HOUSE BILL 182

Unofficial Copy 1999 Regular Session
C3 (9lr0210)

ENROLLED BILL

-- Economic Matters/Finance --

Introduced by **The Speaker (Administration) and Delegates Goldwater, R. Baker, Bobo, Conroy, D. Davis, Edwards, Frush, Guns, Hecht, Hubbard, Hubers, Mandel, Morhaim, Nathan-Pulliam, Oaks, Pitkin, Turner, ~~and Weir~~ Weir, K. Kelly, Barve, Brown, Busch, Donoghue, Eckardt, Fulton, Gordon, Harrison, Hill, Kach, J. Kelly, Kirk, Krysiak, La Vay, Love, McClenahan, McHale, Minnick, Mitchell, Moe, Pendergrass, ~~and Walkup~~, Walkup, Barkley, Carlson, and Stern**

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.

_____
Speaker.

CHAPTER_____

AN ACT concerning

Patients' Bill of Rights Act of 1999

FOR the purpose of requiring certain health insurance carriers to establish and implement a procedure that provides for a standing referral to a specialist under specified circumstances; prohibiting certain health insurance carriers from imposing a certain requirement; ~~requiring certain health insurance carriers to establish and implement a procedure that allows a specialist to act as a primary care coordinator under specified circumstances;~~ requiring certain health insurance carriers to establish and implement a procedure that provides for a referral to a specialist who is not part of a carrier's provider panel under specified circumstances; providing that a decision by a carrier *or a certain entity*

not to provide access to or coverage of certain treatments *or certain prescription drugs or devices* ~~or certain prescription drugs or devices~~ constitutes an adverse decision under certain circumstances; requiring certain health insurance ~~carriers~~ *entities* to establish and implement a procedure that provides for coverage of certain prescription drugs and devices under specified circumstances; requiring the Maryland Insurance Administration to serve as the single point of entry for consumers to access certain information regarding health insurance; providing for the funding of certain activities of the Maryland Insurance Administration; requiring the Maryland Insurance Administration to adopt certain regulations; *requiring certain health insurance entities to provide certain home visits to certain individuals who have undergone certain procedures; requiring the Secretary of Health and Mental Hygiene to conduct a certain review and submit a certain report; requiring the Maryland Insurance Administration, in consultation with the Health Care Access and Cost Commission, to perform a certain study and present findings to the House Economic Matters Committee and the Senate Finance Committee by certain dates; providing for the termination of certain provisions of this Act;* ~~requiring certain health insurance carriers to provide a certain minimum length of inpatient hospitalization coverage after a mastectomy, removal of a testicle, lymph node dissection, or lumpectomy that is performed for the treatment of breast or testicular cancer;~~ defining certain terms; ~~providing for the termination of certain provisions of this Act;~~ providing for the application of this Act; and generally relating to health insurance, coverage, and access to services.

BY adding to
Article - Health - General
Section 19-706(ff)
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,
Article - Insurance
Section 2-112.2(b), 2-112.3, and 15-10A-09(b)
Annotated Code of Maryland
(1997 Volume and 1998 Supplement)

BY repealing and reenacting, without amendments,
Article - Insurance
Section 2-301 through 2-305
Annotated Code of Maryland
(1997 Volume and 1998 Supplement)

BY adding to
Article - Insurance
Section 2-303.1, 15-829, ~~and~~ 15-830, *and 15-831* ~~, and 15-831~~
Annotated Code of Maryland

(1997 Volume and 1998 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article - Insurance~~
~~Section 15-10A-09(b)~~
~~Annotated Code of Maryland~~
~~(1997 Volume and 1998 Supplement)~~

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

Article - Health - General

19-706.

(FF) THE PROVISIONS OF §§ 15-829~~, 15-830, AND 15-831~~ ~~AND 15-830~~, *15-830, AND 15-831* OF THE INSURANCE ARTICLE SHALL APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article - Insurance

2-112.2.

(b) The Commissioner shall:

(1) collect a health care regulatory assessment from each carrier for the costs attributable to the implementation of § 2-303.1 OF THIS TITLE AND Title 15, Subtitles 10A, 10B, and 10C of this article; and

(2) deposit the amounts collected under paragraph (1) of this subsection into the Health Care Regulatory Fund established in § 2-112.3 of this subtitle.

