OF-NETWORK HEALTH CARE FACILITY MAY NOT CHARGE, BILL, OR
18 ATTEMPT TO COLLECT AN AMOUNT IN EXCESS OF THE CONSUMER'S IN-NETWORK
19 COST SHARE UNLESS THE CONSUMER:

20 (1) IS PROVIDED THE NOTICE, ESTIMATE, AND CONSENT FORM IN
21 ACCORDANCE WITH § 19-2602(D) OF THIS SUBTITLE; AND

22 (2) PROVIDED SIGNED CONSENT IN ACCORDANCE WITH THIS
23 SUBTITLE.

24 19-2604.

25 (A) A VIOLATION OF THIS SUBTITLE IS AN UNFAIR, ABUSIVE, OR DECEPTIVE
26 TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW
27 ARTICLE AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
28 CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

29 (B) THIS SUBTITLE DOES NOT PREVENT AN INDIVIDUAL FROM PURSUING
30 ANY OTHER REMEDY PROVIDED BY LAW.

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