

BY: Conference Committee

AMENDMENTS TO SENATE BILL NO. 401

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 22, after “assessment;” insert “establishing a Health Care Regulatory Fund;”.

On page 2, in line 15, after “directors;” insert “requiring a medical director of a health maintenance organization to be a physician licensed in this State and be certified in accordance with this Act;”; and in lines 19 and 20, strike “Maryland Insurance Administration to conduct a certain study by a certain date;” and substitute “Commissioner to submit a certain report by a certain date; providing for the accurate codification of provisions of this Act; providing for the application of this Act;”.

On page 3, in line 27, after “Section” insert “2-104(i), 2-114,”.

On page 8, after line 3, insert:

“2-104.

(i) The Commissioner may procure, on a fee or part-time basis or both, actuarial, legal, technical, or other professional services, INCLUDING THE SERVICES OF INDEPENDENT REVIEW ORGANIZATIONS AND MEDICAL EXPERTS.

(K) THE COMMISSIONER SHALL APPOINT OR CONTRACT WITH A PHYSICIAN AND MAY APPOINT OR CONTRACT WITH OTHER HEALTH CARE PROVIDERS FOR THE PURPOSE OF ASSISTING THE COMMISSIONER IN PERFORMING THOSE DUTIES OF THE COMMISSIONER THAT RELATE TO THE REGULATION OF HEALTH INSURANCE AND HEALTH MAINTENANCE ORGANIZATIONS.”.

(Over)

AMENDMENT NO. 2

On page 3, in line 32, strike "2-112.2" and substitute "2-104(k), 2-112.2, and 2-112.3".

On page 8, in line 8, after "INSURANCE" insert "OTHER THAN LONG TERM CARE INSURANCE OR DISABILITY INSURANCE"; in line 23, after "SHALL" insert ":

(1)";

and in line 25, after "ARTICLE" insert "; AND

(2) DEPOSIT THE AMOUNTS COLLECTED UNDER ITEM (1) OF THIS SUBSECTION INTO THE HEALTH CARE REGULATORY FUND ESTABLISHED IN § 2-112.3 OF THIS SUBTITLE";

in line 28, after "(B)" insert "(1)"; and after line 30, insert:

"2-112.3.

(A) IN THIS SECTION, "FUND" MEANS THE HEALTH CARE REGULATORY FUND.

(B) THERE IS A HEALTH CARE REGULATORY FUND.

(C) THE PURPOSE OF THE FUND IS TO PAY ALL COSTS AND EXPENSES INCURRED BY THE ADMINISTRATION RELATED TO THE IMPLEMENTATION OF TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS ARTICLE.

(D) THE FUND SHALL CONSIST OF:

(1) ALL REVENUE DEPOSITED INTO THE FUND THAT IS RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE HEALTH CARE REGULATORY ASSESSMENT UNDER § 2-112.2 OF THIS SUBTITLE; AND

(2) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES FOR THE FUND.

(E) (1) EXPENDITURES FROM THE FUND TO COVER THE COSTS AND EXPENSES FOR THE IMPLEMENTATION OF TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS

ARTICLE MAY ONLY BE MADE:

(I) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

(II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) (I) IF, IN ANY FISCAL YEAR, THE AMOUNT OF THE HEALTH CARE REGULATORY ASSESSMENT REVENUE COLLECTED BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE ACTUAL EXPENDITURES INCURRED BY THE ADMINISTRATION FOR THE IMPLEMENTATION OF TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS ARTICLE, THE EXCESS AMOUNT SHALL BE CARRIED FORWARD WITHIN THE FUND FOR THE PURPOSE OF REDUCING THE ASSESSMENT IMPOSED BY THE ADMINISTRATION FOR THE FOLLOWING FISCAL YEAR.

(II) IF, IN ANY FISCAL YEAR, THE AMOUNT OF THE HEALTH CARE REGULATORY ASSESSMENT REVENUE COLLECTED BY THE COMMISSIONER AND DEPOSITED INTO THE FUND IS INSUFFICIENT TO COVER THE ACTUAL EXPENDITURES INCURRED BY THE ADMINISTRATION TO IMPLEMENT TITLE 15, SUBTITLES 10A, 10B, AND 10C OF THIS ARTICLE BECAUSE OF AN UNFORESEEN EMERGENCY AND EXPENDITURES ARE MADE IN ACCORDANCE WITH THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AN ADDITIONAL HEALTH CARE REGULATORY ASSESSMENT MAY BE MADE.

(F) (1) THE STATE TREASURER IS THE CUSTODIAN OF THE FUND.

(2) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS STATE FUNDS.

(3) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE COMMISSIONER INTO THE FUND.

(Over)

(G) (1) THE FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

(2) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

(I) THE GENERAL FUND OF THE STATE; OR

(II) A SPECIAL FUND OF THE STATE, UNLESS OTHERWISE PROVIDED BY LAW.”.

AMENDMENT NO. 3

On page 8, after line 30, insert:

“2-114.