2-112.3.

(a) In this section, "Fund" means the Health Care Regulatory Fund.

(b) There is a Health Care Regulatory Fund.

(c) The purpose of the Fund is to pay all costs and expenses incurred by the Administration related to the implementation of § 2-303.1 OF THIS TITLE AND Title 15, Subtitles 10A, 10B, and 10C of this article.

(d) The Fund shall consist of:

(1) all revenue deposited into the Fund that is received through the imposition and collection of the health care regulatory assessment under § 2-112.2 of this subtitle; and

(2) income from investments that the State Treasurer makes for the Fund.

(e) (1) Expenditures from the Fund to cover the costs and expenses for the implementation of § 2-303.1 OF THIS TITLE AND Title 15, Subtitles 10A, 10B, and 10C of this article may only be made:

(i) with an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) by the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

(2) (i) If, in any given fiscal year, the amount of the health care regulatory assessment revenue collected by the Commissioner and deposited into the Fund exceeds the actual expenditures incurred by the Administration for the implementation of § 2-303.1 OF THIS TITLE AND Title 15, Subtitles 10A, 10B, and 10C of this article, the excess amount shall be carried forward within the Fund for the purpose of reducing the assessment imposed by the Administration for the following fiscal year.

(ii) If, in any given fiscal year, the amount of the health care regulatory assessment revenue collected by the Commissioner and deposited into the Fund is insufficient to cover the actual expenditures incurred by the Administration to implement § 2-303.1 OF THIS TITLE AND Title 15, Subtitles 10A, 10B, and 10C of this article because of an unforeseen emergency and expenditures are made in accordance with the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article, an additional health care regulatory assessment may be made.

(f) (1) The State Treasurer is the custodian of the Fund.

(2) The Fund shall be invested and reinvested in the same manner as State funds.

(3) The State Treasurer shall deposit payments received from the Commissioner into the Fund.

(g) (1) The Fund is a continuing, nonlapsing fund and is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) No part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) a special fund of the State, unless otherwise provided by law.

2-301.

In this subtitle, "Program" means the Consumer Education and Advocacy Program.

2-302.

(a) There is a Consumer Education and Advocacy Program.

(b) The Commissioner may use the Consumer Affairs Unit of the Administration to carry out the Program.

2-303.

The purposes of the Program include:

(1) providing information and helping consumers with the procedures for filing a complaint with the Commissioner against any person regulated by this article;

(2) on request, giving information about an insurer to the extent that the information lawfully is disclosable; and

(3) developing an information and assistance system to provide information about and to help consumers with:

(i) personal insurance coverages, including health insurance and life insurance coverages;

(ii) underwriting practices;

(iii) general rating concepts;

(iv) claim procedures of insurers; and

(v) any other relevant services.

2-303.1.

(A) THE ADMINISTRATION SHALL SERVE AS THE SINGLE POINT OF ENTRY FOR CONSUMERS TO ACCESS ANY AND ALL INFORMATION REGARDING HEALTH INSURANCE AND THE DELIVERY OF HEALTH CARE AS IT RELATES TO HEALTH INSURANCE, INCLUDING INFORMATION PREPARED OR COLLECTED BY:

(1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(2) THE HEALTH CARE ACCESS AND COST COMMISSION;

(3) THE HEALTH SERVICES COST REVIEW COMMISSION;

(4) THE HEALTH RESOURCES PLANNING COMMISSION; ~~AND~~

(5) THE DEPARTMENT OF AGING; AND

~~(5)~~ (6) THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE ATTORNEY GENERAL'S OFFICE.

(B) (1) THE ADMINISTRATION, IN COOPERATION WITH THE ENTITIES LISTED IN SUBSECTION (A) OF THIS SECTION AND ANY OTHER PERSON IT DEEMS APPROPRIATE, SHALL PROMOTE THE AVAILABILITY OF THE INFORMATION.

(2) THE HEALTH CARE ACCESS AND COST COMMISSION SHALL ASSIST THE ADMINISTRATION IN PRESENTING THE INFORMATION IN A FORMAT THAT IS EASILY UNDERSTANDABLE FOR CONSUMERS.

