
By: Senator Bromwell

Introduced and read first time: January 13, 1997

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 1997

CHAPTER ____

1 AN ACT concerning

2 **Health Care Consumer Information and Education Act**

3 FOR the purpose of ~~requiring, under certain circumstances, certain carriers to disclose~~
4 ~~certain information concerning the carrier's operating practices in a certain manner~~
5 ~~to enrollees, prospective individual purchasers, and employers; specifying the~~
6 ~~information that carriers are required to disclose; specifying the application of this~~
7 ~~Act; requiring certain carriers to file certain information with the Insurance~~
8 ~~Commissioner; authorizing the Commissioner to adopt regulations; defining certain~~
9 ~~terms; and generally relating to requiring certain carriers to disclose certain~~
10 ~~information about the carrier's operating practices to certain persons under certain~~
11 ~~circumstances~~ requiring certain carriers to disclose certain information in their
12 marketing materials concerning the reimbursement methodology or methodologies
13 a carrier uses for reimbursing physicians; requiring certain carriers to disclose
14 certain information in a certain manner in their marketing materials concerning the
15 distribution of premium dollars received from enrollees; requiring the Health Care
16 Access and Cost Commission to develop certain definitions; defining certain terms;
17 and generally relating to requiring certain carriers to disclose certain information in
18 a certain manner in their marketing materials under certain circumstances.

19 BY adding to

20 Article - Insurance

21 Section 15-121

22 Annotated Code of Maryland

23 (1995 Volume and 1996 Supplement)

24 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of 1997)

25 BY adding to

26 Article - Health - General

2

1 Section 19-706(n)
2 Annotated Code of Maryland
3 (1996 Replacement Volume and 1996 Supplement)

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

6 **Article - Insurance**

7 15-121.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "CARRIER" MEANS:

11 (I) AN INSURER;

12 (II) A NONPROFIT HEALTH SERVICE PLAN;

13 (III) A HEALTH MAINTENANCE ORGANIZATION;

14 (IV) A DENTAL PLAN ORGANIZATION; ~~OR~~

15 (V) ANY PERSON OR ENTITY ACTING AS A THIRD PARTY
16 ADMINISTRATOR; OR

17 (VI) EXCEPT FOR A MANAGED CARE ORGANIZATION AS DEFINED
18 IN TITLE 15, SUBTITLE 1 OF THE HEALTH - GENERAL ARTICLE, AN ENTITY THAT HAS
19 ORGANIZED A PROVIDER NETWORK FOR THE PURPOSE OF CONTRACTING
20 DIRECTLY WITH A PURCHASER TO PROVIDE HEALTH CARE SERVICES TO
21 INDIVIDUALS OR GROUPS UNDER A CAPITATED OR OTHER RISK-SHARING
22 ARRANGEMENT.

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

26 (4) "ENROLLEE" MEANS ANY PERSON OR SUBSCRIBER ENTITLED TO
27 HEALTH CARE BENEFITS FROM A CARRIER.

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

30 (I) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN
31 DISEASE OR DYSFUNCTION; OR

32 (II) DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES,
33 OR MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR
34 DYSFUNCTION.

35 ~~(6) "PRINCIPAL OPERATING PRACTICES" MEANS THE PROCESSES BY~~
36 ~~WHICH CARRIERS MAKE DECISIONS ABOUT WHAT SERVICES TO COVER AND PAY~~

~~1 FOR, INCLUDING THE TITLES OF KEY ADMINISTRATIVE AND EXECUTIVE STAFF WHO
2 MAKE THE DECISIONS.~~

3 ~~(7) (6)~~ (I) "PROVIDER" MEANS A PERSON OR ENTITY LICENSED,
4 CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS
5 ARTICLE OR THE HEALTH - GENERAL ARTICLE TO PROVIDE HEALTH CARE
6 SERVICES.

