

SENATE BILL 373

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C3

1998 Regular Session
(8lr1569)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senators Teitelbaum, Roesser, Van Hollen, McFadden, Sfikas, Blount, Kelley, and Conway**

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.

President.

CHAPTER _____

1 AN ACT concerning

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

4 ~~FOR the purpose of prohibiting certain policies and requirements of a health~~
5 ~~maintenance organization from requiring 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 transferring them; providing for the effective date of this Act;~~

10 FOR the purpose of 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
13 requirements of the Federal Emergency Medical Treatment and Active Labor
14 Act; authorizing the Insurance Commissioner to issue certain orders for certain
15 violations; ~~increasing~~ *altering* a certain penalty; and generally relating to
16 hospital emergency facility 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 19-729.

19 (a) A health maintenance organization may not:

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

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

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

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

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

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

32 (7) Fraudulently obtain or fraudulently attempt to obtain any benefit
33 under this subtitle;

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

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

3 (10) Fail to provide services to a member in a timely manner as provided in
 4 § 19-705.1(b)(1) of this subtitle; OR

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

6 (b) If any health maintenance organization violates this section, the
 7 Commissioner may pursue any one or more of the courses of action described in §
 8 19-730 of this subtitle.

9 19-730.

10 If any person violates any provision of ~~§§ 19-729, § 19-712.5 AND 19-729~~ of this
 11 subtitle, the Commissioner may:

12 (1) Issue an administrative order that requires the health maintenance
 13 organization to:

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

16 (ii) Fulfill its contractual obligations;

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

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

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

22 (vi) Cease any advertising or solicitation;

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

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

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

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

Article—Health—General

1 19-712.5.

2
3 (a) A health maintenance organization shall reimburse a hospital emergency
4 facility and provider, less any applicable co-payments, for medically necessary
5 services provided to a member or subscriber of the health maintenance organization if
6 the health maintenance organization authorized, directed, referred, or otherwise
7 allowed the member or subscriber to use the emergency facility and the medically
8 necessary services are related to the condition for which the member was allowed to
9 use the emergency facility.

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

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

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

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

30 (G) IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE
31 ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO
32 ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL
33 REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,
34 LESS ANY APPLICABLE CO-PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE
35 MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY
36 MEDICAL TREATMENT AND ACTIVE LABOR ACT.

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

40 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
41 take effect July 1, 1998 and shall remain effective until the expiration of § 19-712.5(e)

1 of the Health—General Article, as enacted by Chapter 107 of the Acts of the General
2 Assembly of 1997.

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

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 1998.