(C) IMPLEMENTATION OF THIS SECTION BY THE ADMINISTRATION SHALL BE FUNDED THROUGH THE HEALTH CARE REGULATORY FUND ESTABLISHED UNDER § 2-112.3 OF THIS TITLE.

2-304.

(a) To carry out the Program, the Commissioner may employ a staff in accordance with the State budget.

(b) The Commissioner may designate a member of the staff of the Program to represent the interests of consumers in any Administration proceeding that is open to the public, including:

(1) an informational hearing; and

(2) a hearing or review of insurance rates or forms.

2-305.

(a) The Commissioner may adopt regulations to carry out the Program.

(b) Each year, the Commissioner shall evaluate the Program.

15-829.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CARRIER" MEANS:

(I) AN INSURER THAT OFFERS HEALTH INSURANCE OTHER THAN LONG-TERM CARE INSURANCE OR DISABILITY INSURANCE;

(II) A NONPROFIT HEALTH SERVICE PLAN;

(III) A HEALTH MAINTENANCE ORGANIZATION; ~~OR~~

(IV) A DENTAL PLAN ORGANIZATION; OR

~~(IV)~~ (V) EXCEPT FOR A MANAGED CARE ORGANIZATION AS DEFINED IN TITLE 15, SUBTITLE 1 OF THE HEALTH - GENERAL ARTICLE, ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO STATE REGULATION.

(3) (I) "MEMBER" MEANS AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS UNDER A POLICY~~,~~ *OR* PLAN~~, OR CERTIFICATE~~ ISSUED OR DELIVERED IN THE STATE BY A CARRIER.

(II) "MEMBER" INCLUDES A SUBSCRIBER.

(4) "PROVIDER PANEL" MEANS THOSE PROVIDERS WITH WHICH A CARRIER CONTRACTS TO PROVIDE SERVICES TO ITS MEMBERS.

(5) ~~"SPECIALIST" MEANS A PHYSICIAN WHO IS NOT A PRIMARY CARE PROVIDER.~~ ~~"SPECIALIST" MEANS AN INDIVIDUAL WHO:~~

~~(I) IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION; AND~~

~~(II) IS NOT A PRIMARY CARE PHYSICIAN.~~ *"SPECIALIST" MEANS A PHYSICIAN WHO IS CERTIFIED OR TRAINED TO PRACTICE IN A SPECIFIED FIELD OF MEDICINE AND WHO IS NOT DESIGNATED AS A PRIMARY CARE PROVIDER BY THE CARRIER.*

(B) (1) EACH CARRIER THAT DOES NOT ALLOW DIRECT ACCESS TO SPECIALISTS SHALL ESTABLISH AND IMPLEMENT A PROCEDURE BY WHICH A MEMBER MAY RECEIVE A STANDING REFERRAL TO A SPECIALIST IN ACCORDANCE WITH THIS SUBSECTION.

(2) THE PROCEDURE SHALL PROVIDE FOR A STANDING REFERRAL TO A SPECIALIST IF:

(I) THE PRIMARY CARE ~~PROVIDER~~ PHYSICIAN OF THE MEMBER DETERMINES, IN CONSULTATION WITH THE SPECIALIST, THAT THE MEMBER NEEDS CONTINUING CARE FROM THE SPECIALIST;

(II) THE MEMBER HAS A CONDITION OR DISEASE THAT:

1. IS LIFE THREATENING, DEGENERATIVE, CHRONIC, OR DISABLING; AND

2. REQUIRES SPECIALIZED MEDICAL CARE; AND

(III) THE SPECIALIST:

1. HAS EXPERTISE IN TREATING THE LIFE-THREATENING, DEGENERATIVE, CHRONIC, OR DISABLING DISEASE OR CONDITION; AND

2. IS PART OF THE CARRIER'S PROVIDER PANEL.

(3) A STANDING REFERRAL SHALL BE MADE IN ACCORDANCE WITH A WRITTEN TREATMENT PLAN ~~THAT IS APPROVED BY THE CARRIER IN CONSULTATION WITH:~~ FOR A COVERED SERVICE DEVELOPED BY:

(I) THE PRIMARY CARE ~~PROVIDER~~ PHYSICIAN;

(II) THE SPECIALIST; AND

(III) THE MEMBER.

