
By: Delegate Barve

Introduced and read first time: January 29, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Unfair Claim Settlement Practices**

3 FOR the purpose of establishing that failure to pay a claim on an insured item on the
4 basis of a certified appraisal constitutes an unfair claim settlement practice.

5 BY repealing and reenacting, with amendments,
6 Article 48A - Insurance Code
7 Section 230A
8 Annotated Code of Maryland
9 (1994 Replacement Volume and 1995 Supplement)

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

12 **Article 48A - Insurance Code**

13 230A.

14 (a) In this section "policy" means an individual or group policy, contract, or
15 certificate issued by an insurer, including a nonprofit health service plan.

16 (b) (1) This section applies to any individual or group policy delivered or issued
17 by any insurer, including any nonprofit health service plan authorized under the
18 provisions of Subtitle 20 of this article, in this State or issued to a group which has a main
19 office in this State or covering persons who reside or work within this State.

20 (2) This section does not apply to reinsurance, workers' compensation, or
21 surety.

22 (c) The following actions by an insurer or nonprofit health service plan are unfair
23 claim settlement practices and are violations of this section:

24 (1) Misrepresenting pertinent facts or insurance policy provisions relating to
25 the claim at issue;

26 (2) Refusing to pay a claim for an arbitrary or capricious reason based on all
27 available information;

28 (3) Attempting to settle a claim on the basis of an application which is
29 altered without notice to, or the knowledge or consent of, the insured;

1 (4) Failing to include with any claim paid to an insured or beneficiary a
2 statement setting forth the coverage under which payment is being made;

3 (5) Failing to settle a claim promptly whenever liability is reasonably clear,
4 under one portion of a policy in order to influence settlements under other portions of
5 the policy;

6 (6) Failing promptly upon request to provide a reasonable explanation of
7 the basis for a denial of a claim; [or]

8 (7) Failing to meet the requirements of Title 19, Subtitle 13 of the Health -
9 General Article for preauthorization for a health care service; OR

10 (8) FAILING TO PAY A CLAIM ON AN INSURED ITEM ON THE BASIS OF A
11 CERTIFIED APPRAISAL OF THE ITEM.

12 (d) The following actions by an insurer or nonprofit health service plan, if
13 committed with such frequency as to indicate a general business practice, are unfair claim
14 settlement practices and are violations of this section:

15 (1) Misrepresenting pertinent facts or insurance policy provisions relating to
16 the coverages at issue;

17 (2) Failing to acknowledge and act with reasonable promptness on
18 communications regarding claims arising under insurance policies;

19 (3) Failing to adopt and implement reasonable standards for the prompt
20 investigation of claims arising under insurance policies;

21 (4) Refusing to pay claims without conducting a reasonable investigation
22 based on all available information;

23 (5) Failing to affirm or deny coverage of claims within a reasonable time
24 after proof of loss statements have been completed;

25 (6) Failing to make a good faith attempt promptly, fairly, or equitably to
26 settle claims for which liability has become reasonably clear;

27 (7) Compelling insureds to institute litigation to recover amounts due under
28 an insurance policy by offering substantially less than the amounts ultimately recovered in
29 actions brought by such insureds;

30 (8) Attempting to settle a claim for less than the amount to which a
31 reasonable person would expect to be entitled after studying written or printed
32 advertising material accompanying, or made part of, an application;

33 (9) Attempting to settle a claim on the basis of an application which is
34 altered without notice to, or the knowledge or consent of, the insured;

35 (10) Failing to include with claims paid to insureds or beneficiaries
36 statements setting forth the coverage under which payments are being made;

1 (11) Making known to insureds or claimants a policy of appealing from
2 arbitration awards in order to compel insureds or claimants to accept a settlement or
3 compromise less than the amount awarded in arbitration;

4 (12) Delaying an investigation or payment of a claim by requiring a claimant
5 or a claimant's licensed health care provider to submit a preliminary claim report in
6 addition to subsequent submission of formal proof of loss forms, containing substantially
7 the same information;

8 (13) Failing to settle claims promptly whenever liability is reasonably clear
9 under one portion of a policy, in order to influence settlements under other portions of
10 the policy;

11 (14) Failing promptly to provide a reasonable explanation for the basis for
12 denial of a claim or the offer of a compromise settlement; or

13 (15) Failing to meet the requirements of Title 19, Subtitle 13 of the Health -
14 General Article for preauthorization for a health care service.

15 (e) (1) The Commissioner may impose a penalty of up to \$500 for each violation
16 of subsection (c) of this section, or of any regulation promulgated under subsection (c) of
17 this section.

18 (2) The penalty for a violation of subsection (d) of this section shall be as
19 provided in §§ 12, 55, 55A, and 215 of this article.

20 (3) (i) Upon finding of a violation of this section, the Commissioner may
21 require that restitution be made by an insurer or nonprofit health service plan to any
22 claimant who has suffered actual economic damage as a result of a violation of this
23 section.

24 (ii) Restitution shall be limited to the amount of actual economic
25 damage sustained, subject to the limits of any applicable insurance policy.

26 (f) (1) (i) This section provides administrative remedies only.

27 (ii) Appeals from orders issued by the Commissioner under this
28 section shall be as provided in § 40 of this article.

29 (2) (i) Nothing contained in this section is intended to provide or deprive
30 any private right or cause of action to, or on behalf of any claimant or other person in any
31 state, territory, or possession of the United States.

32 (ii) It is the specific intent of this section to provide an additional
33 administrative remedy to the claimant for any violation of the provisions of this section or
34 any regulation pertaining to this section.

35 (3) This section may not be construed to impair the right of any person to
36 seek redress in law or equity for any conduct which is otherwise actionable.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 1996.