

HOUSE BILL 874

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C3

1998 Regular Session
(81r2221)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegates Goldwater, Kopp, and Love**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Health Maintenance Organizations - ~~Patient Transfers and~~**
3 **~~Reimbursements~~ Reimbursement to Hospital Emergency Facilities and**
4 **Providers**

5 FOR the purpose of ~~specifying that certain policies and requirements of a health~~
6 ~~maintenance organization may not require a hospital emergency facility or~~
7 ~~provider to violate the federal Emergency Medical Treatment and Active Labor~~
8 ~~Act; requiring that health maintenance organizations reimburse hospital~~
9 ~~emergency facilities for services necessary to stabilize members or subscribers~~
10 ~~before transfer; requiring a health maintenance organization to reimburse a~~
11 ~~hospital emergency facility and provider, less any applicable co-payments, for~~
12 ~~medical assessment and stabilization services rendered to meet the requirements~~
13 ~~of the Federal Emergency Medical Treatment and Active Labor Act; establishing~~
14 ~~a certain penalty; altering a certain provision of law related to prohibited acts of~~
15 ~~health maintenance organizations; altering a certain penalty; providing for the~~
16 ~~effective date of this Act; and generally relating to hospital emergency facility~~
17 ~~services.~~

1 BY repealing and reenacting, with amendments,
2 Article - Health - General
3 Section 19-712.5, 19-729, and 19-730
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 1997 Supplement)

6 ~~BY repealing and reenacting, with amendments,
7 Article - Health - General
8 Section 19-712.5
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1997 Supplement)
11 (As enacted by Chapter 107 of the Acts of the General Assembly of 1997)~~

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

14 **Article - Health - General**

15 19-712.5.

16 (a) A health maintenance organization shall reimburse a hospital emergency
17 facility and provider, less any applicable co-payments, for medically necessary
18 services provided to a member or subscriber of the health maintenance organization if
19 the health maintenance organization authorized, directed, referred, or otherwise
20 allowed the member or subscriber to use the emergency facility and the medically
21 necessary services are related to the condition for which the member was allowed to
22 use the emergency facility.

23 (b) A health maintenance organization shall reimburse a hospital emergency
24 facility and provider, less any applicable co-payments, for medically necessary
25 services that relate to the condition presented and that are provided by the provider
26 in the emergency facility to a member or subscriber of the health maintenance
27 organization if the health maintenance organization fails to provide 24-hour access in
28 accordance with the standards of quality of care required under § 19-705.1(b)(2) of
29 this subtitle.

30 (c) A health maintenance organization shall reimburse a hospital emergency
31 facility and provider, less any applicable co-payments, for medical screening
32 ASSESSMENT, AND STABILIZATION services rendered to meet the requirements of the
33 Federal Emergency Medical Treatment and Active Labor Act.

34 (d) Notwithstanding any other provision of this subtitle, a provider may not be
35 required to obtain prior authorization or approval for payment from a health
36 maintenance organization in order to obtain reimbursement under subsection (a), (b),
37 or (c) of this section.

38 (e) Notwithstanding any other provision of this article, a hospital emergency
39 facility or provider or a health maintenance organization that has reimbursed a

1 provider may collect or attempt to collect payment from a member or subscriber for
 2 health care services provided for a medical condition that is determined not to be an
 3 emergency as defined in § 19-701(d) of this subtitle.

4 ~~(F) A HEALTH MAINTENANCE ORGANIZATION'S REIMBURSEMENT POLICIES
 5 AND PATIENT TRANSFER REQUIREMENTS MAY NOT, DIRECTLY OR INDIRECTLY,
 6 REQUIRE A HOSPITAL EMERGENCY FACILITY OR PROVIDER TO VIOLATE THE
 7 FEDERAL EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT.~~

8 ~~(G) IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE
 9 ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO
 10 ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL
 11 REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,
 12 LESS ANY APPLICABLE CO-PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE
 13 MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY
 14 MEDICAL TREATMENT AND ACTIVE LABOR ACT.~~

15 ~~(H) FAILURE BY A HEALTH MAINTENANCE ORGANIZATION TO COMPLY WITH
 16 SUBSECTION (F) OR (G) OF THIS SECTION OR § 19-701(D) OF THIS SUBTITLE MAY
 17 RESULT IN CIVIL MONETARY PENALTIES NOT TO EXCEED TREBLE DAMAGES.~~

18 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
 19 ~~read as follows:~~

20 ~~**Article – Health – General**~~

21 ~~19-712.5.~~

22 ~~(a) A health maintenance organization shall reimburse a hospital emergency
 23 facility and provider, less any applicable co-payments, for medically necessary
 24 services provided to a member or subscriber of the health maintenance organization if
 25 the health maintenance organization authorized, directed, referred, or otherwise
 26 allowed the member or subscriber to use the emergency facility and the medically
 27 necessary services are related to the condition for which the member was allowed to
 28 use the emergency facility.~~