7 (II) "PROVIDER" INCLUDES:

- 8 1. A HEALTH CARE FACILITY;
- 9 2. A PHARMACY;
- 10 3. A PROFESSIONAL SERVICES CORPORATION;
- 11 4. A PARTNERSHIP;
- 12 5. A LIMITED LIABILITY COMPANY;
- 13 6. A PROFESSIONAL OFFICE; OR
- 14 7. ANY OTHER ENTITY LICENSED OR AUTHORIZED BY LAW
15 TO PROVIDE OR DELIVER PROFESSIONAL HEALTH CARE SERVICES THROUGH OR
16 ON BEHALF OF A PROVIDER.

17 ~~(B) THIS SECTION APPLIES TO A CARRIER THAT PROVIDES HEALTH CARE
18 SERVICES TO ENROLLEES, OR OTHERWISE MAKES HEALTH CARE SERVICES
19 AVAILABLE TO ENROLLEES, THROUGH CONTRACTS WITH PROVIDERS.~~

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

22 ~~(i) TO AN ENROLLEE OF THE CARRIER:~~

- 23 1. ON ENROLLMENT OF THE ENROLLEE IN THE CARRIER'S
24 HEALTH BENEFIT PLAN;
- 25 2. DURING THE ENROLLEE'S OPEN ENROLLMENT PERIOD;
- 26 ~~AND~~
- 27 3. AT ANY TIME, ON THE ENROLLEE'S REQUEST;

28 ~~(ii) TO A PROSPECTIVE INDIVIDUAL PURCHASER OF A HEALTH
29 BENEFIT PLAN THROUGH A CARRIER, ON REQUEST; AND~~

30 ~~(iii) EXCEPT FOR A SMALL EMPLOYER, AS DEFINED UNDER
31 SUBTITLE 12 OF THIS TITLE, TO AN EMPLOYER, AT LEAST 30 DAYS BEFORE
32 ENROLLING AN EMPLOYEE OF THE EMPLOYER UNDER A HEALTH BENEFIT PLAN
33 SPONSORED BY THE EMPLOYER, FOR PURPOSES OF DISTRIBUTING THE
34 DISCLOSURES TO THE EMPLOYER'S EMPLOYEES.~~

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

1 ~~(D)(1) EACH CARRIER SHALL IDENTIFY AND DEFINE IN LAYMAN'S TERMS~~
2 ~~THE REIMBURSEMENT METHODOLOGY OR METHODOLOGIES THE CARRIER USES~~
3 ~~TO REIMBURSE PROVIDERS FOR HEALTH CARE SERVICES RENDERED TO~~
4 ~~ENROLLEES, INCLUDING CAPITATION, CASE RATES, DISCOUNTED~~
5 ~~FEE FOR SERVICE, AND FEE FOR SERVICE REIMBURSEMENT METHODOLOGIES.~~

6 ~~(2) A CARRIER THAT USES A CAPITATED REIMBURSEMENT~~
7 ~~METHODOLOGY TO REIMBURSE PROVIDERS SHALL PROVIDE A SUMMARY OF THE~~
8 ~~CAPITATED HEALTH BENEFIT PLAN OR PLANS THAT COVER AT LEAST 75% OF ITS~~
9 ~~ENROLLEES, INCLUDING:~~

10 ~~(I) THE HEALTH CARE SERVICES FOR WHICH CAPITATION~~
11 ~~APPLIES AND FOR WHICH PROVIDERS ARE AT FINANCIAL RISK; AND~~

12 ~~(II) THE PRESENCE OF ANY STOP LOSS PROVISIONS THAT~~
13 ~~MITIGATE A PROVIDER'S LEVEL OF FINANCIAL RISK.~~

14 ~~(3) IN ADDITION TO PARAGRAPH (2) OF THIS SUBSECTION, A CARRIER~~
15 ~~SHALL PROVIDE A SUMMARY OF THE DEGREE TO WHICH A CAPITATED PROVIDER IS~~
16 ~~RESPONSIBLE FOR PAYING FOR PARTICULAR HEALTH CARE SERVICES, INCLUDING:~~

