
By: Senator Young

Introduced and read first time: January 25, 1996

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 5, 1996

CHAPTER _____

1 AN ACT concerning

2 ~~Health Maintenance Organizations – Compensation and Financial Incentive~~

3 ~~Arrangements – Disclosure~~

4 Health Care Consumer Information and Education Act

5 FOR the purpose of ~~prohibiting a health maintenance organization from prohibiting~~
6 ~~certain providers from disclosing certain compensation and financial incentive~~
7 ~~arrangements with certain individuals under certain circumstances requiring, under~~
8 ~~certain circumstances, certain carriers to disclose certain information concerning~~
9 ~~the carriers operating practices in a certain manner to enrollees, prospective~~
10 ~~individual purchasers, employers, and providers; specifying the information that~~
11 ~~carriers are required to disclose; prohibiting certain carriers from preventing~~
12 ~~providers from disclosing certain information; specifying the application of this Act;~~
13 ~~requiring certain carriers to file certain information with the Insurance~~
14 ~~Commissioner; authorizing the Commissioner to adopt regulations; defining certain~~
15 ~~terms; and generally relating to requiring certain carriers to disclose certain~~
16 ~~information about the carriers operating practices to certain persons under certain~~
17 ~~circumstances.~~

18 ~~BY adding to~~

19 ~~Article – Health – General~~

20 ~~Section 19-710(e)~~

21 ~~Annotated Code of Maryland~~

22 ~~(1990 Replacement Volume and 1995 Supplement)~~

23 ~~BY repealing and reenacting, without amendments,~~

24 ~~Article – Health – General~~

25 ~~Section 19-729(a)(8), (9), and (10) and (b) and 19-730~~

26 ~~Annotated Code of Maryland~~

2

1 ~~(1990 Replacement Volume and 1995 Supplement)~~

2 BY adding to

3 Article 48A - Insurance Code

4 Section 490FF

5 Annotated Code of Maryland

6 (1994 Replacement Volume and 1995 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Health - General

9 Section 19-706(i)

10 Annotated Code of Maryland

11 (1990 Replacement Volume and 1995 Supplement)

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

14 ~~**Article - Health - General**~~

15 ~~49-710.~~

16 ~~(R) AS PART OF THE TERMS OF A CONTRACT BETWEEN A HEALTH
17 MAINTENANCE ORGANIZATION AND A PROVIDER OF HEALTH SERVICES, A HEALTH
18 MAINTENANCE ORGANIZATION MAY NOT PROHIBIT THE PROVIDER FROM
19 DISCLOSING TO A SUBSCRIBER, MEMBER, ENROLLEE, OR PATIENT THE PROVIDER'S
20 COMPENSATION AND BONUS OR FINANCIAL INCENTIVE ARRANGEMENT WITH THE
21 HEALTH MAINTENANCE ORGANIZATION.~~

22 ~~49-729.~~

23 ~~(a) A health maintenance organization may not:~~

24 ~~(8) Fail to fulfill the basic requirements to operate as a health maintenance
25 organization as provided in § 19-710 of this subtitle;~~

26 ~~(9) Violate any applicable provision of Subtitle 55 of Article 48A of the
27 Code; or~~

28 ~~(10) Fail to provide services to a member in a timely manner as provided in §
29 49-705.1(b)(1) of this subtitle.~~

30 ~~(b) If any health maintenance organization violates this section, the
31 Commissioner may pursue any one or more of the courses of action described in § 19-730
32 of this subtitle.~~

33 ~~49-730.~~

34 ~~If any person violates any provision of § 19-729 of this subtitle, the Commissioner
35 may:~~

36 ~~(1) Issue an administrative order that requires the health maintenance
37 organization to:~~

- 1 ~~(i) Cease inappropriate conduct or practices by it or any of the~~
2 ~~personnel employed or associated with it;~~
- 3 ~~(ii) Fulfill its contractual obligations;~~
- 4 ~~(iii) Provide a service that has been denied improperly;~~
- 5 ~~(iv) Take appropriate steps to restore its ability to provide a service~~
6 ~~that is provided under a contract;~~
- 7 ~~(v) Cease the enrollment of any additional enrollees except newborn~~
8 ~~children or other newly acquired dependents or existing enrollees; or~~
- 9 ~~(vi) Cease any advertising or solicitation;~~
- 10 ~~(2) Impose a penalty of not more than \$1,000 for each unlawful act~~
11 ~~committed;~~
- 12 ~~(3) Suspend or revoke the certificate of authority to do business as a health~~
13 ~~maintenance organization; or~~
- 14 ~~(4) Apply to any court for legal or equitable relief considered appropriate by~~
15 ~~the Commissioner or the Department, in accordance with the joint internal procedures.~~

