

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL NO. 823

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Complaint and Appeal Process” and substitute “- Adverse Decisions - Grievances and Complaints”; strike beginning with “requiring” in line 13 down through the semicolon in line 14; in line 19, after the semicolon, insert “authorizing the Commissioner to issue certain orders under certain circumstances;”; and strike beginning with “providing” in line 23 down through “practice” in line 25, and substitute “making a single instance of a certain act an unfair claim settlement practice”.

On page 2, strike in their entirety lines 5 through 12, inclusive; in line 15, strike “15-1404” and substitute “15-1406”; in line 16, strike “Health Care Benefits Complaint and Appeal Process” and substitute “Adverse Decisions Involving Health Benefit Plans”; in line 22, strike “and 27-304”; and after line 25, insert:

“BY adding to

Article - Commercial Law

Section 13-4A-04

Annotated Code of Maryland

(1990 Replacement Volume and 1996 Supplement)”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 26 through 39, inclusive.

AMENDMENT NO. 3

On page 3, strike in their entirety lines 8 through 13, inclusive; strike in their entirety lines 20 through 23, inclusive; in line 24, strike “(D)” and substitute “(C)”; and in line 31, strike “(E)” and substitute “(D)”.

(Over)

On page 4, after line 4, insert:

“(A) THE COMMISSIONER:

(1) MAY MAKE A DECISION ON A QUESTION OF MEDICAL NECESSITY ON A COMPLAINT ABOUT AN ADVERSE DECISION FILED UNDER THIS SUBTITLE; AND

(2) MAY BASE THE DECISION ON THE ADVICE OF ONE OR MORE PERSONS:

(I) LICENSED TO PRACTICE A HEALTH OCCUPATION IN THIS STATE OR ANY OTHER STATE; AND

(II) WHO HAVE THE CAPABILITY TO GIVE ADVICE THAT IS BASED ON KNOWLEDGE OF GUIDELINES RECOMMENDED BY STATE AND FEDERAL GOVERNMENTAL AGENCIES AND NATIONALLY RECOGNIZED HEALTH CARE PROVIDER ORGANIZATIONS AND SPECIALTY SOCIETIES AND ON MEDICAL EVIDENCE THAT MEETS STANDARDS FOR SCIENTIFIC RESEARCH.

(B) TO ENSURE ACCESS TO ADVICE WHEN IT IS NEEDED, THE COMMISSIONER, IN CONSULTATION WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL ASSEMBLE A LIST OF NAMES OF MEDICAL EXPERTS THAT INCLUDES PRACTITIONERS, RESEARCHERS, AND REPRESENTATIVES OF CARRIERS.

(C) AN INDIVIDUAL WHO GIVES ADVICE TO THE COMMISSIONER MAY NOT HAVE A DIRECT FINANCIAL OR PERSONAL INTEREST IN OR CONNECTION TO THE CASE FROM WHICH THE COMPLAINT ARISES.”.

On page 5, in line 30, strike “15-1403.” and substitute “15-1404.”.

On page 6, in line 29, strike “15-1404.”, and substitute “15-1406.”.

#### AMENDMENT NO. 4

On page 3, in line 14, strike “HEALTH CARE BENEFITS COMPLAINT AND APPEAL PROCESS” and substitute “ADVERSE DECISIONS INVOLVING HEALTH BENEFIT PLANS”; in line 18, after “(B)”, insert “(1)”; and strike beginning with “HAS” in line 18 down through “ARTICLE” in line 19 and substitute “MEANS A DETERMINATION, MADE BY A PRIVATE”.

REVIEW AGENT OR CARRIER OR A PROVIDER WHO IS LICENSED TO PRACTICE A HEALTH OCCUPATION IN THE STATE, THAT:

(I) A HEALTH CARE SERVICE THAT IS PROPOSED TO BE DELIVERED IS NOT NECESSARY, APPROPRIATE, OR EFFICIENT; AND

(II) THE SERVICE IS NOT A COVERED BENEFIT.

(2) "ADVERSE DECISION" DOES NOT INCLUDE:

(I) A DECISION REACHED BY A PROVIDER IN CONJUNCTION WITH A PRIVATE REVIEW AGENT OR CARRIER ON BEHALF OF A PATIENT ; OR

(II) A RETROACTIVE DECISION."

On pages 3 and 4, strike the lines beginning with line 34 on page 3 through line 2 on page 4, and substitute:

"(E)(1) "MEMBER" MEANS A PERSON ENTITLED TO BENEFITS UNDER A POLICY OR PLAN ISSUED OR DELIVERED IN THE STATE BY A CARRIER."