17 ~~(I) LABORATORY AND DIAGNOSTIC TESTING;~~

18 ~~(II) REFERRALS TO SPECIALTY PHYSICIANS;~~

19 ~~(III) HOSPITAL CARE; AND~~

20 ~~(IV) PRESCRIPTION DRUGS.~~

21 ~~(4) FOR ANY HEALTH BENEFIT PLAN USED BY A CARRIER THAT~~
22 ~~REIMBURSES PROVIDERS ON A CAPITATED BASIS THAT IS NOT INCLUDED IN~~
23 ~~PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, ON REQUEST OF AN ENROLLEE OR~~
24 ~~PROSPECTIVE ENROLLEE, THE CARRIER SHALL IDENTIFY IN WRITING THE PLAN OR~~
25 ~~PLANS AND PROVIDE INFORMATION IN SUMMARY FORM TO THE ENROLLEE OR~~
26 ~~PROSPECTIVE ENROLLEE REGARDING THE PLAN OR PLANS.~~

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

28 ~~(I) THOSE HEALTH CARE SERVICES FOR WHICH THE CARRIER~~
29 ~~PROVIDES COVERAGE AND PAYMENT; AND~~

30 ~~(II) THE PROCESS THAT THE CARRIER FOLLOWS TO DETERMINE~~
31 ~~WHICH HEALTH CARE SERVICES FOR WHICH TO PROVIDE COVERAGE OR~~
32 ~~ELIMINATE COVERAGE.~~

33 ~~(2) THE CARRIER SHALL:~~

34 ~~(I) IDENTIFY THE TITLES OF KEY PERSONNEL OF THE CARRIER~~
35 ~~WHO ARE INVOLVED IN MAKING COVERAGE DECISIONS; AND~~

36 ~~(II) DISCLOSE WHETHER OUTSIDE CONSULTANTS OR EXTERNAL~~
37 ~~RESOURCES, INCLUDING FEDERAL OR STATE AGENCIES, TRADE GROUPS, AND~~
38 ~~TECHNOLOGY COUNCILS, ARE USED BY THE CARRIER TO ASSIST THE CARRIER IN~~

~~1 MAKING COVERAGE DECISIONS FOR INDIVIDUAL ENROLLEES OR FOR THE
2 CARRIER'S ENTIRE ENROLLED POPULATION.~~

~~3 (F) (1) EACH CARRIER SHALL DISCLOSE THE DISTRIBUTION OF EACH \$100
4 IT RECEIVES IN PREMIUM DOLLARS FROM ENROLLEES.~~

~~5 (2) THE DISCLOSURE SHALL BE IN THE FORM OF A PIE CHART OR BAR
6 GRAPH WITH DESCRIPTIVE TERMS IN LAYMAN'S LANGUAGE THAT IDENTIFIES:~~

~~7 (I) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
8 THE CARRIER USES TO PAY PROVIDERS FOR THE DIRECT PROVISION OF HEALTH
9 CARE SERVICES TO ENROLLEES, INCLUDING WHAT PROPORTION IS FOR DIRECT
10 MEDICAL CARE EXPENSES;~~

~~11 (II) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
12 THE CARRIER USES TO PAY FOR PLAN ADMINISTRATION;~~

~~13 (III) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
14 THE CARRIER USES TO PAY FOR THE MARKETING AND ADVERTISING ACTIVITIES OF
15 THE CARRIER; AND~~

~~16 (IV) IF THE CARRIER IS A FOR PROFIT PUBLICLY TRADED ENTITY,
17 THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT THE CARRIER OR ITS
18 PARENT CORPORATION USES TO PAY FOR CASH DIVIDENDS DISTRIBUTED TO
19 SHAREHOLDERS OF THE CARRIER.~~