(a) Except as provided in subsections (b) [and (c)], (C), AND (D) of this section, the Commissioner shall pay all money collected under this article into the General Fund of the State.

(b) The Commissioner shall pay all money collected for travel expenses and living expense allowance under § 2-208(1) of this article into a special revolving fund held by the Comptroller for the sole purpose of paying the costs of examinations of insurers.

(c) The following moneys may not be considered general funds of the State and shall be deposited in the Insurance Fraud Division Fund:

(1) revenue derived from the fraud prevention fee under Title 6, Subtitle 2 of this article; and

(2) income from investments that the State Treasurer makes for the Insurance Fraud Division Fund.

(D) THE FOLLOWING MONEYS MAY NOT BE CONSIDERED GENERAL FUNDS OF THE STATE AND SHALL BE DEPOSITED INTO THE HEALTH CARE REGULATORY FUND

ESTABLISHED UNDER § 2-112.3 OF THIS TITLE:

(1) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE HEALTH CARE REGULATORY ASSESSMENT UNDER § 2-112.2 OF THIS TITLE; AND

(2) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES FOR THE HEALTH CARE REGULATORY FUND.”.

AMENDMENT NO. 4

On page 10, in line 2, after “INSURER” insert “THAT OFFERS HEALTH INSURANCE OTHER THAN LONG TERM CARE INSURANCE OR DISABILITY INSURANCE”.

On page 11, in line 27, strike “IN PRINT” and substitute “IN WRITING”; and in lines 28 and 34, in each instance, after “30” insert “WORKING”.

On page 12, in line 4, after the semicolon insert “AND”; in line 5, strike “IN PRINT” and substitute “IN WRITING”; in line 6, after “45” insert “WORKING”; in line 7, strike “; AND” and substitute a period; strike in their entirety lines 8 through 11, inclusive, and substitute:

“(3) FOR PURPOSES OF USING THE EXPEDITED PROCEDURE FOR AN EMERGENCY CASE THAT A CARRIER IS REQUIRED TO INCLUDE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, THE COMMISSIONER SHALL DEFINE BY REGULATION THE STANDARDS REQUIRED FOR A GRIEVANCE TO BE CONSIDERED AN EMERGENCY CASE.”;

in line 32, after “30TH” insert “WORKING”; and in line 36, strike “7” and substitute “5 WORKING”.

On page 13, in line 8, strike “1 DAY” and substitute “2 WORKING DAYS”; and in line 28, after “5” insert “WORKING”.

On page 14, in line 12, strike “2” and substitute “5 WORKING”; and in line 24, strike “AND”; after line 24 insert:

(Over)

“(III) STATE THE NAME, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER OF:

1. THE MEDICAL DIRECTOR OR ASSOCIATE MEDICAL DIRECTOR, AS APPROPRIATE, WHO MADE THE ADVERSE DECISION OR GRIEVANCE DECISION IF THE CARRIER IS A HEALTH MAINTENANCE ORGANIZATION; OR

2. THE DESIGNATED EMPLOYEE OR REPRESENTATIVE OF THE CARRIER WHO HAS RESPONSIBILITY FOR THE CARRIER’S INTERNAL GRIEVANCE PROCESS IF THE CARRIER IS NOT A HEALTH MAINTENANCE ORGANIZATION; AND”;

and in line 25, strike “(III)” and substitute “(IV)”.

AMENDMENT NO. 5

On page 15, in line 20, after “BE” insert “: (I)”; in the same line, strike “DETERMINATION” and substitute “GRIEVANCE DECISION”; and in line 21, after “BEHALF” insert “: AND

(II) RESPONSIBLE FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE REGARDLESS OF THE DELEGATION MADE BY THE CARRIER UNDER PARAGRAPH (1) OF THIS SUBSECTION”.

On page 16, in line 11, after “30” insert “WORKING”; in line 13, after “45” insert “WORKING”; and in line 17, strike “30 ADDITIONAL” and substitute “AN ADDITIONAL 30 WORKING”.

On page 17, in line 9, after “7” insert “WORKING”; in line 18, after “(1)” insert “NOTWITHSTANDING THE PROVISIONS OF § 15-10A-03(C)(1)(II) OF THIS SUBTITLE,”; strike in their entirety lines 21 through 24, inclusive; and in lines 25 and 28, strike “(3)” and “(4)”, respectively, and substitute “(2)” and “(3)”, respectively.

AMENDMENT NO. 6

On page 18, in line 2, strike “(4)” and substitute “(3)”; and after line 31, insert:

“(3) IN ADDITION TO PARAGRAPH (1) OF THIS SUBSECTION, IT IS A VIOLATION OF THIS SUBTITLE, IF THE COMMISSIONER, IN CONSULTATION WITH AN INDEPENDENT REVIEW ORGANIZATION, MEDICAL EXPERT, THE DEPARTMENT, OR OTHER APPROPRIATE ENTITY, DETERMINES THAT THE CRITERIA AND STANDARDS USED BY A HEALTH MAINTENANCE ORGANIZATION TO CONDUCT UTILIZATION REVIEW ARE NOT:

(I) OBJECTIVE;

(II) CLINICALLY VALID;

(III) COMPATIBLE WITH ESTABLISHED PRINCIPLES OF HEALTH CARE; OR

(IV) FLEXIBLE ENOUGH TO ALLOW DEVIATIONS FROM NORMS WHEN JUSTIFIED ON A CASE BY CASE BASIS.”.

