

SENATE BILL 532

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1998 Regular Session  
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CF HB 322

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By: **Senators Dorman and Hollinger**  
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 - Health Care Providers - Definition**  
3 **and Designation of Primary Care Providers**

4 FOR the purpose of defining a certain term and altering a certain definition and  
5 certain provisions of law under the Maryland Health Maintenance Organization  
6 Act to include individuals and allow individuals, who are licensed, certified, or  
7 otherwise authorized to provide health care services, in addition to physicians,  
8 to be designated as primary care providers under certain circumstances.

9 BY repealing and reenacting, with amendments,  
10 Article - Health - General  
11 Section 19-701, 19-705.1, and 19-712(a)  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 1997 Supplement)

14 **Preamble**

15 WHEREAS, The federal Balanced Budget Act of 1997 (PL 105-33) contains  
16 provisions allowing direct Medicare reimbursement to nurse practitioners regardless  
17 of geographic area or practice setting; and

18 WHEREAS, The new Maryland Medicaid Managed Care Program, known as  
19 "HealthChoice", has recognized nurse practitioners as primary care providers; and

20 WHEREAS, The Maryland General Assembly passed Chapter 605 of the Acts of  
21 1995, better known as the "Patient Access Act", which provided health maintenance  
22 organization (HMO) members and subscribers greater access and choice of providers;  
23 and

24 WHEREAS, The intent of the Maryland General Assembly is to support health  
25 care providers who are practicing as their licenses allow; and

26 WHEREAS, The intent of the Maryland General Assembly is to allow HMO  
27 members and subscribers the most choice in selecting a primary care provider; and

1 WHEREAS, This legislation is not intended to interfere with the current  
2 relationship between physicians and nurse practitioners; and

3 WHEREAS, The intent of the Maryland General Assembly is to clarify the laws  
4 of Maryland as they relate to allowing HMO members and subscribers the greatest  
5 amount of choice in selecting a primary care provider for the provision of their health  
6 care needs; now, therefore,

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

9 **Article - Health - General**

10 19-701.

11 (a) In this subtitle the following words have the meanings indicated.

12 (b) "Benefit package" means a set of health care services to be provided to a  
13 member of a health maintenance organization under a contract that entitles the  
14 member to the health care services, whether the services are provided:

15 (1) Directly by a health maintenance organization; or

16 (2) Through a contract or arrangement with another person.

17 (c) "Commissioner" means the State Insurance Commissioner.

18 (d) "Emergency services" means those health care services that are provided  
19 in a hospital emergency facility after the sudden onset of a medical condition that  
20 manifests itself by symptoms of sufficient severity, including severe pain, that the  
21 absence of immediate medical attention could reasonably be expected by a prudent  
22 layperson, who possesses an average knowledge of health and medicine, to result in:

23 (1) Placing the patient's health in serious jeopardy;

24 (2) Serious impairment to bodily functions; or

25 (3) Serious dysfunction of any bodily organ or part.

26 (e) (1) "Health care services" means services, medical equipment, and  
27 supplies that are provided by a provider.

28 (2) "Health care services" includes:

29 (i) Ambulance services;

30 (ii) Appliances, drugs, medicines, and supplies;

31 (iii) Chiropractic care and services;

32 (iv) Convalescent institutional care;

- 1 (v) Dental care and services;
- 2 (vi) Extended care;
- 3 (vii) Family planning or infertility services;
- 4 (viii) Health education services;
- 5 (ix) Home health care or medical social services;
- 6 (x) Inpatient hospital services;
- 7 (xi) Laboratory, radiological, or other diagnostic services;
- 8 (xii) Medical care and services;
- 9 (xiii) Mental health services;
- 10 (xiv) Nursing care and services;
- 11 (xv) Nursing home care;
- 12 (xvi) Optical care and services;
- 13 (xvii) Optometric care and services;
- 14 (xviii) Osteopathic care and services;
- 15 (xix) Outpatient services;
- 16 (xx) Pharmaceutical services;
- 17 (xxi) Physical therapy care and services;
- 18 (xxii) Podiatric care and services;
- 19 (xxiii) Preventive medical services;
- 20 (xxiv) Psychological care and services;
- 21 (xxv) Rehabilitative services;
- 22 (xxvi) Surgical care and services;
- 23 (xxvii) Treatment for alcoholism or drug abuse; and
- 24 (xxviii) Any other care, service, or treatment of disease or injury, the
- 25 correction of defects, or the maintenance of the physical and mental well-being of
- 26 human beings.

