

SENATE BILL 373

Unofficial Copy  
J4

1998 Regular Session  
8r1569  
CF 8r1433

---

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

Introduced and read first time: February 6, 1998

Assigned to: Finance

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 1998

---

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; FOR the~~  
10 ~~purpose of requiring a health maintenance organization to reimburse a hospital~~  
11 ~~emergency facility and provider, less any applicable co-payments, for medical~~  
12 ~~assessment and stabilization services rendered to meet the requirements of the~~  
13 ~~Federal Emergency Medical Treatment and Active Labor Act; authorizing the~~  
14 ~~Insurance Commissioner to issue certain orders for certain violations;~~  
15 ~~increasing a certain penalty; and generally relating to hospital emergency~~  
16 ~~facility services.~~

17 BY repealing and reenacting, with amendments,  
18 Article - Health - General  
19 Section 19-712.5 and 19-730  
20 Annotated Code of Maryland  
21 (1996 Replacement Volume and 1997 Supplement)

22 ~~BY repealing and reenacting, with amendments,~~  
23 ~~Article Health General~~  
24 ~~Section 19-712.5~~

1 Annotated Code of Maryland  
2 (1996 Replacement Volume and 1997 Supplement)  
3 (As enacted by Chapter 107 of the Acts of the General Assembly of 1997)

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

6 **Article - Health - General**

7 19-712.5.

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

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

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

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

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

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

1 ~~(G) IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE~~  
 2 ~~ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO~~  
 3 ~~ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL~~  
 4 ~~REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,~~  
 5 ~~LESS ANY APPLICABLE CO PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE~~  
 6 ~~MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY~~  
 7 ~~MEDICAL TREATMENT AND ACTIVE LABOR ACT.~~

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

11 19-730.

12 If any person violates any provision of [§ 19-729]§§ 19-712.5 AND 19-729 of this  
 13 subtitle, the Commissioner may:

14 (1) Issue an administrative order that requires the health maintenance  
 15 organization to:

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

18 (ii) Fulfill its contractual obligations;

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

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

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

24 (vi) Cease any advertising or solicitation;

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

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

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

32 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~  
 33 ~~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(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.