16 **Article 48A - Insurance Code**

17 490FF.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) "CARRIER" MEANS:

21 (I) AN INSURER;

22 (II) A NONPROFIT HEALTH SERVICE PLAN;

23 (III) A HEALTH MAINTENANCE ORGANIZATION;

24 (IV) A COMMUNITY HEALTH NETWORK;

25 (V) A DENTAL PLAN ORGANIZATION; OR

26 (VI) ANY PERSON OR ENTITY ACTING AS A THIRD PARTY
27 ADMINISTRATOR.

28 (3) "CONTRACT" MEANS ANY WRITTEN AGREEMENT BETWEEN A
29 PROVIDER AND A CARRIER FOR THE PROVIDER TO RENDER HEALTH CARE
30 SERVICES TO ENROLLEES OF THE CARRIER.

31 (4) "ENROLLEE" MEANS ANY PERSON ENTITLED TO HEALTH CARE
32 BENEFITS FROM A CARRIER.

33 (5) "HEALTH CARE SERVICES" MEANS A HEALTH OR MEDICAL CARE
34 PROCEDURE OR SERVICE RENDERED BY A PROVIDER THAT:

4

1 (I) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN
2 DISEASE OR DYSFUNCTION; OR

3 (II) DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES,
4 OR MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR
5 DYSFUNCTION.

6 (6) "PRINCIPAL OPERATING PRACTICES" MEANS THE PROCESSES BY
7 WHICH CARRIERS MAKE DECISIONS ABOUT WHAT SERVICES TO COVER AND PAY
8 FOR, INCLUDING THE TITLES OF KEY ADMINISTRATIVE AND EXECUTIVE STAFF WHO
9 MAKE THE DECISIONS.

10 (7) (I) "PROVIDER" MEANS A PERSON OR ENTITY LICENSED,
11 CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS
12 ARTICLE OR THE HEALTH - GENERAL ARTICLE TO PROVIDE HEALTH CARE
13 SERVICES.

14 (II) "PROVIDER" INCLUDES:

15 1. A HEALTH CARE FACILITY;

16 2. A PHARMACY;

17 3. A PROFESSIONAL SERVICES CORPORATION;

18 4. A PARTNERSHIP;

19 5. A LIMITED LIABILITY COMPANY;

20 6. A PROFESSIONAL OFFICE; OR

21 7. ANY OTHER ENTITY LICENSED OR AUTHORIZED BY LAW
22 TO PROVIDE OR DELIVER PROFESSIONAL HEALTH CARE SERVICES THROUGH OR
23 ON BEHALF OF A PROVIDER.

24 (B) THIS SECTION APPLIES TO A CARRIER THAT PROVIDES HEALTH CARE
25 SERVICES TO ENROLLEES OR OTHERWISE MAKES HEALTH CARE SERVICES
26 AVAILABLE TO ENROLLEES THROUGH CONTRACTS WITH PROVIDERS.

27 (C) (1) EACH CARRIER SHALL DISCLOSE ITS PRINCIPAL OPERATING
28 PRACTICES, AS IDENTIFIED IN PARAGRAPH (2) OF THIS SUBSECTION:

29 (I) TO A PROVIDER:

30 1. IN THE FIRST YEAR OF A CONTRACT BETWEEN THE
31 CARRIER AND THE PROVIDER; AND

32 2. AT ANY TIME, ON THE PROVIDER'S REQUEST;

33 (II) TO AN ENROLLEE OF THE CARRIER:

34 1. ON ENROLLMENT OF THE ENROLLEE;

35 2. DURING THE ENROLLEE'S OPEN ENROLLMENT PERIOD;

36 AND

5

1 3. AT ANY TIME, ON THE ENROLLEE'S REQUEST;

2 (III) TO A PROSPECTIVE INDIVIDUAL PURCHASER OF A HEALTH
3 BENEFIT PLAN THROUGH A CARRIER, ON REQUEST; AND

4 (IV) EXCEPT FOR A SMALL EMPLOYER UNDER § 698(Q) OF THIS
5 ARTICLE, TO AN EMPLOYER, AT LEAST 30 DAYS BEFORE ENROLLING AN EMPLOYEE
6 OF THE EMPLOYER UNDER A HEALTH BENEFIT PLAN SPONSORED BY THE
7 EMPLOYER, FOR PURPOSES OF DISTRIBUTING THE DISCLOSURES TO THE
8 EMPLOYER'S EMPLOYEES.