27 (f) "Health maintenance organization" means any person, including a profit  
28 or nonprofit corporation organized under the laws of any state or country, that:

- 1 (1) Operates or proposes to operate in this State;
- 2 (2) Except as provided in § 19-703(b) and (f) of this subtitle, provides or  
3 otherwise makes available to its members health care services that include at least  
4 physician, hospitalization, laboratory, X-ray, emergency, and preventive services,  
5 out-of-area coverage, and any other health care services that the Commissioner  
6 determines to be available generally on an insured or prepaid basis in the area  
7 serviced by the health maintenance organization, and, at the option of the health  
8 maintenance organization, may provide additional coverage;
- 9 (3) Except for any copayment or deductible arrangement, is compensated  
10 only on a predetermined periodic rate basis for providing to members the minimum  
11 services that are specified in item (2) of this subsection;
- 12 (4) Assures its subscribers and members, the Commissioner, and the  
13 Department that one clearly specified legal and administrative focal point or element  
14 of the health maintenance organization has the responsibility of providing the  
15 availability, accessibility, quality, and effective use of comprehensive health care  
16 services; and
- 17 (5) Primarily provides services of physicians OR PRIMARY CARE  
18 PROVIDERS:
- 19 (i) Directly through physicians OR PRIMARY CARE PROVIDERS who  
20 are either employees or partners of the health maintenance organization; or
- 21 (ii) Under arrangements with one or more groups of physicians OR  
22 PRIMARY CARE PROVIDERS, who are organized on a group practice or individual  
23 practice basis, under which each group:
- 24 1. Is compensated for its services primarily on the basis of an  
25 aggregate fixed sum or on a per capita basis; and
- 26 2. Is provided with an effective incentive to avoid  
27 unnecessary inpatient use, whether the individual physician OR PRIMARY CARE  
28 PROVIDER members of the group are paid on a fee-for-service or other basis.
- 29 (g) "Member" means a person who makes a contract or on whose behalf a  
30 contract is made with a health maintenance organization for health care services.
- 31 (H) "PRIMARY CARE PROVIDER" MEANS A PROVIDER:
- 32 (1) WHO IS THE PRIMARY PROVIDER AND COORDINATOR OF CARE FOR A  
33 MEMBER OR SUBSCRIBER; AND
- 34 (2) WHOSE RESPONSIBILITY IT IS TO PROVIDE ACCESSIBLE,  
35 CONTINUOUS, COMPREHENSIVE, AND COORDINATED HEALTH CARE SERVICES.

1 [(h)] (I) "Provider" means any person, including a physician or hospital, who  
2 is licensed, CERTIFIED, or otherwise authorized in this State to provide health care  
3 services.

4 [(i)] (J) "Subscriber" means a person who makes a contract with a health  
5 maintenance organization, either directly or through an insurer or marketing  
6 organization, under which the person or other designated persons are entitled to the  
7 health care services.

8 19-705.1.

9 (a) The Secretary shall adopt regulations that set out reasonable standards of  
10 quality of care that a health maintenance organization shall provide to its members.

11 (b) The standards of quality of care shall include:

12 (1) (i) A requirement that a health maintenance organization shall  
13 provide for regular hours during which a member may receive services, including  
14 providing for services to a member in a timely manner that takes into account the  
15 immediacy of need for services; and

16 (ii) Provisions for assuring that all covered services, including any  
17 services for which the health maintenance organization has contracted, are accessible  
18 to the enrollee with reasonable safeguards with respect to geographic locations.

19 (2) A requirement that a health maintenance organization shall have a  
20 system for providing a member with 24-hour access to a physician in cases where  
21 there is an immediate need for medical services, and for promoting timely access to  
22 and continuity of health care services for members, including:

23 (i) Providing 24-hour access by telephone to a person who is able  
24 to appropriately respond to calls from members and providers concerning after-hours  
25 care; and

26 (ii) Providing a 24-hour toll free telephone access system for use in  
27 hospital emergency departments in accordance with § 19-705.6 of this subtitle.

