
By: ~~Delegate Donoghue~~ Delegates Donoghue, Love, Kach, V. Mitchell, Kelly, Eckardt, Boston, Barve, Exum, Kirk, Walkup, La Vay, Frank, Pendergrass, Fulton, Morhaim, and Workman

Introduced and read first time: January 17, 1997

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 1997

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Payments to Providers** **Health Care Providers - Retroactive Denials**
3 **of Reimbursements**

4 FOR the purpose of ~~prohibiting certain persons who provide health benefit plans from~~
5 ~~retrospectively denying payment for preauthorized or approved services; allowing~~
6 ~~certain exceptions; prohibiting certain deductions for certain payments previously~~
7 ~~made; altering the circumstances for retrospective denial of payment; restricting the~~
8 ~~time period during which certain health insurance carriers may retroactively deny~~
9 ~~reimbursement to health care providers under certain circumstances; requiring~~
10 ~~certain health insurance carriers to provide a certain statement; prohibiting certain~~
11 ~~health insurance carriers from retroactively denying reimbursement or attempting~~
12 ~~to retroactively collect reimbursement already paid to health care providers under~~
13 ~~certain circumstances; allowing a provider a certain time period in which to submit~~
14 ~~a claim for reimbursement under certain circumstances; defining certain terms;~~
15 ~~requiring a certain study; and generally relating to payment by certain persons~~
16 ~~retroactive denials of reimbursements to health care practitioners providers.~~

17 ~~BY~~ repealing and reenacting, with amendments,

18 ~~Article — Insurance~~

19 ~~Section 15-113~~

20 ~~Annotated Code of Maryland~~

21 ~~(1995 Volume and 1996 Supplement)~~

22 ~~(As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of~~

23 ~~1997)~~

24 ~~BY~~ repealing and reenacting, with amendments,

2

1 ~~Article—Health—General~~
2 ~~Section 19-1305.2(e)~~
3 ~~Annotated Code of Maryland~~
4 ~~(1996 Replacement Volume and 1996 Supplement)~~

5 BY adding to

6 Article - Insurance
7 Section 15-1008
8 Annotated Code of Maryland
9 (1995 Volume and 1996 Supplement)
10 (As enacted by Chapter (H.B. 11) of the Acts of the General Assembly of 1997)

11 BY adding to

12 Article - Health - General
13 Section 19-706(n)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1996 Supplement)

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

18 **Article - Insurance**

19 ~~45-113.~~

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

21 ~~(2) "Carrier" means:~~

22 ~~(i) an insurer;~~

23 ~~(ii) a nonprofit health service plan;~~

24 ~~(iii) a health maintenance organization;~~

25 ~~(iv) a dental plan organization; or~~

26 ~~(v) any other person that provides health benefit plans subject to~~
27 ~~regulation by the State.~~

28 ~~(3) "Health care practitioner" means an individual who is licensed, certified,~~
29 ~~or otherwise authorized under the health occupations article to provide health care~~
30 ~~services.~~

31 ~~(b) A carrier [may not]:~~

32 ~~(1) MAY NOT reimburse a health care practitioner in an amount less than~~
33 ~~the sum or rate negotiated in the carrier's provider contract with the health care~~
34 ~~practitioner;~~

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

4 ~~(3) MAY NOT DEDUCT FROM A PAYMENT AN AMOUNT EQUIVALENT TO~~
5 ~~PAYMENT RECEIVED BY THE HEALTH CARE PRACTITIONER FOR SERVICES~~
6 ~~PREVIOUSLY RENDERED AND FOR WHICH THE CARRIER RETROSPECTIVELY HAS~~
7 ~~DENIED COVERAGE.~~

8 ~~(e) This section does not prohibit a carrier from providing bonuses or other~~
9 ~~incentive-based compensation to a health care practitioner if the bonus or other~~
10 ~~incentive-based compensation does not:~~

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

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

13 15-1008.

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (2) "CARRIER" MEANS:

17 (I) AN INSURER;

18 (II) A NONPROFIT HEALTH SERVICE PLAN;

19 (III) A HEALTH MAINTENANCE ORGANIZATION;

20 (IV) A DENTAL PLAN ORGANIZATION; OR

21 (V) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS
22 SUBJECT TO REGULATION BY THE STATE.

23 (3) "HEALTH CARE PROVIDER" MEANS A PERSON OR ENTITY LICENSED,
24 CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS
25 ARTICLE OR THE HEALTH - GENERAL ARTICLE TO PROVIDE HEALTH CARE
26 SERVICES.