9 (2) THE PRINCIPAL OPERATING PRACTICES REQUIRED TO BE
10 DISCLOSED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE
11 INFORMATION DESCRIBED IN SUBSECTIONS (D), (E), AND (F) OF THIS SECTION.

12 (D) (1) EACH CARRIER SHALL IDENTIFY AND DEFINE IN LAYMAN'S TERMS
13 THE PREDOMINANT REIMBURSEMENT METHODOLOGY USED BY THE CARRIER TO
14 REIMBURSE PROVIDERS FOR HEALTH CARE SERVICES RENDERED TO ENROLLEES,
15 INCLUDING CAPITATION, CASE RATES, DISCOUNTED FEE-FOR-SERVICE, AND
16 FEE-FOR-SERVICE REIMBURSEMENT METHODOLOGIES.

17 (2) A CARRIER THAT USES A CAPITATED REIMBURSEMENT
18 METHODOLOGY TO PAY PROVIDERS SHALL PROVIDE A SUMMARY OF:

19 (I) THOSE HEALTH CARE SERVICES FOR WHICH CAPITATION
20 APPLIES AND FOR WHICH PROVIDERS ARE AT FINANCIAL RISK;

21 (II) THE LEVEL OF FINANCIAL RISK THAT PROVIDERS ARE
22 ASSUMING; AND

23 (III) THE PRESENCE OF ANY STOP-LOSS PROVISIONS THAT
24 MITIGATE THE PROVIDER'S LEVEL OF FINANCIAL RISK.

25 (3) IN ADDITION TO PARAGRAPH (2) OF THIS SUBSECTION, THE
26 CARRIER SHALL:

27 (I) PROVIDE A SUMMARY OF THE DEGREE TO WHICH A
28 CAPITATED PROVIDER IS RESPONSIBLE FOR PAYING FOR PARTICULAR HEALTH
29 CARE SERVICES, INCLUDING:

30 1. LABORATORY AND DIAGNOSTIC TESTING;

31 2. REFERRALS TO SPECIALTY PHYSICIANS;

32 3. HOSPITAL CARE; AND

33 4. PRESCRIPTION DRUGS; AND

34 (II) PROVIDE A BRIEF EXAMPLE OF HOW CAPITATED PAYMENT
35 SYSTEMS OPERATE.

36 (E) (1) EACH CARRIER SHALL PROVIDE A SUMMARY OF:

1 (I) THOSE HEALTH CARE SERVICES FOR WHICH THE CARRIER
2 PROVIDES COVERAGE AND PAYMENT; AND

3 (II) THE PROCESS THAT THE CARRIER FOLLOWS TO DETERMINE
4 WHICH HEALTH CARE SERVICES FOR WHICH TO PROVIDE COVERAGE OR
5 ELIMINATE COVERAGE.

6 (2) THE CARRIER SHALL:

7 (I) IDENTIFY THE TITLES OF KEY PERSONNEL OF THE CARRIER
8 WHO ARE INVOLVED IN MAKING COVERAGE DECISIONS; AND

9 (II) DISCLOSE WHETHER OUTSIDE CONSULTANTS OR EXTERNAL
10 RESOURCES, INCLUDING FEDERAL OR STATE AGENCIES, TRADE GROUPS, AND
11 TECHNOLOGY COUNCILS, ARE USED BY THE CARRIER TO ASSIST THE CARRIER IN
12 MAKING COVERAGE DECISIONS FOR INDIVIDUAL ENROLLEES OR FOR THE
13 CARRIER'S ENTIRE ENROLLED POPULATION.

14 (F) (1) EACH CARRIER SHALL DISCLOSE THE DISTRIBUTION OF EACH \$100
15 IT RECEIVES IN PREMIUM DOLLARS FROM ENROLLEES.