On page 21, strike in their entirety lines 24 through 31, inclusive, and substitute:

“(3) THE CARRRIER THAT IS THE SUBJECT OF THE COMPLAINT MAY NOT PAY AND AN INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT MAY NOT ACCEPT ANY COMPENSATION IN ADDITION TO THE PAYMENT FOR REASONABLE EXPENSES UNDER PARAGRAPH (1) OF THIS SUBSECTION.”.

On page 24, in line 2, before “THE” insert “(A)”; after line 3 insert:

“(B) IN ADDITION TO SUBSECTION (A) OF THIS SECTION, ON OR BEFORE JANUARY 1, 1999, THE COMMISSIONER SHALL ADOPT BY REGULATION A REQUIREMENT THAT EACH CARRIER PROVIDE A MECHANISM IN A FORM AND MANNER THAT THE COMMISSIONER MAY REQUIRE TO ENABLE A MEMBER TO BE INFORMED OF THE MEMBER’S RIGHT TO CHALLENGE A DECISION MADE BY A CARRIER THAT RESULTED IN THE NONPAYMENT OF A HEALTH CARE SERVICE.”.

(Over)

On page 27, in line 8, after “America” insert “, THE LEAGUE OF LIFE AND HEALTH INSURERS OF MARYLAND,”.

AMENDMENT NO. 7

On page 31, in line 7, after “DENTIST” insert a comma; strike beginning with “AND” in line 8 down through “REVIEW” in line 10 and substitute “, WHO SHALL CONSULT WITH A DENTIST WHO IS BOARD CERTIFIED OR ELIGIBLE IN THE SAME SPECIALTY AS THE SERVICE UNDER REVIEW”.

AMENDMENT NO. 8

On page 35, after line 28 insert:

“(C) THE DELEGATION BY A MEDICAL DIRECTOR OF ANY OF THE MEDICAL DIRECTOR’S RESPONSIBILITIES UNDER THIS SUBTITLE TO AN ASSOCIATE MEDICAL DIRECTOR OR AN ASSISTANT MEDICAL DIRECTOR DOES NOT PREVENT THE MEDICAL DIRECTOR, REGARDLESS OF THE DELEGATION, FROM BEING HELD RESPONSIBLE FOR ANY VIOLATION OF THIS SUBTITLE.”.

AMENDMENT NO. 9

On page 38, in line 27, strike “carriers” and substitute “each carrier”; strike in their entirety lines 31 through 37, inclusive, and substitute:

“SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) On or before January 1, 2000, the Insurance Commissioner shall submit a report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, assessing the implementation of Title 15, Subtitles 10A, 10B, and 10C of the Insurance Article, as enacted by Section 2 of this Act; and

(b) The report shall include an evaluation of:

(1) the correlation between the health care regulatory assessment collected by the Insurance Commissioner from each carrier under § 2-112.2 of the Insurance Article, as enacted by



this Act, and the costs incurred by the Maryland Insurance Administration in implementing Title 15, Subtitles 10A, 10B, and 10C of the Insurance Article;

(2) whether the provisions of Title 15, Subtitle 10A of the Insurance Article should be expanded to include complaints based on adverse decisions made by carriers and not just those adverse decisions arising from utilization review determinations, as provided in § 15-10A-01 of the Insurance Article, as enacted by this Act; and

(3) whether Title 15, Subtitle 10A of the Insurance Article should be altered to exclude those types of complaints involving adverse decisions made by carriers that offer fixed indemnity or indemnity health insurance products.

SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the approval of the Executive Director of the Department of Legislative Services, the publisher of the Annotated Code of Maryland shall correct any cross-references that are rendered incorrect by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That the provisions of this Act shall apply to:

(a) all health insurance policies, plans, and contracts existing on and issued on or after January 1, 1999; and

(b) all adverse decisions rendered on or after January 1, 1999.”;

in lines 38 and 40, strike “7.” and “8.”, respectively, and substitute “9.” and “11.”, respectively; and after line 39 insert:

“SECTION 10. AND BE IT FURTHER ENACTED, That the provisions of §§ 2-112.2, 2-112.3, and 2-114 of the Insurance Article as enacted by this Act shall take effect June 1, 1998.”.

On page 39, strike lines 3 through 5 in their entirety; in line 6, strike “10.” and substitute “12.”; in line 7, strike “Section” and substitute “Sections”; in the same line, strike “7” and substitute “9 and 10”.

(Over)

