

HOUSE BILL 1355

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1998 Regular Session
8r2708

By: **Delegate Love**

Introduced and read first time: February 26, 1998

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 2, 1998

Committee Report: Favorable

House action: Adopted

Read second time: March 26, 1998

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

16 Section 27-303 and 27-304

17 Annotated Code of Maryland

18 (1997 Volume)

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

1

Article - Insurance

2 4-113.

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

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

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

9 (e) The Commissioner shall adopt regulations to:

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

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

13 27-303.

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

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

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

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

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

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

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

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

1 27-304.

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

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

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

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

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

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

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

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

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

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

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

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

30 (12) delay an investigation or payment of a claim by requiring a claimant
31 or a claimant's licensed health care provider to submit a preliminary claim report and
32 subsequently to submit formal proof of loss forms that contain substantially the same
33 information;

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

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

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

5 27-305.

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

9 (b) The penalty for a violation of § 27-304 of this subtitle is as provided in §§
10 1-301, 4-113, 4-114, and 27-103 of this article.

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

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

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