27 (B) (1) IF A CARRIER RETROACTIVELY DENIES REIMBURSEMENT TO A
28 HEALTH CARE PROVIDER, THE CARRIER:

29 (I) MAY ONLY RETROACTIVELY DENY REIMBURSEMENT FOR
30 SERVICES SUBJECT TO COORDINATION OF BENEFITS WITH ANOTHER CARRIER, THE
31 MARYLAND MEDICAL ASSISTANCE PROGRAM, OR THE MEDICARE PROGRAM
32 DURING THE 18-MONTH PERIOD AFTER THE DATE THAT THE CARRIER PAID THE
33 CLAIM SUBMITTED BY THE HEALTH CARE PROVIDER; AND

34 (II) EXCEPT AS PROVIDED IN ITEM (I) OF THIS PARAGRAPH, MAY
35 ONLY RETROACTIVELY DENY REIMBURSEMENT DURING THE 6-MONTH PERIOD
36 AFTER THE DATE THAT THE CARRIER PAID THE CLAIM SUBMITTED BY THE HEALTH
37 CARE PROVIDER.

1 (2) (I) A CARRIER THAT RETROACTIVELY DENIES REIMBURSEMENT
2 TO A HEALTH CARE PROVIDER UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL
3 PROVIDE THE HEALTH CARE PROVIDER WITH A WRITTEN STATEMENT SPECIFYING
4 THE BASIS FOR THE RETROACTIVE DENIAL.

5 (II) IF THE RETROACTIVE DENIAL OF REIMBURSEMENT RESULTS
6 FROM COORDINATION OF BENEFITS, THE WRITTEN STATEMENT SHALL PROVIDE
7 THE NAME AND ADDRESS OF THE ENTITY ACKNOWLEDGING RESPONSIBILITY FOR
8 PAYMENT OF THE DENIED CLAIM.

9 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A CARRIER
10 THAT DOES NOT COMPLY WITH THE PROVISIONS OF SUBSECTION (B) OF THIS
11 SECTION MAY NOT RETROACTIVELY DENY REIMBURSEMENT OR ATTEMPT IN ANY
12 MANNER TO RETROACTIVELY COLLECT REIMBURSEMENT ALREADY PAID TO A
13 HEALTH CARE PROVIDER BY REDUCING REIMBURSEMENTS CURRENTLY OWED TO
14 THE HEALTH CARE PROVIDER, WITHHOLDING FUTURE REIMBURSEMENT, OR IN
15 ANY OTHER MANNER AFFECTING THE FUTURE REIMBURSEMENT TO THE HEALTH
16 CARE PROVIDER.

17 (D) THE PROVISIONS OF SUBSECTION (B)(1) OF THIS SECTION DO NOT APPLY
18 IF A CARRIER RETROACTIVELY DENIES REIMBURSEMENT TO A HEALTH CARE
19 PROVIDER BECAUSE THE INFORMATION SUBMITTED TO THE CARRIER WAS
20 FRAUDULENT OR IMPROPERLY CODED.

21 (E) IF A CARRIER RETROACTIVELY DENIES REIMBURSEMENT FOR SERVICES
22 AS A RESULT OF COORDINATION OF BENEFITS UNDER PROVISIONS OF SUBSECTION
23 (B)(1)(I) OF THIS SECTION, THE HEALTH CARE PROVIDER SHALL HAVE 6 MONTHS
24 FROM THE DATE OF DENIAL, UNLESS A CARRIER PERMITS A LONGER TIME PERIOD,
25 TO SUBMIT A CLAIM FOR REIMBURSEMENT FOR THE SERVICE TO THE CARRIER,
26 MARYLAND MEDICAL ASSISTANCE PROGRAM, OR MEDICARE PROGRAM
27 RESPONSIBLE FOR PAYMENT.

28 **Article - Health - General**

29 ~~49-1305.2.~~

30 ~~(e) (1) Except as provided in paragraph (2) of this subsection, if a course of~~
31 ~~treatment has been preauthorized or approved for a patient, a private review agent may~~
32 ~~not retrospectively render an adverse decision regarding the preauthorized or approved~~
33 ~~services delivered to that patient.~~

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

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

1 (ii) ~~The information submitted to the private review agent regarding~~
2 ~~the services to be delivered to the patient was fraudulent or intentionally~~
3 ~~misrepresentative or critical information requested by the private review agent regarding~~
4 ~~services to be delivered to the patient was omitted such that the private review agent's~~
5 ~~determination would have been different had it known the critical information; OR~~

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

9 (iv) ~~The planned course of treatment for the patient that was approved~~
10 ~~by the private review agent was not substantially followed by the provider.~~

11 19-706.

12 (N) THE PROVISIONS OF § 15-1008 OF THE INSURANCE ARTICLE SHALL APPLY
13 TO HEALTH MAINTENANCE ORGANIZATIONS.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Association
15 of Health Maintenance Organizations, Blue Cross and Blue Shield of Maryland (or its
16 successor entity), and the League of Life and Health Insurers shall undertake a study of
17 coordination of benefits, particularly the feasibility of coordinating retroactive denials of
18 reimbursement, so that responsibility for payment of claims subject to coordination of
19 benefits does not affect an individual provider's ability to receive proper payment for
20 services rendered. The study and recommendations from the study shall be reported to
21 the Senate Finance Committee and House Economic Matters Committee on or before
22 November 1, 1997.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1997.