(4) A TREATMENT PLAN MAY:

(I) LIMIT THE NUMBER OF VISITS TO THE SPECIALIST;

(II) LIMIT THE PERIOD OF TIME IN WHICH VISITS TO THE SPECIALIST ARE AUTHORIZED; AND

(III) REQUIRE THE SPECIALIST TO COMMUNICATE REGULARLY WITH THE PRIMARY CARE ~~PROVIDER~~ PHYSICIAN REGARDING THE TREATMENT AND HEALTH STATUS OF THE MEMBER.

(5) THE PROCEDURE BY WHICH A MEMBER MAY RECEIVE A STANDING REFERRAL TO A SPECIALIST MAY NOT INCLUDE A REQUIREMENT THAT A MEMBER SEE A PROVIDER IN ADDITION TO THE PRIMARY CARE PHYSICIAN BEFORE THE STANDING REFERRAL IS GRANTED.

~~(C) (1) EACH CARRIER THAT DOES NOT ALLOW DIRECT ACCESS TO SPECIALISTS SHALL ESTABLISH AND IMPLEMENT A PROCEDURE BY WHICH A SPECIALIST MAY ACT AS THE PRIMARY A CARE COORDINATOR FOR THE TREATMENT OF A SPECIFIC DISEASE OR CONDITION IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(2) THE PROCEDURE SHALL AUTHORIZE A SPECIALIST TO ACT AS THE PRIMARY CARE COORDINATOR FOR THE TREATMENT OF A SPECIFIC DISEASE OR CONDITION OF A MEMBER IF:~~

~~(I) THE MEMBER HAS A DISEASE OR CONDITION THAT:~~

~~1. IS LIFE THREATENING, DEGENERATIVE, CHRONIC, OR DISABLING; AND~~

~~2. REQUIRES SPECIALIZED MEDICAL CARE FOR AT LEAST 1 YEAR;~~

~~(II) THE MEMBER REQUESTS THAT A SPECIALIST ACT AS THE MEMBER'S PRIMARY CARE COORDINATOR WITHIN 30 DAYS AFTER:~~

~~1. ENROLLMENT; OR~~

~~2. THE MEMBER IS DIAGNOSED WITH A LIFE-THREATENING, DEGENERATIVE, CHRONIC, OR DISABLING DISEASE OR CONDITION; AND THE CARRIER, THE PRIMARY CARE PHYSICIAN, AND THE SPECIALIST DETERMINE THAT THE MEMBER'S CARE WOULD MOST APPROPRIATELY BE COORDINATED BY A SPECIALIST FOR THE SPECIFIC DISEASE OR CONDITION; AND~~

~~(III) THE SPECIALIST:~~

~~1. HAS EXPERTISE IN TREATING THE LIFE-THREATENING, DEGENERATIVE, CHRONIC, OR DISABLING DISEASE OR CONDITION; AND~~

~~2. IS PART OF THE CARRIER'S PROVIDER PANEL.~~

~~(3) IF A SPECIALIST ACTS AS THE PRIMARY CARE COORDINATOR FOR A MEMBER IN ACCORDANCE WITH THIS SUBSECTION, THE SPECIALIST SHALL:~~

~~(I) ACT IN ACCORDANCE WITH A WRITTEN TREATMENT PLAN THAT IS APPROVED BY THE CARRIER IN CONSULTATION WITH: FOR A COVERED SERVICE DEVELOPED BY:~~

~~1. THE PRIMARY CARE PROVIDER PHYSICIAN;~~

~~2. THE SPECIALIST; AND~~

~~3. THE MEMBER; AND~~

~~(II) COMMUNICATE REGULARLY WITH THE PRIMARY CARE PROVIDER PHYSICIAN REGARDING THE TREATMENT AND HEALTH STATUS OF THE MEMBER.~~

~~(D)~~ *(C)* (1) EACH CARRIER SHALL ESTABLISH AND IMPLEMENT A PROCEDURE BY WHICH A MEMBER MAY REQUEST A REFERRAL TO A SPECIALIST WHO IS NOT PART OF THE CARRIER'S PROVIDER PANEL IN ACCORDANCE WITH THIS SUBSECTION.

