BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL NO. 401
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 21, after "circumstances;" insert "requiring certain carriers to provide certain requested information to the Unit and the Commissioner within a certain time under certain circumstances;".

On page 2, after line 36, insert:

"BY repealing and reenacting, with amendments,
Article - Commercial Law
Section 13-4A-02(b)
Annotated Code of Maryland
(1990 Replacement Volume and 1997 Supplement)".

On page 4, after line 25, insert:

"13-4A-02.

(b) (1) (I) The Unit may assist health care consumers in understanding their health care bills and third party coverage, in identifying improper billing or coverage determinations, and in reporting any billing or coverage problems to appropriate entities, including the Division, the Attorney General or other governmental agencies, insurers, or providers.

(II) WHENEVER THE UNIT REQUESTS INFORMATION FROM AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION IN ORDER TO ASSIST A HEALTH CARE CONSUMER FOR THE PURPOSES PROVIDED IN THIS PARAGRAPH, THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION SHALL PROVIDE THE

INFORMATION TO THE UNIT NO LATER THAN 7 WORKING DAYS FROM THE DATE THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION RECEIVED THE REQUEST.

(2) Whenever any billing or coverage question concerns the adequacy or propriety of any services or treatment, the Unit shall refer the matter to an appropriate professional, licensing, or disciplinary body, as applicable. The Unit may monitor the progress of the concerns raised by health consumers through such referrals.

(3) Whenever any billing or coverage question concerns a matter within the jurisdiction of the Insurance Commissioner, the Unit shall refer the matter to the Commissioner. The Unit may monitor the progress of the concerns raised by health consumers through such referrals.

(4) The Unit shall work with the Department of Health and Mental Hygiene to assist with resolving any billing or coverage questions as necessary.".

AMENDMENT NO. 2

On page 3, in line 7, after "19-705.2" insert ",19-708(b)"; and after line 9, insert:

"BY repealing and reenacting, without amendments,
Article - Health - General
Section 19-728
Annotated Code of Maryland
(1996 Replacement Volume and 1997 Supplement)".

On page 5, in line 25, strike "SUBTITLE 10A" and substitute "SUBTITLES 10A AND 10C"; and after line 28, insert:

"19-708.

(b) The application shall include or be accompanied by:

(1) A copy of the basic health maintenance organizational document and any amendments to it that, where applicable, are certified by the Department of Assessments and

Taxation;

(2) A copy of the bylaws of the health maintenance organization, if any, that are certified by the appropriate officer;

(3) A list of the individuals who are to be responsible for the conduct of the affairs of the health maintenance organization, including all members of the governing body, the officers and directors if it is a corporation, and the partners or associates if it is a partnership or association;

(4) The addresses of those individuals and their official capacity with the health maintenance organization;

(5) A statement by each individual referred to in item (3) of this subsection that fully discloses the extent and nature of any contract or arrangement between the individual and the health maintenance organization and any possible conflict of interest;

(6) A resume of the qualifications of:

(i) The administrator;

(ii) The medical director, WHO SHALL BE A PHYSICIAN LICENSED IN THIS STATE AND CERTIFIED UNDER TITLE 15, SUBTITLE 10C OF THE INSURANCE ARTICLE;

(iii) The enrollment director; and

(iv) Any other individual who is associated with the health maintenance organization that the Commissioner and the Secretary request under their joint internal procedures;

(7) A statement that describes generally:

(i) The health maintenance organization, including:

1. Its operations;

2. Its enrollment process;

3. Its quality assurance mechanism; and

4. Its internal grievance procedures;

(ii) The methods the health maintenance organization proposes to use to offer its members and public representatives an opportunity to participate in matters of policy and operation;

(iii) The location of the facilities where health care services will be available regularly to members;

(iv) The type and specialty of physicians and health care personnel who are engaged to provide health care services;

(v) The number of physicians and personnel in each category; and

(vi) The health and medical records system to provide documentation of use by members;

(8) The form of each contract that the health maintenance organization proposes to offer to subscribers showing the benefits to which they are entitled and a table of the rates charged or proposed to be charged for each form of contract;

(9) A statement that describes with reasonable certainty each geographic area to be served by the health maintenance organization;

(10) A statement of the financial condition of the health maintenance organization, including:

(i) Sources of financial support;

(ii) A balance sheet showing assets, liabilities, and minimum tangible net worth; and

(iii) Any other financial information the Commissioner requires for adequate financial evaluation;

(11) Copies of any proposed advertising and proposed techniques and methods of selling the services of the health maintenance organization;

(12) A power of attorney that is executed by the health maintenance organization appointing the Commissioner as agent of the organization in this State to accept service of process in any action, proceeding, or cause of action arising in this State against the health maintenance organization; and

(13) Copies of the agreements proposed to be made between the health maintenance organizations and providers of health care services.

19-728.