AMENDMENT NO. 5

On page 4, strike in their entirety lines 5 through 13, inclusive, and substitute:

"15-1403.

(A) EACH CARRIER SHALL ESTABLISH AN INTERNAL GRIEVANCE PROCESS FOR MEMBERS.

(B)(1) AN INTERNAL GRIEVANCE PROCESS SHALL MEET THE SAME REQUIREMENTS ESTABLISHED UNDER TITLE 19, SUBTITLE 13 OF THE HEALTH - GENERAL ARTICLE.

(Over)

(2) IN ADDITION TO THE REQUIREMENTS OF TITLE 19, SUBTITLE 13 OF THE HEALTH - GENERAL ARTICLE, AN INTERNAL GRIEVANCE PROCESS ESTABLISHED BY A CARRIER:

(I) SHALL INCLUDE AN EXPEDITED PROCEDURE FOR USE IN AN EMERGENCY CASE TO RENDER A DECISION WITHIN 24 HOURS;

(II) SHALL INCLUDE AN EXPEDITED PROCEDURE FOR USE IN AN URGENT CASE TO RENDER A DECISION WITHIN 96 HOURS;

(III) EXCEPT FOR A CASE THAT IS AN EMERGENCY OR URGENT UNDER ITEM (I) OR (II) OF THIS PARAGRAPH, SHALL RESULT IN A FINAL DECISION, FOR WHICH ALL INTERNAL APPEALS HAVE BEEN EXHAUSTED AND ALL EFFORTS TO MEDIATE HAVE BEEN COMPLETED, WITHIN 30 DAYS AFTER A MEMBER FIRST CONTACTS THE CARRIER ABOUT THE ADVERSE DECISION;

(IV) SHALL ALLOW A GRIEVANCE TO BE FILED ON BEHALF OF A MEMBER BY A PERSON WHO IS LICENSED TO PRACTICE A HEALTH OCCUPATION IN THE STATE; AND”;

and in line 14, strike “(3)”, and substitute:

“(V) ESTABLISH”;

in line 15, strike the semicolon; in line 16, strike “(4) QUALIFICATIONS”; in line 17, strike “(B)” and substitute “(C)”; in line 18, after “AND” insert “SUBMIT TO”; and in line 19, strike “COMPLAINT AND REVIEW” and substitute “GRIEVANCE”.

AMENDMENT NO. 6

On page 4, strike in their entirety lines 22 through 28, inclusive, and substitute:

“(D) EXCEPT FOR A CASE THAT IS AN EMERGENCY OR URGENT UNDER SUBSECTION (B)(2)(I) OR (II) OF THIS SECTION, WITHIN 24 HOURS AFTER A MEMBER FIRST CONTACTS A CARRIER ABOUT AN ADVERSE DECISION, THE CARRIER SHALL

ADVISE THE MEMBER IN WRITING :

(1) ABOUT THE DETAILS OF ITS INTERNAL GRIEVANCE PROCESS;

(2) THAT THE HEALTH ADVOCACY UNIT OF THE OFFICE OF THE ATTORNEY GENERAL:

(I) IS AVAILABLE TO ASSIST THE MEMBER WITH FILING THE COMPLAINT UNDER THE CARRIER'S INTERNAL GRIEVANCE PROCESS; BUT

(II) IS NOT AVAILABLE TO REPRESENT OR ACCOMPANY THE MEMBER DURING THE PROCEEDINGS OF THE INTERNAL GRIEVANCE PROCESS;”;

in line 29, strike “(2)” and substitute “(3)”; in line 32, strike “(3)”, and substitute:

“(4) OF”;

in line 33, strike “AND”; after line 33, insert:

“(5) OF THE ADDRESS, TELEPHONE NUMBER, AND FACSIMILE NUMBER OF THE COMMISSIONER; AND”;

in line 34, strike “(4)”, and substitute “(6)”; and after line 36, insert:

“(E) IF, WITHIN 5 WORKING DAYS AFTER A MEMBER FIRST CONTACTS A CARRIER ABOUT AN ADVERSE DECISION, THE CARRIER DOES NOT HAVE SUFFICIENT INFORMATION TO COMPLETE ITS INTERNAL GRIEVANCE PROCESS, THE CARRIER SHALL NOTIFY THE MEMBER AND ASSIST THE MEMBER IN GATHERING THE INFORMATION WITHOUT FURTHER DELAY.

(F) THE CARRIER MAY EXTEND THE 30-DAY PERIOD REQUIRED UNDER SUBSECTION (B)(2)(III) OF THIS SECTION WITH THE WRITTEN CONSENT OF THE MEMBER.”.