16 (2) THE DISCLOSURE SHALL BE IN THE FORM OF A PIE CHART OR BAR
17 GRAPH WITH DESCRIPTIVE TERMS IN LAYMAN'S LANGUAGE THAT IDENTIFIES:

18 (I) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
19 THE CARRIER USES TO PAY PROVIDERS FOR THE DIRECT PROVISION OF HEALTH
20 CARE SERVICES TO ENROLLEES, INCLUDING WHAT PROPORTION IS FOR DIRECT
21 MEDICAL CARE EXPENSES;

22 (II) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
23 THE CARRIER USES TO PAY FOR PLAN ADMINISTRATION;

24 (III) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
25 THE CARRIER USES TO PAY FOR THE MARKETING AND ADVERTISING ACTIVITIES OF
26 THE CARRIER; AND

27 (IV) IF THE CARRIER IS A FOR- PROFIT PUBLICLY TRADED ENTITY,
28 THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT THE CARRIER OR ITS
29 PARENT CORPORATION USES TO PAY FOR CASH DIVIDENDS DISTRIBUTED TO
30 SHAREHOLDERS OF THE CARRIER.

31 (G) THE DISCLOSURES REQUIRED UNDER SUBSECTION (C) OF THIS SECTION
32 SHALL BE IN A FORM THAT INCLUDES:

33 (1) A GLOSSARY OF TERMS;

34 (2) AN EXECUTIVE SUMMARY;

35 (3) A SUMMARY DESCRIPTION OF THE PREDOMINANT
36 REIMBURSEMENT METHODOLOGY THAT CARRIERS USE TO PAY FOR HEALTH CARE
37 SERVICES;

38 (4) A SUMMARY DESCRIPTION OF THE METHOD OF DISTRIBUTION BY
39 CARRIERS OF PREMIUM DOLLARS; AND

1 (5) THE LOSS RATIO FOR A HEALTH BENEFIT PLAN IN ACCORDANCE
2 WITH § 490S OF THIS ARTICLE.

3 (H) EACH YEAR, A CARRIER SHALL:

4 (1) UPDATE THE DISCLOSURES REQUIRED UNDER SUBSECTION (C) OF
5 THIS SECTION; AND

6 (2) FILE THE DISCLOSURES WITH THE COMMISSIONER.

7 (I) THE COMMISSIONER:

8 (1) SHALL ESTABLISH A PROCESS FOR:

9 (I) THE ANNUAL FILING OF THE DISCLOSURES REQUIRED UNDER
10 SUBSECTION (C) OF THIS SECTION; AND

11 (II) MAKING THE DISCLOSURES AVAILABLE FOR INSPECTION AND
12 REVIEW BY THE GENERAL PUBLIC; AND

13 (2) MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

14 (J) (1) A CARRIER MAY NOT PROHIBIT A PROVIDER FROM DISCUSSING OR
15 COMMUNICATING INFORMATION TO AN ENROLLEE, PUBLIC OFFICIAL, OR OTHER
16 PERSON THAT IS NECESSARY OR APPROPRIATE FOR THE DELIVERY OF HEALTH
17 CARE SERVICES, INCLUDING:

18 (I) COMMUNICATIONS RELATING TO TREATMENT
19 ALTERNATIVES;

20 (II) COMMUNICATIONS NECESSARY OR APPROPRIATE TO
21 MAINTAIN THE PROVIDER-PATIENT RELATIONSHIP WHILE UNDER THE PROVIDER'S
22 CARE;

23 (III) COMMUNICATIONS REGARDING AN ENROLLEE'S RIGHT TO
24 APPEAL COVERAGE DETERMINATIONS OF THE CARRIER WITH WHICH THE
25 PROVIDER OR THE ENROLLEE DOES NOT AGREE; OR

26 (IV) OPINIONS AND THE BASIS OF AN OPINION REGARDING PUBLIC
27 POLICY ISSUES.

28 (2) THIS SUBSECTION DOES NOT PROHIBIT A CARRIER, AS A CONDITION
29 OF A CONTRACT BETWEEN THE PROVIDER AND THE CARRIER, FROM PROHIBITING
30 A PROVIDER FROM COMMITTING, AGAINST THE CARRIER, A COMMERCIAL TORT
31 RECOGNIZED UNDER MARYLAND LAW.

32 (K) THE COMMISSIONER MAY ISSUE AN ORDER UNDER THE PROVISION OF §
33 55A OF THIS ARTICLE IF THE COMMISSIONER FINDS A VIOLATION OF THIS SECTION.

8

1 **Article - Health - General**

2 19-706.

3 (i) The provisions of Article 48A, §§ 490U, 490AA, 490CC, [and]
4 490DD, AND 490FF of the Code shall apply to health maintenance organizations.

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