

HOUSE BILL 1355

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C4

1998 Regular Session  
(8lr2708)

**ENROLLED BILL**  
-- Economic Matters/Finance --

Introduced by **Delegate 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 **Insurance - Penalties**

3 FOR the purpose of altering certain penalties that may be imposed on insurers for  
4 committing an unfair claims settlement practice and for committing an unfair  
5 claims settlement practice as a general business practice; requiring the  
6 Insurance Commissioner to adopt certain regulations; and generally relating to  
7 altering certain penalties that may be imposed on insurers for certain unfair  
8 claims settlement practices.

9 BY repealing and reenacting, with amendments,  
10 Article - Insurance  
11 Section 4-113(d) and (e) and 27-305  
12 Annotated Code of Maryland  
13 (1997 Volume)

14 BY repealing and reenacting, without amendments,  
15 Article - Insurance

1 Section 27-303 and 27-304  
2 Annotated Code of Maryland  
3 (1997 Volume)

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 4-113.

8 (d) Instead of or in addition to suspending or revoking a certificate of  
9 authority, the Commissioner may:

10 (1) impose on the holder a penalty of not less than \$100 but not  
11 [exceeding \$50,000] MORE THAN ~~\$250,000~~ \$125,000 for each violation of this article;  
12 and

13 (2) require the holder to make restitution to any person who has suffered  
14 financial injury because of the violation of this article.

15 (e) The Commissioner shall adopt regulations to:

16 (1) ESTABLISH STANDARDS FOR THE IMPOSITION OF A PENALTY UNDER  
17 SUBSECTION (D) OF THIS SECTION; AND

18 (2) carry out the provisions of subsection (b)(11) of this section.

19 27-303.

20 It is an unfair claim settlement practice and a violation of this subtitle for an  
21 insurer or nonprofit health service plan to:

22 (1) misrepresent pertinent facts or policy provisions that relate to the  
23 claim or coverage at issue;

24 (2) refuse to pay a claim for an arbitrary or capricious reason based on  
25 all available information;

26 (3) attempt to settle a claim based on an application that is altered  
27 without notice to, or the knowledge or consent of, the insured;

28 (4) fail to include with each claim paid to an insured or beneficiary a  
29 statement of the coverage under which payment is being made;

30 (5) fail to settle a claim promptly whenever liability is reasonably clear  
31 under one part of a policy, in order to influence settlements under other parts of the  
32 policy;

1 (6) fail to provide promptly on request a reasonable explanation of the  
2 basis for a denial of a claim; or

3 (7) fail to meet the requirements of Title 19, Subtitle 13 of the Health -  
4 General Article for preauthorization for a health care service.

5 27-304.

6 It is an unfair claim settlement practice and a violation of this subtitle for an  
7 insurer or nonprofit health service plan, when committed with the frequency to  
8 indicate a general business practice, to:

9 (1) misrepresent pertinent facts or policy provisions that relate to the  
10 claim or coverage at issue;

11 (2) fail to acknowledge and act with reasonable promptness on  
12 communications about claims that arise under policies;

13 (3) fail to adopt and implement reasonable standards for the prompt  
14 investigation of claims that arise under policies;

15 (4) refuse to pay a claim without conducting a reasonable investigation  
16 based on all available information;

17 (5) fail to affirm or deny coverage of claims within a reasonable time  
18 after proof of loss statements have been completed;

19 (6) fail to make a prompt, fair, and equitable good faith attempt, to settle  
20 claims for which liability has become reasonably clear;

21 (7) compel insureds to institute litigation to recover amounts due under  
22 policies by offering substantially less than the amounts ultimately recovered in  
23 actions brought by the insureds;

24 (8) attempt to settle a claim for less than the amount to which a  
25 reasonable person would expect to be entitled after studying written or printed  
26 advertising material accompanying, or made part of, an application;

27 (9) attempt to settle a claim based on an application that is altered  
28 without notice to, or the knowledge or consent of, the insured;

29 (10) fail to include with each claim paid to an insured or beneficiary a  
30 statement of the coverage under which the payment is being made;

31 (11) make known to insureds or claimants a policy of appealing from  
32 arbitration awards in order to compel insureds or claimants to accept a settlement or  
33 compromise less than the amount awarded in arbitration;

34 (12) delay an investigation or payment of a claim by requiring a claimant  
35 or a claimant's licensed health care provider to submit a preliminary claim report and

1 subsequently to submit formal proof of loss forms that contain substantially the same  
2 information;

3 (13) fail to settle a claim promptly whenever liability is reasonably clear  
4 under one part of a policy, in order to influence settlements under other parts of the  
5 policy;

6 (14) fail to provide promptly a reasonable explanation of the basis for  
7 denial of a claim or the offer of a compromise settlement; or

8 (15) fail to meet the requirements of Title 19, Subtitle 13 of the Health -  
9 General Article for preauthorization for a health care service.

10 27-305.

11 (a) The Commissioner may impose a penalty not exceeding [~~\$500~~] ~~\$5,000~~  
12 ~~\$2,500~~ for each violation of § 27-303 of this subtitle or a regulation adopted under §  
13 27-303 of this subtitle.

14 (b) The penalty for a violation of § 27-304 of this subtitle is as provided in §§  
15 1-301, 4-113, 4-114, and 27-103 of this article.

16 (c) (1) On finding a violation of this subtitle, the Commissioner may require  
17 an insurer or nonprofit health service plan to make restitution to each claimant who  
18 has suffered actual economic damage because of the violation.

19 (2) Restitution may not exceed the amount of actual economic damage  
20 sustained, subject to the limits of any applicable policy.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1998.