(a) If, as to a matter that is within the jurisdiction of the Department under this subtitle, the Secretary finds that a health maintenance organization does not meet the requirements of this subtitle or the rules and regulations adopted under it and cannot or will not make corrective changes or new arrangements to meet these requirements, the Secretary may send to the Commissioner a written directive that sets out the findings of the Secretary and reasons for them and directs the Commissioner to suspend or revoke the certificate of authority of the health maintenance organization or to take any other appropriate action that the Secretary specifies. The Commissioner shall comply with the directive.

(b) The Commissioner is responsible for:

(1) Determining whether each health maintenance organization is or will be able to provide a fiscally sound operation and adequate provision against risk of insolvency and may adopt reasonable rules and regulations designed to achieve this goal; and

(2) Actuarial and financial evaluations and determinations of each health maintenance organization.

(c) (1) If the Commissioner determines that a health maintenance organization is not operating in a fiscally sound manner, the Commissioner shall notify the Department of the determination.

(2) After notifying the Department in accordance with the provisions of paragraph (1) of this subsection, the Commissioner shall monitor the health maintenance organization on a continuous basis until the Commissioner determines that the health maintenance organization is operating in a fiscally sound manner.".

On page 6, in line 16, strike "AND" and substitute ", 10B, OR 10C OR".

AMENDMENT NO. 3

On page 3, in line 27, before "15-1001" insert "15-112(e) and (g),".

On page 8, after line 30, insert:

"15-112.

(e) A carrier may not deny an application for participation or terminate participation on its provider panel on the basis of:

(1) gender, race, age, religion, national origin, or a protected category under the federal Americans with Disabilities Act;

(2) the type or number of appeals that the provider files under [Title 19, Subtitle 13 of the Health - General Article] SUBTITLE 10B OF THIS TITLE; [or]

(3) THE NUMBER OF GRIEVANCES OR COMPLAINTS THAT THE PROVIDER FILES ON BEHALF OF A PATIENT UNDER SUBTITLE 10A OF THIS TITLE; OR

[(3)] (4) the type or number of complaints or grievances that the provider files or requests for review under the carrier's internal review system established under subsection (h) of this section.

(g) A carrier may not terminate participation on its provider panel or otherwise penalize a provider for:

(1) advocating the interests of a patient through the carrier's internal review system established under subsection (h) of this section; [or]

(2) filing an appeal under [Title 19, Subtitle 13 of the Health - General Article] SUBTITLE 10B OF THIS TITLE; OR

(3) FILING A GRIEVANCE OR COMPLAINT ON BEHALF OF A PATIENT UNDER SUBTITLE 10A OF THIS TITLE.".

AMENDMENT NO. 4

On page 9, strike in their entirety lines 26 through 33, inclusive, and substitute:

"(B)(1) "ADVERSE DECISION" MEANS A DETERMINATION BY A PRIVATE REVIEW AGENT, A CARRIER, OR A HEALTH CARE PROVIDER ACTING ON BEHALF OF A CARRIER THAT A PROPOSED OR DELIVERED HEALTH CARE SERVICE:

(I) IS OR WAS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT; AND

(II) MAY RESULT IN NONCOVERAGE OF THE HEALTH CARE SERVICE.".

On page 11, in line 27, strike "IN PRINT" and substitute "IN WRITING"; in lines 28 and 34, in each instance, after "30" insert "WORKING"; in line 31, after the semicolon, insert "OR"; and in line 34, strike "OR" and substitute "AND".

On page 12, strike lines 1 and 2 in their entirety; strike beginning with the semicolon in line 4 down through "HOSPITALIZATION" in line 11; after line 11, insert:

"(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 1, strike "OR 45-DAY"; in line 12, strike "2" and substitute "5 WORKING"; in line 24, strike "AND"; after line 24, insert:

"(III) STATE THE NAME, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER OF THE PHYSICIAN THAT MADE THE ADVERSE DECISION OR GRIEVANCE DECISION;

(IV) BE SIGNED BY THE MEDICAL DIRECTOR IF THE CARRIER IS A HEALTH MAINTENANCE ORGANIZATION OR A DESIGNATED OFFICER OF THE CARRIER IF THE CARRIER IS NOT A HEALTH MAINTENANCE ORGANIZATION; AND";

in line 25, strike "(III)" and substitute "(V)"; and in line 31, strike "SOLELY".

On page 15, in line 2, after "1" insert "WORKING".

On page 17, in line 9, after "7" insert "WORKING"; and in line 34, after "1" insert "WORKING".

AMENDMENT NO. 5

On page 11, strike in their entirety lines 3 through 5, inclusive, and substitute:

"(I) "HEALTH CARE SERVICE" MEANS A HEALTH OR MEDICAL CARE PROCEDURE OR SERVICE RENDERED BY A HEALTH CARE PROVIDER THAT:

(1) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN DISEASE OR DYSFUNCTION; OR

(2) DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES, OR MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR DYSFUNCTION.".

