
By: Delegate Donoghue

Introduced and read first time: January 17, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Payments to Providers**

3 FOR the purpose of prohibiting certain persons who provide health benefit plans from
4 retrospectively denying payment for preauthorized or approved services; allowing
5 certain exceptions; prohibiting certain deductions for certain payments previously
6 made; altering the circumstances for retrospective denial of payment; and generally
7 relating to payment by certain persons to health care practitioners.

8 BY repealing and reenacting, with amendments,

9 Article - Insurance

10 Section 15-113

11 Annotated Code of Maryland

12 (1995 Volume and 1996 Supplement)

13 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
14 1997)

15 BY repealing and reenacting, with amendments,

16 Article - Health - General

17 Section 19-1305.2(c)

18 Annotated Code of Maryland

19 (1996 Replacement Volume and 1996 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Insurance**

23 15-113.

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

25 (2) "Carrier" means:

26 (i) an insurer;

27 (ii) a nonprofit health service plan;

28 (iii) a health maintenance organization;

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1 (iv) a dental plan organization; or

2 (v) any other person that provides health benefit plans subject to
3 regulation by the State.

4 (3) "Health care practitioner" means an individual who is licensed, certified,
5 or otherwise authorized under the health occupations article to provide health care
6 services.

7 (b) A carrier [may not]:

8 (1) MAY NOT reimburse a health care practitioner in an amount less than
9 the sum or rate negotiated in the carrier's provider contract with the health care
10 practitioner;

11 (2) EXCEPT AS PROVIDED IN § 19-1305.2 OF THE HEALTH - GENERAL
12 ARTICLE, MAY NOT RETROSPECTIVELY DENY PAYMENT FOR PREAUTHORIZED OR
13 APPROVED SERVICES; AND

14 (3) MAY NOT DEDUCT FROM A PAYMENT AN AMOUNT EQUIVALENT TO
15 PAYMENT RECEIVED BY THE HEALTH CARE PRACTITIONER FOR SERVICES
16 PREVIOUSLY RENDERED AND FOR WHICH THE CARRIER RETROSPECTIVELY HAS
17 DENIED COVERAGE.

18 (c) This section does not prohibit a carrier from providing bonuses or other
19 incentive-based compensation to a health care practitioner if the bonus or other
20 incentive-based compensation does not:

21 (1) violate § 19-705.1 of the Health - General Article; or

22 (2) deter the delivery of medically appropriate care to an enrollee.

23 **Article - Health - General**

24 19-1305.2.

25 (c) (1) Except as provided in paragraph (2) of this subsection, if a course of
26 treatment has been preauthorized or approved for a patient, a private review agent may
27 not retrospectively render an adverse decision regarding the preauthorized or approved
28 services delivered to that patient.

29 (2) A private review agent may retrospectively render an adverse decision
30 regarding preauthorized or approved services delivered to a patient if:

31 (i) The patient[, on the date the services were rendered,] was not
32 insured by or an enrollee, subscriber, or member of the entity that the private review
33 agent is affiliated with, under contract with, or acting on behalf of ON THE DATE THAT
34 PREAUTHORIZATION OR APPROVAL WAS GIVEN AND THE EVENT THAT CAUSED
35 THE PATIENT NOT TO BE AN INSURED OR ENROLLED OR A SUBSCRIBER OR MEMBER
36 OCCURRED FEWER THAN 10 WORKING DAYS BEFORE THE DATE OF
37 PREAUTHORIZATION OR APPROVAL;

38 (ii) The information submitted to the private review agent regarding
39 the services to be delivered to the patient was fraudulent or intentionally

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1 misrepresentative or critical information requested by the private review agent regarding
2 services to be delivered to the patient was omitted such that the private review agent's
3 determination would have been different had it known the critical information; OR

4 (iii) [Except for determinations of appropriateness or medical
5 necessity of the covered services that were preauthorized, the services would not be
6 covered in whole or in part under the policy or contract; or

7 (iv)] The planned course of treatment for the patient that was approved
8 by the private review agent was not substantially followed by the provider.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 1997.