(2) THE PROCEDURE SHALL PROVIDE FOR A REFERRAL TO A SPECIALIST WHO IS NOT PART OF THE CARRIER'S PROVIDER PANEL IF:

(I) THE MEMBER IS DIAGNOSED WITH A CONDITION OR DISEASE THAT REQUIRES SPECIALIZED MEDICAL CARE;

(II) THE CARRIER DOES NOT HAVE IN ITS PROVIDER PANEL A SPECIALIST WITH THE ~~SAME~~ PROFESSIONAL TRAINING AND EXPERTISE ~~AS THE SPECIALIST FROM WHOM THE MEMBER SEEKS TREATMENT;~~ TO TREAT THE CONDITION OR DISEASE; AND

~~(III) THE SPECIALIST HAS EXPERTISE IN TREATING THE DISEASE OR CONDITION; AND~~

~~(IV)~~ THE SPECIALIST AGREES TO ACCEPT THE SAME REIMBURSEMENT AS WOULD BE PROVIDED TO A SPECIALIST WHO IS PART OF THE CARRIER'S PROVIDER PANEL.

~~(E) A DECISION BY A CARRIER NOT TO PROVIDE ACCESS TO OR COVERAGE OF TREATMENT BY A SPECIALIST UNDER A PROCEDURE REQUIRED UNDER THIS SECTION CONSTITUTES AN ADVERSE DECISION AS DEFINED UNDER SUBTITLE 10A OF THIS TITLE.~~

~~(E)~~ *(D)* A DECISION BY A CARRIER NOT TO PROVIDE ACCESS TO OR COVERAGE OF TREATMENT BY A SPECIALIST IN ACCORDANCE WITH THIS SECTION CONSTITUTES AN ADVERSE DECISION AS DEFINED UNDER SUBTITLE 10A OF THIS TITLE IF THE DECISION IS BASED ON A FINDING THAT THE PROPOSED SERVICE IS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT.

~~(F)~~ *(E)* EACH CARRIER SHALL FILE WITH THE COMMISSIONER A COPY OF EACH OF THE PROCEDURES REQUIRED UNDER THIS SECTION.

15-830.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "AUTHORIZED PRESCRIBER" HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.

~~(2)~~ (3) "FORMULARY" MEANS A LIST OF PRESCRIPTION DRUGS OR DEVICES THAT ARE COVERED BY AN ENTITY SUBJECT TO THIS SECTION.

~~(3)~~ (4) (I) "MEMBER" MEANS AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS FOR PRESCRIPTION DRUGS OR DEVICES UNDER A POLICY ISSUED OR DELIVERED IN THE STATE BY AN ENTITY SUBJECT TO THIS SECTION.

(II) "MEMBER" INCLUDES A SUBSCRIBER.

(B) (1) THIS SECTION APPLIES TO:

(I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS AND DEVICES UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE COVERAGE FOR PRESCRIPTION DRUGS AND DEVICES UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(2) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND DEVICES THROUGH A PHARMACY BENEFIT MANAGER IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

~~(2)~~ *(3)* THIS SECTION DOES NOT APPLY TO A MANAGED CARE ORGANIZATION AS DEFINED IN § 15-101 OF THE HEALTH - GENERAL ARTICLE.

(C) EACH ENTITY SUBJECT TO THIS SECTION THAT LIMITS ITS COVERAGE OF PRESCRIPTION DRUGS OR DEVICES TO THOSE IN A FORMULARY SHALL ESTABLISH AND IMPLEMENT A PROCEDURE BY WHICH A MEMBER MAY RECEIVE A PRESCRIPTION DRUG OR DEVICE THAT IS NOT IN THE *ENTITY'S* FORMULARY IN ACCORDANCE WITH THIS SECTION.