~~20 (G) THE DISCLOSURES REQUIRED UNDER SUBSECTION (C) OF THIS SECTION
21 SHALL BE IN A FORM THAT INCLUDES:~~

~~22 (1) A GLOSSARY OF TERMS; AND~~

~~23 (2) AN EXECUTIVE SUMMARY.~~

~~24 (H) EACH YEAR, A CARRIER SHALL:~~

~~25 (1) UPDATE THE DISCLOSURES REQUIRED UNDER SUBSECTION (C) OF
26 THIS SECTION; AND~~

~~27 (2) FILE THE DISCLOSURES WITH THE COMMISSIONER.~~

~~28 (I) THE COMMISSIONER:~~

~~29 (1) SHALL ESTABLISH A PROCESS FOR:~~

~~30 (I) THE ANNUAL FILING OF THE DISCLOSURES REQUIRED UNDER
31 SUBSECTION (C) OF THIS SECTION; AND~~

~~32 (II) MAKING THE DISCLOSURES AVAILABLE FOR INSPECTION AND
33 REVIEW BY THE GENERAL PUBLIC; AND~~

~~34 (2) MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

~~35 (J) THE COMMISSIONER MAY ISSUE AN ORDER UNDER § 4-113(D) OF THIS
36 ARTICLE IF THE COMMISSIONER FINDS A VIOLATION OF THIS SECTION.~~

1 (B) THIS SECTION APPLIES TO A CARRIER THAT PROVIDES HEALTH CARE
2 SERVICES TO ENROLLEES, OR OTHERWISE MAKES HEALTH CARE SERVICES
3 AVAILABLE TO ENROLLEES, THROUGH CONTRACTS WITH PROVIDERS.

4 (C) (1) EACH CARRIER SHALL IDENTIFY AND DISCLOSE IN LAYMAN'S
5 TERMS IN ITS MARKETING MATERIALS THE REIMBURSEMENT METHODOLOGY OR
6 METHODOLOGIES THE CARRIER USES TO REIMBURSE PHYSICIANS FOR HEALTH
7 CARE SERVICES RENDERED TO ENROLLEES, INCLUDING CAPITATION, CASE RATES,
8 DISCOUNTED FEE-FOR-SERVICE, AND FEE-FOR-SERVICE REIMBURSEMENT
9 METHODOLOGIES.

10 (2) THE HEALTH CARE ACCESS AND COST COMMISSION SHALL
11 DEVELOP A UNIFORM DEFINITION IN LAYMAN'S TERMS OF EACH REIMBURSEMENT
12 METHODOLOGY REQUIRED TO BE DISCLOSED AND IDENTIFIED BY CARRIERS
13 UNDER PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING A REPRESENTATIVE
14 EXAMPLE OF A TYPICAL CAPITATION ARRANGEMENT BETWEEN A CARRIER AND A
15 PHYSICIAN.

16 (D) (1) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (C)(1) OF THIS
17 SECTION, EACH CARRIER SHALL DISCLOSE IN ITS MARKETING MATERIALS THE
18 DISTRIBUTION OF EACH \$100 IT RECEIVES IN PREMIUM DOLLARS FROM ENROLLEES.

19 (2) THE DISCLOSURE REQUIRED UNDER PARAGRAPH (1) OF THIS
20 SUBSECTION SHALL BE IN THE FORM OF A PIE CHART OR BAR GRAPH WITH
21 DESCRIPTIVE TERMS AND IN LAYMAN'S TERMS THAT IDENTIFIES CONSISTENT WITH
22 THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' HEALTH
23 MAINTENANCE ORGANIZATION ANNUAL STATEMENT ("ORANGE FORM");

24 (I) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
25 THE CARRIER USES TO PAY PROVIDERS FOR THE DIRECT PROVISION OF HEALTH
26 CARE SERVICES TO ENROLLEES, INCLUDING WHAT PROPORTION IS FOR DIRECT
27 MEDICAL CARE EXPENSES; AND

28 (II) THE PROPORTION OF EVERY \$100 IN PREMIUM DOLLARS THAT
29 THE CARRIER USES TO PAY FOR PLAN ADMINISTRATION.

30 **Article - Health - General**

31 19-706.

32 (N) THE PROVISIONS OF § 15-121 OF THE INSURANCE ARTICLE SHALL APPLY
33 TO HEALTH MAINTENANCE ORGANIZATIONS.

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