28 (3) A requirement that any nonparticipating provider shall submit to the  
29 health maintenance organization the appropriate documentation of the medical  
30 complaint of the member and the services rendered;

31 (4) A requirement that a health maintenance organization shall have a  
32 physician OR PRIMARY CARE PROVIDER available at all times to provide diagnostic  
33 and treatment services;

34 (5) A requirement that a health maintenance organization shall assure  
35 that:

36 (i) Each member who is seen for a medical complaint is evaluated  
37 under the direction of a physician OR PRIMARY CARE PROVIDER; and

1 (ii) Each member who receives diagnostic evaluation or treatment  
2 is under the direct medical management of a health maintenance organization  
3 physician OR PRIMARY CARE PROVIDER who provides continuing medical  
4 management; [and]

5 (6) A requirement that each member shall have an opportunity to select  
6 a primary physician from among those available to the health maintenance  
7 organization; AND

8 (7) NOTWITHSTANDING PARAGRAPH (6) OF THIS SUBSECTION, NOTHING  
9 IN THIS SECTION MAY BE CONSTRUED TO PREVENT A MEMBER OR SUBSCRIBER  
10 FROM HAVING THE OPPORTUNITY TO SELECT A PRIMARY CARE PROVIDER OF THEIR  
11 CHOICE FROM AMONG THOSE AVAILABLE TO THE HEALTH MAINTENANCE  
12 ORGANIZATION.

13 (c) (1) The health maintenance organization shall make available and  
14 encourage appropriate history and baseline examinations for each member within a  
15 reasonable time of enrollment set by it.

16 (2) Medical problems that are a potential hazard to the person's health  
17 shall be identified and a course of action to alleviate these problems outlined.

18 (3) Progress notes indicating success or failure of the course of action  
19 shall be recorded.

20 (4) The health maintenance organization shall:

21 (i) Offer or arrange for preventive services that include health  
22 education and counseling, early disease detection, and immunization;

23 (ii) Develop or arrange for periodic health education on subjects  
24 which impact on the health status of a member population; and

25 (iii) Notify every member in writing of the availability of these and  
26 other preventive services.

27 (5) The health maintenance organization shall offer services to prevent a  
28 disease if:

29 (i) The disease produces death or disability and exists in the  
30 member population;

31 (ii) The etiology of the disease is known or the disease can be  
32 detected at an early stage; and

33 (iii) Any elimination of factors leading to the disease or  
34 immunization has been proven to prevent its occurrence, or early disease detection  
35 followed by behavior modification, environmental modification, or medical  
36 intervention has been proven to prevent death or disability.

1 (d) (1) To implement these standards of quality of care, a health  
2 maintenance organization shall have a written plan that is updated and reviewed at  
3 least every 3 years.

4 (2) The plan shall include the following information:

5 (i) Statistics on age, sex, and other general demographic data used  
6 to determine the health care needs of its population;

7 (ii) Identification of the major health problems in the member  
8 population;

9 (iii) Identification of any special groups of members that have  
10 unique health problems, such as the poor, the elderly, the mentally ill, and  
11 educationally disadvantaged; and

12 (iv) A description of community health resources and how they will  
13 be used.

14 (3) The health maintenance organization shall state its priorities and  
15 objectives in writing, describing how the priorities and objectives relating to the  
16 health problems and needs of the member population will be provided for.

17 (4) (i) The health maintenance organization shall provide at the time  
18 membership is solicited a general description of the benefits and services available to  
19 its members, including benefit limitations and exclusions, location of facilities or  
20 providers, and procedures to obtain medical services.

21 (ii) The health maintenance organization shall place the following  
22 statement, in bold print, on every enrollment card or application: "If you have any  
23 questions concerning the benefits and services that are provided by or excluded under  
24 this agreement, please contact a membership services representative before signing  
25 this application or card".

26 (5) The plan shall contain evidence that:

27 (i) The programs and services offered are based on the health  
28 problems of and the community health services available to its member population;

29 (ii) There is an active program for preventing illness, disability, and  
30 hospitalization among its members; and

31 (iii) The services designed to prevent the major health problems  
32 identified among child and adult members and to improve their general health are  
33 provided by the health maintenance organization.

34 (e) (1) The health maintenance organization shall have an internal peer  
35 review system that will evaluate the utilization services and the quality of health  
36 care provided to its members.