(Over)

On page 5, strike in their entirety lines 1 through 3, inclusive, and substitute:

“(G)(1)ANY DECISION RESULTING FROM THE INTERNAL GRIEVANCE PROCESS OF A CARRIER SHALL BE SENT IN WRITING TO THE MEMBER AND, IF THE GRIEVANCE WAS FILED ON BEHALF OF THE MEMBER UNDER SUBSECTION (B)(2)(IV) OF THIS SECTION, TO THE PERSON WHO FILED THE GRIEVANCE.”.

AMENDMENT NO. 7

On page 5, in line 5, after “STATE” insert “IN DETAIL”; strike in their entirety lines 15 through 19, inclusive; in line 11, strike “AN APPEAL” and substitute “A COMPLAINT”; and in line 12, after “COMMISSIONER” insert “WITHIN 30 DAYS AFTER RECEIPT OF A FINAL DECISION RESULTING FROM AN INTERNAL GRIEVANCE PROCESS”.

On page 6, strike in their entirety lines 3 through 6, inclusive; and in line 7, after “STATE”, insert “IN DETAIL”.

AMENDMENT NO. 8

On page 5, in line 20, strike “(E)”, and substitute “(H)”; and in line 21, strike “(C) AND (D)(2)(III)” and substitute “(D) AND (G)(2)(III)”; strike in their entirety lines 25 through 29, inclusive; after line 30 insert:

“(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 30 DAYS AFTER RECEIPT OF A FINAL DECISION RESULTING FROM AN INTERNAL GRIEVANCE PROCESS, A COMPLAINT MAY BE FILED WITH THE COMMISSIONER BY A MEMBER OR BY A PERSON WHO FILED THE GRIEVANCE ON BEHALF OF THE MEMBER UNDER §15-403(B)(2)(IV) OF THIS SUBTITLE.

(2) IF A CARRIER FAILS TO SATISFY THE REQUIREMENTS OF §15-1403(E) OF THIS SUBTITLE, THE MEMBER OR PERSON WHO FILED THE GRIEVANCE ON BEHALF OF THE MEMBER UNDER §15-1403(B)(2)(IV) MAY FILE A COMPLAINT WITH THE COMMISSIONER BEFORE THE CARRIER REACHES A FINAL DECISION RESULTING FROM THE INTERNAL GRIEVANCE PROCESS.

(3) IN ADDITION TO THE USE OF OTHER APPROPRIATE PROCEDURES FOR INVESTIGATION OF A COMPLAINT, THE COMMISSIONER:

(I) SHALL INCLUDE AN EXPEDITED PROCEDURE FOR USE IN AN EMERGENCY CASE TO RENDER A DECISION WITHIN 24 HOURS;

(II) SHALL INCLUDE AN EXPEDITED PROCEDURE FOR USE IN AN URGENT CASE TO RENDER A DECISION WITHIN 96 HOURS;

(III) EXCEPT FOR A CASE THAT IS AN EMERGENCY OR URGENT UNDER ITEM (I) OR (II) OF THIS PARAGRAPH, SHALL MAKE A DECISION WITHIN 30 DAYS AFTER A COMPLAINT IS FILED; AND

(IV) ALLOW A COMPLAINT TO BE FILED ON BEHALF OF A MEMBER BY A PERSON WHO IS LICENSED TO PRACTICE A HEALTH OCCUPATION IN THE STATE.”;

strike beginning with “(A)” in line 31 down through “INCLUDE” in line 36 and substitute:

“(4) THE COMMISSIONER MAY REQUEST”;

and in line 38, strike “OR APPEAL”.

AMENDMENT NO. 9

On page 6, in line 1, after “REVIEW”, insert “OF THE COMPLAINT”; in line 7, strike “(3)”, and substitute “(2)”; in line 11, strike “(4)” and substitute “(3)”; in line 11, strike “A” and substitute “IN RESPONSE TO A COMPLAINT, A”; strike beginning with the colon in line 13 down through “PROFESSIONALS.” in line 17 and substitute “MAY SEEK ADVICE OF ONE OR MORE EXPERTS ON QUESTIONS OF MEDICAL NECESSITY IN ACCORDANCE WITH § 15-1402 OF THIS SUBTITLE.”; strike beginning with “ANY” in line 23 down through “ARTICLE” in line 24 and substitute “THE OPPORTUNITY AND TIME PERIOD FOR REQUESTING A HEARING TO BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, TO CONTEST THE DECISION OF THE COMMISSIONER ISSUED”

(Over)

UNDER THIS SUBTITLE"; in lines 19 and 21, in each instance, strike "AND APPEALS"; in lines 25 and 26, strike "AND APPEALS"; and in line 31, strike "AND APPEALS".

