

SENATE BILL 373

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1998 Regular Session  
8r1569  
CF 8r1433

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By: **Senators Teitelbaum, Roesser, Van Hollen, McFadden, Sfikas, Blount,  
Kelley, and Conway**

Introduced and read first time: February 6, 1998

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of prohibiting certain policies and requirements of a health  
4 maintenance organization from requiring a hospital emergency facility or  
5 provider to violate the federal Emergency Medical Treatment and Active Labor  
6 Act; requiring that health maintenance organizations reimburse hospital  
7 emergency facilities for services necessary to stabilize members or subscribers  
8 before transferring them; providing for the effective date of this Act; and  
9 generally relating to hospital emergency facility services.

10 BY repealing and reenacting, with amendments,  
11 Article - Health - General  
12 Section 19-712.5  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume and 1997 Supplement)

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

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

23 **Article - Health - General**

24 19-712.5.

25 (a) A health maintenance organization shall reimburse a hospital emergency  
26 facility and provider, less any applicable co-payments, for medically necessary  
27 services provided to a member or subscriber of the health maintenance organization if

1 the health maintenance organization authorized, directed, referred, or otherwise  
2 allowed the member or subscriber to use the emergency facility and the medically  
3 necessary services are related to the condition for which the member was allowed to  
4 use the emergency facility.

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

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

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

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

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

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

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

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

1

**Article - Health - General**

2 19-712.5.

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(c)

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.