(D) THE PROCEDURE SHALL PROVIDE FOR COVERAGE FOR A PRESCRIPTION DRUG OR DEVICE THAT IS NOT IN THE FORMULARY IF, IN THE JUDGMENT OF THE ~~PHYSICIAN WHO IS CARING FOR THE MEMBER~~ AUTHORIZED PRESCRIBER:

(1) ~~(I) THE PRESCRIPTION DRUG OR DEVICE THAT IS NOT IN THE FORMULARY IS MEDICALLY NECESSARY; AND~~

~~(II)~~ THERE IS NO EQUIVALENT PRESCRIPTION DRUG OR DEVICE IN THE *ENTITY'S* FORMULARY; OR

(2) ~~THE MEMBER IS IN THE MIDST OF A COURSE OF TREATMENT WITH THE PRESCRIPTION DRUG OR DEVICE THAT IS NOT IN THE FORMULARY; OR~~

~~(3)~~ AN EQUIVALENT PRESCRIPTION DRUG OR DEVICE IN THE *ENTITY'S* FORMULARY:

(I) HAS BEEN INEFFECTIVE IN TREATING THE DISEASE OR CONDITION OF THE MEMBER; OR

(II) HAS CAUSED OR IS LIKELY TO CAUSE AN ADVERSE REACTION OR OTHER HARM TO THE MEMBER.

~~(E) A MEMBER WHO OBTAINS A PRESCRIPTION DRUG OR DEVICE UNDER THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEE OR COPAYMENT OTHER THAN THAT REQUIRED FOR A PRESCRIPTION DRUG OR DEVICE IN THE FORMULARY.~~

~~(F) A DECISION BY A CARRIER TO NOT PROVIDE ACCESS TO OR COVERAGE OF A PRESCRIPTION DRUG OR DEVICE UNDER THE PROCEDURE REQUIRED UNDER THIS SECTION CONSTITUTES AN ADVERSE DECISION AS DEFINED UNDER SUBTITLE 10A OF THIS TITLE.~~

(E) A DECISION BY AN ENTITY SUBJECT TO THIS SECTION NOT TO PROVIDE ACCESS TO OR COVERAGE OF A PRESCRIPTION DRUG OR DEVICE IN ACCORDANCE WITH THIS SECTION CONSTITUTES AN ADVERSE DECISION AS DEFINED UNDER SUBTITLE 10A OF THIS TITLE IF THE DECISION IS BASED ON A FINDING THAT THE PROPOSED DRUG OR DEVICE IS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT.

15-10A-09.

(b) In addition to the requirements of subsection (a) of this section, [on or before January 1, 1999,] the Commissioner shall adopt by regulation a requirement that each carrier provide a mechanism in a form and manner that the Commissioner may require to enable a member to:

(1) be informed of the member's right to challenge a decision made by a carrier that resulted in the nonpayment of a health care service; AND

(2) ACCESS THE CONSUMER EDUCATION AND ADVOCACY PROGRAM IN THE ADMINISTRATION.

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

Article - Insurance

15-831.

(A) IN THIS SECTION, "MASTECTOMY" MEANS THE SURGICAL REMOVAL OF ALL OR PART OF A BREAST AS A RESULT OF BREAST CANCER.

(B) THIS SECTION APPLIES TO:

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) FOR A PATIENT WHO RECEIVES LESS THAN 48 HOURS OF INPATIENT HOSPITALIZATION FOLLOWING A MASTECTOMY OR THE SURGICAL REMOVAL OF A TESTICLE, OR WHO UNDERGOES A MASTECTOMY OR THE SURGICAL REMOVAL OF A TESTICLE ON AN OUTPATIENT BASIS, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR:

(1) ONE HOME VISIT SCHEDULED TO OCCUR WITHIN 24 HOURS AFTER DISCHARGE FROM THE HOSPITAL OR OUTPATIENT HEALTH CARE FACILITY; AND

(2) AN ADDITIONAL HOME VISIT IF PRESCRIBED BY THE PATIENT'S ATTENDING PHYSICIAN.

(D) EACH ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE NOTICE ANNUALLY TO ITS ENROLLEES AND INSUREDS ABOUT THE COVERAGE REQUIRED UNDER THIS SECTION.