29 ~~(b) A health maintenance organization shall reimburse a hospital emergency
 30 facility and provider, less any applicable co-payments, for medically necessary
 31 services that relate to the condition presented and that are provided by the provider
 32 in the emergency facility to a member or subscriber of the health maintenance
 33 organization if the health maintenance organization fails to provide 24-hour access in
 34 accordance with the standards of quality of care required under § 19-705.1(b)(2) of
 35 this subtitle.~~

36 ~~(d) Notwithstanding any other provision of this subtitle, a provider may not be
 37 required to obtain prior authorization or approval for payment from a health
 38 maintenance organization in order to obtain reimbursement under subsection [(a);
 39 (b), or (c)] (A) OR (B) of this section.~~

1 (e) Notwithstanding any other provision of this article, a hospital emergency
 2 facility or provider or a health maintenance organization that has reimbursed a
 3 provider may collect or attempt to collect payment from a member or subscriber for
 4 health care services provided for a medical condition that is determined not to be an
 5 emergency as defined in § 19-701(d) of this subtitle.

6 (F) ~~A HEALTH MAINTENANCE ORGANIZATION'S REIMBURSEMENT POLICIES
 7 AND PATIENT TRANSFER REQUIREMENTS MAY NOT, DIRECTLY OR INDIRECTLY,
 8 REQUIRE A HOSPITAL EMERGENCY FACILITY OR PROVIDER TO VIOLATE THE
 9 FEDERAL EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT.~~

10 (G) ~~IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE
 11 ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO
 12 ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL
 13 REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,
 14 LESS ANY APPLICABLE CO-PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE
 15 MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY
 16 MEDICAL TREATMENT AND ACTIVE LABOR ACT.~~

17 (H) ~~FAILURE BY A HEALTH MAINTENANCE ORGANIZATION TO COMPLY WITH
 18 SUBSECTION (F) OR (G) OF THIS SECTION OR § 19-701(D) OF THIS SUBTITLE MAY
 19 RESULT IN CIVIL MONETARY PENALTIES NOT TO EXCEED TREBLE DAMAGES.~~

20 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 21 read as follows:

22 **Article – Health – General**

23 19-729.

24 (a) A health maintenance organization may not:

25 (1) Violate any provision of this subtitle or any rule or regulation
 26 adopted under it;

27 (2) Fail to fulfill its obligations to provide the health care services
 28 specified in its contracts with subscribers;

29 (3) Make any false statement with respect to any report or statement
 30 required by this subtitle or by the Commissioner under this subtitle;

31 (4) Advertise, merchandise, or attempt to merchandise its services in a
 32 way that misrepresents its services or capacity for service;

33 (5) Engage in a deceptive, misleading, unfair, or unauthorized practice
 34 as to advertising or merchandising;

35 (6) Prevent or attempt to prevent the Commissioner or the Department
 36 from performing any duty imposed by this subtitle;

1 (7) Fraudulently obtain or fraudulently attempt to obtain any benefit
2 under this subtitle;

3 (8) Fail to fulfill the basic requirements to operate as a health
4 maintenance organization as provided in § 19-710 of this subtitle;

5 (9) Violate any applicable provision of Title 15, Subtitle 12 of the
6 Insurance Article; [or]

7 (10) Fail to provide services to a member in a timely manner as provided
8 in § 19-705.1(b)(1) of this subtitle; OR

9 (11) VIOLATE ANY PROVISION OF § 19-712.5 OF THIS SUBTITLE.

10 (b) If any health maintenance organization violates this section, the
11 Commissioner may pursue any one or more of the courses of action described in §
12 19-730 of this subtitle.

13 19-730.

14 If any person violates any provision of § 19-729 of this subtitle, the
15 Commissioner may:

16 (1) Issue an administrative order that requires the health maintenance
17 organization to:

18 (i) Cease inappropriate conduct or practices by it or any of the
19 personnel employed or associated with it;

20 (ii) Fulfill its contractual obligations;

21 (iii) Provide a service that has been denied improperly;

22 (iv) Take appropriate steps to restore its ability to provide a service
23 that is provided under a contract;

24 (v) Cease the enrollment of any additional enrollees except
25 newborn children or other newly acquired dependents or existing enrollees; or

26 (vi) Cease any advertising or solicitation;

27 (2) Impose a penalty of not more than [\$1,000] \$5,000 for each unlawful
28 act committed;

29 (3) Suspend or revoke the certificate of authority to do business as a
30 health maintenance organization; or

31 (4) Apply to any court for legal or equitable relief considered appropriate
32 by the Commissioner or the Department, in accordance with the joint internal
33 procedures.

1 ~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act~~
2 ~~shall take effect July 1, 1998 and shall remain effective until the expiration of §~~
3 ~~19-712.5(e) of the Health General Article, as enacted by Chapter 107 of the Acts of~~
4 ~~the General Assembly of 1997.~~

5 ~~SECTION 4. 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act~~
6 ~~shall take effect at that time when Section 1 of this Act no longer has any force or~~
7 ~~effect.~~

8 ~~SECTION 6. AND BE IT FURTHER ENACTED, That, subject to Sections 4 and~~
9 ~~5 of this Act, this Act shall take effect July 1, 1998.~~

10 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
11 ~~July 1, 1998.~~