On page 25, strike lines 25 through 27, inclusive, and substitute:

"(F) "HEALTH CARE SERVICE" MEANS ANY HEALTH OR MEDICAL PROCEDURE OR SERVICE RENDERED BY A HEALTH CARE PROVIDER THAT:

(1) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF A HUMAN DISEASE OR DYSFUNCTION; OR

(2) DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES, OR MEDICAL GOODS FOR THE TREATMENT OF A HUMAN DISEASE OR DYSFUNCTION.".

AMENDMENT NO. 6

On page 13, in line 1, after "FILE" insert "FOR REVIEW"; in line 2, after "PROCESS" insert "ESTABLISHED UNDER THIS SUBTITLE"; in line 16, strike "AND"; in line 20, after "GRIEVANCE;" insert "AND"; and after line 20, insert:

"(III) THE MEMBER OR HEALTH CARE PROVIDER ON BEHALF OF THE MEMBER MAY FILE A COMPLAINT WITH THE COMMISSIONER WITHOUT FIRST FILING A GRIEVANCE IF SUFFICIENT INFORMATION AND SUPPORTING DOCUMENTATION IS FILED WITH THE COMPLAINT THAT DEMONSTRATES A COMPELLING REASON TO DO SO;".

On page 14, in line 28, strike "AND"; after line 28, insert:

"2. THAT A COMPLAINT MAY BE FILED WITHOUT FIRST FILING A GRIEVANCE IF THE MEMBER OR A HEALTH CARE PROVIDER FILING A GRIEVANCE ON BEHALF OF THE MEMBER CAN DEMONSTRATE A COMPELLING REASON TO DO SO; AND";

and in line 29, strike "2." and substitute "3.".

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

AMENDMENT NO. 7

On page 15, strike in their entirety lines 15 through 21, inclusive.

AMENDMENT NO. 8

On page 15, after line 27, insert:

"(2) WHENEVER THE COMMISSIONER RECEIVES A COMPLAINT UNDER THIS SUBSECTION, THE COMMISSIONER SHALL NOTIFY THE CARRIER THAT IS THE SUBJECT OF THE COMPLAINT WITHIN 5 WORKING DAYS AFTER THE DATE THE COMPLAINT IS FILED WITH THE COMMISSIONER.";

in line 28, strike "(2)" and substitute "(3)"; and in the same line, strike "SUBSECTION (B)(2)" and substitute "SUBSECTION (B)(1)(II)".

AMENDMENT NO. 9

On page 16, strike beginning with the colon in line 9 down through "COMPLAINT" in line 20 and substitute "WITHIN 30 WORKING DAYS AFTER THE COMPLAINT IS FILED.

(2) ONLY IF THE COMMISSIONER LACKS SUFFICIENT INFORMATION TO RENDER A FINAL DECISION ON A COMPLAINT WITHIN THE 30-DAY PERIOD REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY THE COMMISSIONER EXTEND THE PERIOD IN WHICH A FINAL DECISION SHALL BE MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR UP TO AN ADDITIONAL 30 WORKING

DAYS".

AMENDMENT NO. 10

On page 17, strike in their entirety lines 18 through 24, inclusive; and in lines 25 and 28, strike "(3)" and "(4)", respectively, and substitute "(1)" and "(2)", respectively.

On page 18, in line 2, strike "(4)" and substitute "(2)".

AMENDMENT NO. 11

On page 19, in line 26, strike "AND"; and in line 32, after "SUBSECTION" insert "; AND

(4) IN REVIEWING A COMPLAINT FOR THE COMMISSIONER UNDER THIS SECTION, USE THE STANDARD OF CARE THAT IS APPROPRIATE FOR THE GEOGRAPHIC AREA IN WHICH THE COMPLAINT ARISES".

AMENDMENT NO. 12

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

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

AMENDMENT NO. 13

On page 2, in line 21, before "providing" insert "providing for the accurate codification of provisions of this Act; providing for the application of this Act;".

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

"SECTION 6. AND BE IT FURTHER ENACTED, That, on or before January 1, 2001, 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 correlation between the health 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 number of complaints filed with the Commissioner and the costs incurred by the Insurance Commissioner in reviewing those complaints in accordance with Title 15, Subtitle 10A of the Insurance Article, as enacted by this Act.

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

and in lines 38 and 40, strike "7." and "8.", respectively, and substitute "8." and "9.", respectively.

On page 39, strike in their entirety lines 3 through 5, inclusive, and substitute:

"SECTION 10. AND BE IT FURTHER ENACTED, That the provisions of this Act shall apply to:

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

(2) all adverse decisions rendered on or after January 1, 1999.";

in line 6, strike "10." and substitute "11."; and in line 7, strike "7" and substitute "8".