- 1                   (2)     The review system shall:
- 2                   (i)     Provide for review by appropriate health professionals of the  
3 process followed in the provision of health services;
- 4                   (ii)    Use systematic data collection of performances and patient  
5 results;
- 6                   (iii)   Provide interpretation of this data to the practitioners;
- 7                   (iv)    Review and update continuing education programs for health  
8 professionals providing services to its members;
- 9                   (v)     Identify needed change and proposed modifications to  
10 implement the change; and
- 11                  (vi)    Maintain written records of the internal peer review process.
- 12   (f)   (1)     Except as provided in paragraph (5) of this subsection, the  
13 Department shall conduct an external review of the quality of the health services of  
14 the health maintenance organization in a manner that the Department considers to  
15 be appropriate.
- 16                  (2)     The external review shall be conducted by:
- 17                  (i)     A panel of physicians and other health professionals that  
18 consists of persons who:
- 19                               1.     Have been approved by the Department;
- 20                               2.     Have substantial experience in the delivery of health care  
21 in a health maintenance organization setting, but who are not members of the health  
22 maintenance organization staff or performing professional services for the health  
23 maintenance organization; and
- 24                               3.     Reside outside the area serviced by the health  
25 maintenance organization;
- 26                  (ii)    The Department; or
- 27                  (iii)   A federally-approved professional standards review  
28 organization.
- 29                  (3)     The final decision on the type of external review that is to be  
30 employed rests solely with the Secretary.
- 31                  (4)     The external review shall consist of a review and evaluation of:
- 32                               (i)     An internal peer review system and reports;



1 (ii) The program plan of the health maintenance organization to  
2 determine if it is adequate and being followed;

3 (iii) The professional standards and practices of the health  
4 maintenance organization in every area of services provided;

5 (iv) The grievances relating specifically to the delivery of medical  
6 care, including their final disposition;

7 (v) The physical facilities and equipment; and

8 (vi) A statistically representative sample of member records.

9 (5) (i) The Secretary may accept all or part of a report of an approved  
10 accrediting organization as meeting the external review requirements under this  
11 subtitle.

12 (ii) Except as provided in subparagraph (iii) of this paragraph, a  
13 report of an approved accrediting organization used by the Department as meeting  
14 the external review requirements under this subtitle shall be made available to the  
15 public on request.

16 (iii) The Department may not disclose and shall treat as  
17 confidential all confidential commercial and financial information contained in a  
18 report of an approved accrediting organization in accordance with § 10-617(d) of the  
19 State Government Article.

20 (iv) The Department may inspect a facility of a health maintenance  
21 organization to:

22 1. Determine compliance with any quality requirement  
23 established under this subtitle;

24 2. Follow up on a serious problem identified by an approved  
25 accrediting organization; or

26 3. Investigate a complaint.

27 (G) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B)(6) AND (7) OF  
28 THIS SECTION, NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT A  
29 HEALTH MAINTENANCE ORGANIZATION FROM DESIGNATING WHICH PHYSICIANS OR  
30 PROVIDERS FROM AMONG THOSE AVAILABLE TO THE HEALTH MAINTENANCE  
31 ORGANIZATION MAY BE CLASSIFIED AS PRIMARY CARE PROVIDERS.

32 19-712.

33 (a) Subject to the provisions of subsection (b) of this section, a person who  
34 holds a certificate of authority to operate a health maintenance organization under  
35 this subtitle may:

1 (1) Exercise the power that professional and other corporations,  
2 partnerships, associations, or other business entities have under their organizational  
3 documents and any laws of this State that do not conflict with this subtitle;

4 (2) Provide health care services to nonmembers who present themselves  
5 on other than a prepaid basis;

6 (3) Provide health care services on a prepaid basis through licensed,  
7 CERTIFIED, OR OTHERWISE AUTHORIZED providers of these services who are under  
8 contract with or employed by the health maintenance organization;

9 (4) Contract with any person to perform, on behalf of the health  
10 maintenance organization, functions such as marketing, enrollment, and  
11 administration;

12 (5) Contract for insurance, reinsurance, or indemnity or reimbursement  
13 against the cost of health care services provided by the health maintenance  
14 organization with:

15 (i) Any insurance company licensed to do health business in this  
16 State; or

17 (ii) Any hospital, nonprofit health service plan, medical health  
18 service, nursing service, optometric service, podiatry service, dental service,  
19 pharmaceutical service plan corporation, or similar entity authorized to do business  
20 in this State;

21 (6) Accept from government or private agencies payments that cover all  
22 or part of the cost of subscriptions to provide health care services, facilities,  
23 appliances, medicines, and supplies;

24 (7) Buy, lease, construct, renovate, operate, or maintain:

25 (i) A hospital, medical facility, and ancillary equipment; and

26 (ii) Property that is reasonably required for its principal office or  
27 for any other purpose necessary in the business of the health maintenance  
28 organization; and

29 (8) Offer indemnity benefits that cover out-of-area and emergency  
30 services.

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