
By: **Delegates Goldwater, Kopp, and Love**
Introduced and read first time: February 12, 1998
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 27, 1998

CHAPTER _____

1 AN ACT concerning

2 **Health Maintenance Organizations - Patient Transfers and**
3 **Reimbursements**

4 FOR the purpose of specifying that certain policies and requirements of a health
5 maintenance organization may not require a hospital emergency facility or
6 provider to violate the federal Emergency Medical Treatment and Active Labor
7 Act; requiring that health maintenance organizations reimburse hospital
8 emergency facilities for services necessary to stabilize members or subscribers
9 before transfer; ~~establishing a certain penalty; altering a certain provision of~~
10 law related to prohibited acts of health maintenance organizations; altering a
11 certain penalty; providing for the effective date of this Act; and generally
12 relating to hospital emergency facility services.

13 BY repealing and reenacting, with amendments,
14 Article - Health - General
15 Section 19-712.5, 19-729, and 19-730
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Health - General
20 Section 19-712.5
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 1997 Supplement)
23 (As enacted by Chapter 107 of the Acts of the General Assembly of 1997)

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

3 **Article - Health - General**

4 19-712.5.

5 (a) A health maintenance organization shall reimburse a hospital emergency
6 facility and provider, less any applicable co-payments, for medically necessary
7 services provided to a member or subscriber of the health maintenance organization if
8 the health maintenance organization authorized, directed, referred, or otherwise
9 allowed the member or subscriber to use the emergency facility and the medically
10 necessary services are related to the condition for which the member was allowed to
11 use the emergency facility.

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

19 (c) A health maintenance organization shall reimburse a hospital emergency
20 facility and provider, less any applicable co-payments, for medical screening services
21 rendered to meet the requirements of the Federal Emergency Medical Treatment and
22 Active Labor Act.

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

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

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

36 (G) IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE
37 ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO
38 ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL
39 REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,
40 LESS ANY APPLICABLE CO-PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE

1 MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY
2 MEDICAL TREATMENT AND ACTIVE LABOR ACT.

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article - Health - General**

9 19-712.5.

10 (a) A health maintenance organization shall reimburse a hospital emergency
11 facility and provider, less any applicable co-payments, for medically necessary
12 services provided to a member or subscriber of the health maintenance organization if
13 the health maintenance organization authorized, directed, referred, or otherwise
14 allowed the member or subscriber to use the emergency facility and the medically
15 necessary services are related to the condition for which the member was allowed to
16 use the emergency facility.

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

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

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

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

37 (G) IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE
38 ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO
39 ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL
40 REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,

1 LESS ANY APPLICABLE CO-PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE
2 MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY
3 MEDICAL TREATMENT AND ACTIVE LABOR ACT.

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

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

9 **Article - Health - General**

10 19-729.

11 (a) A health maintenance organization may not:

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

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

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

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

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

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

24 (7) Fraudulently obtain or fraudulently attempt to obtain any benefit
25 under this subtitle;

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

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

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

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

1 (b) If any health maintenance organization violates this section, the
2 Commissioner may pursue any one or more of the courses of action described in §
3 19-730 of this subtitle.

4 19-730.

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

7 (1) Issue an administrative order that requires the health maintenance
8 organization to:

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

11 (ii) Fulfill its contractual obligations;

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

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

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

17 (vi) Cease any advertising or solicitation;

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

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

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

25 ~~SECTION 3.~~ 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act
26 shall take effect July 1, 1998 and shall remain effective until the expiration of §
27 19-712.5(c) of the Health - General Article, as enacted by Chapter 107 of the Acts of
28 the General Assembly of 1997.

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

32 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to Sections 4 and
33 5 of this Act, this Act shall take effect July 1, 1998.