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

~~**Article - Insurance**~~

~~15-831.~~

~~(A) IN THIS SECTION, "MASTECTOMY" MEANS THE SURGICAL REMOVAL OF ALL OR PART OF A BREAST AS A RESULT OF BREAST CANCER.~~

~~(B) THIS SECTION APPLIES TO:~~

~~(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND~~

~~(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE INPATIENT HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.~~

~~(C) EACH ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR THE COST OF INPATIENT HOSPITALIZATION SERVICES FOR A MINIMUM OF:~~

~~(1) 48 HOURS OF INPATIENT HOSPITALIZATION CARE AFTER A MASTECTOMY OR AFTER THE REMOVAL OF A TESTICLE DUE TO TESTICULAR CANCER; AND~~

~~(2) 24 HOURS OF INPATIENT HOSPITALIZATION CARE AFTER A LYMPH NODE DISSECTION OR LUMPECTOMY FOR THE TREATMENT OF BREAST CANCER.~~

~~(D) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THE PROVISION OF INPATIENT HOSPITALIZATION SERVICES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IF A PATIENT DETERMINES, IN CONSULTATION WITH THE PATIENT'S ATTENDING PHYSICIAN, THAT:~~

~~(1) A SHORTER PERIOD OF INPATIENT HOSPITALIZATION IS APPROPRIATE FOR RECOVERY; OR~~

~~(2) THE MASTECTOMY, REMOVAL OF A TESTICLE, LYMPH NODE DISSECTION, OR LUMPECTOMY CAN BE PERFORMED ON AN OUTPATIENT BASIS.~~

~~(E) FOR A PATIENT WHO HAS A SHORTER LENGTH OF STAY THAN THAT PROVIDED UNDER SUBSECTION (C) OF THIS SECTION OR DECIDES THAT THE MASTECTOMY, REMOVAL OF A TESTICLE, LYMPH NODE DISSECTION, OR LUMPECTOMY CAN BE PERFORMED ON AN OUTPATIENT BASIS, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR:~~

~~(1) ONE HOME VISIT SCHEDULED TO OCCUR WITHIN 24 HOURS AFTER DISCHARGE FROM THE HOSPITAL OR OUTPATIENT HEALTH CARE FACILITY; AND~~

~~(2) AN ADDITIONAL HOME VISIT IF PRESCRIBED BY THE PATIENT'S ATTENDING PHYSICIAN.~~

~~(F) EACH ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE NOTICE ANNUALLY TO ITS ENROLLEES AND INSUREDS ABOUT THE COVERAGE REQUIRED UNDER THIS SECTION.~~

~~SECTION 3.~~ SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall apply to all ~~new policies or health benefit plans issued or delivered in the State on or after July 1, 1999, and to the renewal of all policies in effect before July 1, 1999, except that any policy or health benefit plan in effect before July 1, 1999, shall comply~~

~~with the provisions of this Act no later than July 1, 2000~~ policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after ~~July~~ *October* 1, 1999. Any policy, *contract,* or health benefit plan in effect before ~~July~~ *October* 1, 1999, shall comply with the provisions of this Act no later than ~~July~~ *October* 1, 2000.

SECTION 4. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall review the extent to which managed care organizations in the Medical Assistance Program are required to meet the same or similar requirements imposed on carriers under this Act, and, subject to § 2-1246 of the State Government Article, shall report the findings of the review by November 1, 1999 to the Senate Finance Committee and the House Economic Matters Committee. If the Secretary finds that managed care organizations are not required to meet the same or similar requirements, the Secretary shall also report the cost of imposing those requirements on the managed care organizations.

SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration, in consultation with the Health Care Access and Cost Commission, shall study the usual, customary, and reasonable rates paid by health maintenance organizations for the claims of non-contracting health care providers under the provisions of § 19-710.1 of the Health - General Article. The study shall include a review of methodologies for rates of payment for services provided by non-contracting health care providers in the State. The findings of the study shall be presented in an interim report submitted on or before January 1, 2000 and, subject to § 2-1246 of the State Government Article, a final report submitted on or before September 1, 2000 to the House Economic Matters Committee and the Senate Finance Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall take effect June 1, 1999.

~~SECTION 4.~~ SECTION ~~3.~~ *7.* AND BE IT FURTHER ENACTED, That*, except as provided in Section 6 of this Act,* this Act shall take effect ~~July~~ *October* 1, 1999. *Section 2 of this Act shall remain effective for a period of 4 years and, at the end of September 30, 2003, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.* ~~Section 2 of this Act shall remain effective for a period of 4 years and, at the end of June 30, 2003, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.~~