
By: **Delegates Kach, Donoghue, and Goldwater**
Introduced and read first time: February 11, 1999
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Maintenance Organizations - Enrollees and Subscribers - Private**
3 **Contracts for Health Care Services**

4 FOR the purpose of narrowing the scope of a provision that provides that an enrollee
5 or subscriber of a health maintenance organization is not liable to any health
6 care provider for certain services to make this provision applicable only to a
7 health care provider under written contract with the health maintenance
8 organization; narrowing the scope of certain provisions that prohibit a health
9 care provider or representative of a health care provider from collecting certain
10 money from an enrollee or subscriber of a health maintenance organization to
11 make these provisions applicable only to a health care provider or
12 representative of a health care provider who is under written contract with the
13 health maintenance organization; establishing that an enrollee or subscriber of
14 a health maintenance organization is not prohibited from privately contracting
15 with a health care provider who is not under contract with the health
16 maintenance organization for the provision of health care services; and
17 generally relating to health maintenance organizations and health care
18 providers.

19 BY repealing and reenacting, with amendments,
20 Article - Health - General
21 Section 19-710(o) and 19-710.1
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1998 Supplement)

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

26 **Article - Health - General**

27 19-710.

28 (o) (1) Except as provided in paragraph (3) of this subsection, individual
29 enrollees and subscribers of A health maintenance [organizations] ORGANIZATION
30 THAT IS issued [certificates] A CERTIFICATE of authority to operate in this State

1 shall not be liable to any health care provider UNDER WRITTEN CONTRACT WITH THE
2 HEALTH MAINTENANCE ORGANIZATION for any covered services provided to the
3 enrollee or subscriber.

4 (2) (i) A health care provider UNDER WRITTEN CONTRACT WITH A
5 HEALTH MAINTENANCE ORGANIZATION or any representative of a health care
6 provider UNDER WRITTEN CONTRACT WITH A HEALTH MAINTENANCE
7 ORGANIZATION may not collect or attempt to collect from any subscriber or enrollee
8 any money owed to the health care provider by a health maintenance organization
9 issued a certificate of authority to operate in this State.

10 (ii) A health care provider UNDER WRITTEN CONTRACT WITH THE
11 HEALTH MAINTENANCE ORGANIZATION or any representative of a health care
12 provider UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE
13 ORGANIZATION may not maintain any action against any subscriber or enrollee to
14 collect or attempt to collect any money owed to the health care provider by a health
15 maintenance organization issued a certificate of authority to operate in this State.

16 (3) Notwithstanding any other provision of this subsection, a health care
17 provider UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE
18 ORGANIZATION or representative of a health care provider UNDER WRITTEN
19 CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION may collect or attempt
20 to collect from a subscriber or enrollee:

21 (i) Any copayment or coinsurance sums owed by the subscriber or
22 enrollee to a health maintenance organization issued a certificate of authority to
23 operate in this State for covered services provided by the health care provider; or

24 (ii) Any payment or charges for services not covered under the
25 subscriber's OR ENROLLEE'S contract.

26 19-710.1.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) "Enrollee" means a subscriber or member of the health maintenance
29 organization.

30 (3) "Covered service" means a health care service included in the benefit
31 package of the health maintenance organization and rendered to an enrollee of the
32 health maintenance organization by a health care provider, including a physician or
33 hospital, not under written contract with the health maintenance organization:

34 (i) Pursuant to a verbal or written referral by the enrollee's health
35 maintenance organization or by a provider under written contract with the enrollee's
36 health maintenance organization; or

37 (ii) That has been preauthorized or otherwise approved either
38 verbally or in writing by the enrollee's health maintenance organization or a provider
39 under written contract with the enrollee's health maintenance organization.

1 (4) "Adjunct claims documentation" means an abstract of an enrollee's
2 medical record which describes and summarizes the diagnosis and treatment of, and
3 services rendered to, the enrollee.

4 (b) (1) In addition to any other provisions of this subtitle, for a covered
5 service rendered to an enrollee of a health maintenance organization by a health care
6 provider not under written contract with the health maintenance organization, the
7 health maintenance organization or its agent:

8 (i) Shall pay the health care provider within 30 days after the
9 receipt of a claim in accordance with the applicable provisions of this subtitle; and

10 (ii) Shall pay the claim submitted by:

11 1. A hospital at the rate approved by the Health Services
12 Cost Review Commission; and

13 2. Any other health care provider at the rate billed or at the
14 usual, customary, and reasonable rate.

15 (2) A health maintenance organization that pays a health care provider
16 at the usual, customary, and reasonable rate:

17 (i) Except for services rendered to medical assistance recipients or
18 for services rendered under a contract entered into under § 1876(g) of the federal
19 Social Security Act (42 U.S.C. § 1395mm), may not use Medicare, Medicaid, or
20 workers' compensation payments as part of any methodology used to determine a
21 payment at the usual, customary, and reasonable rate; and

22 (ii) On request of the health care provider, shall disclose the
23 methodology used to determine the amount of payment.

24 (c) (1) A health maintenance organization may seek reimbursement from an
25 enrollee for any payment under subsection (b) of this section for a claim or portion of
26 a claim submitted by a health care provider and paid by the health maintenance
27 organization that the health maintenance organization determines is the
28 responsibility of the enrollee.

29 (2) The health maintenance organization may request and the health
30 care provider shall provide adjunct claims documentation to assist in making the
31 determination under paragraph (1) of this subsection or under subsection (b) of this
32 section.

33 (d) THIS SECTION DOES NOT PROHIBIT AN ENROLLEE FROM PRIVATELY
34 CONTRACTING WITH A HEALTH CARE PROVIDER NOT UNDER CONTRACT WITH THE
35 HEALTH MAINTENANCE ORGANIZATION FOR THE PROVISION OF HEALTH CARE
36 SERVICES.

37 (E) In addition to any other penalties under this subtitle, the Commissioner
38 may impose a penalty not to exceed \$5,000 on any health maintenance organization

1 which violates the provisions of this section if the violation is committed with such
2 frequency as to indicate a general business practice of the health maintenance
3 organization.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1999.