On page 6, in line 25, after "(E)" insert "IF THE COMMISSIONER DETERMINES THAT AN ADVERSE DECISION IS IMPROPER, THE COMMISSIONER MAY ORDER THE CARRIER TO PAY FOR THE HEALTH CARE SERVICE.

(F)".

AMENDMENT NO. 10

On page 6, after line 28, insert:

"15-1405.

ON A QUARTERLY BASIS, EACH CARRIER SHALL SUBMIT TO THE COMMISSIONER, ON A FORM REQUIRED BY THE COMMISSIONER, A REPORT THAT DESCRIBES:

(1) ACTIVITIES OF THE CARRIER UNDER THIS SUBTITLE, INCLUDING:

(I) THE OUTCOME OF EACH GRIEVANCE ABOUT WHICH A MEMBER CONTACTED THE CARRIER;

(II) THE NUMBER AND RESULTS OF CASES THAT ARE CONSIDERED EMERGENCY CASES AND URGENT CASES UNDER §15-1403(B)(2)(I) OR (II) OF THIS SUBTITLE;

(III) THE TIME WITHIN WHICH THE CARRIER COMPLETED ITS GRIEVANCE PROCESS FOR EACH EMERGENCY CASE AND URGENT CASE;

(IV) THE TIME WITHIN WHICH THE CARRIER COMPLETED ITS GRIEVANCE PROCESS IN ALL OTHER CASES; AND

(V) THE NUMBER OF CASES RELATING TO LENGTH OF STAY FOR



INPATIENT HOSPITALIZATION AND THE PROCEDURES INVOLVED; AND

(2) THE NUMBER AND OUTCOME OF ALL OTHER CASES THAT RELATE TO LENGTH OF STAY FOR INPATIENT HOSPITALIZATION AND THE PROCEDURES INVOLVED THAT ARE NOT SUBJECT TO ACTIVITIES OF THE CARRIER UNDER THIS SUBTITLE.”.

AMENDMENT NO. 11

On page 7, in lines 3 and 4, strike “THE COMPLAINT AND APPEAL PROCESS AVAILABLE TO MEMBERS” and substitute “PROCEDURES AVAILABLE TO MEMBERS UNDER THIS SUBTITLE”; and after line 4 insert:

“(D) ON A QUARTERLY BASIS, THE HEALTH ADVOCACY UNIT SHALL SUBMIT A REPORT TO THE MARYLAND INSURANCE ADMINISTRATION THAT:

(1) DESCRIBES ACTIVITIES OF THE UNIT ON BEHALF OF MEMBERS WHO HAVE PARTICIPATED IN AN INTERNAL GRIEVANCE PROCESS OF A CARRIER UNDER THIS SUBTITLE;

(2) DESCRIBES EFFORTS OF THE UNIT TO MEDIATE IN EACH CASE INVOLVING AN ADVERSE DECISION;

(3) NAMES EACH CARRIER INVOLVED IN EACH INSTANCE DESCRIBED IN THE REPORT; AND

(4) STATES THE RESULT IN EACH INSTANCE DESCRIBED IN THE REPORT.”.

AMENDMENT NO. 12

On page 7, strike in their entirety lines 23 and 24 and substitute:

“(8) REFUSE TO PAY A CLAIM WITHOUT CONDUCTING A REASONABLE

(Over)

INVESTIGATION BASED ON ALL AVAILABLE INFORMATION.”.

On pages 7 and 8, strike the lines beginning with line 25 on page 7 through line 28 on page 8.

AMENDMENT NO. 13

On page 8, in line 36, after “Unit” insert “, in conjunction with other affected units of State Government.”.

AMENDMENT NO. 14

On page 8, after line 28, insert:

“Article - Commercial Law

13-4A-04.

THE UNIT SHALL PREPARE EACH ANNUAL AND QUARTERLY REPORT REQUIRED IN ACCORDANCE WITH §15-1406 OF THE INSURANCE ARTICLE.”.

AMENDMENT NO. 15

On page 8, in line 33, strike “15-1404” and substitute “15-1406”.

On page 9, in line 7, after “That” insert “on or before December 31 of each year, the Insurance Commissioner shall submit a report to the House Economic Matters Committee and the Senate Finance Committee that is based on the information submitted by carriers under §15-1405(1) and (2) of the Insurance Article.”

SECTION 5. AND BE IT FURTHER ENACTED, That”;

in line 9, strike “5.” and substitute “6.”; and in line 10, strike “4” and substitute “5”.