
By: **Delegates Kach, Donoghue, and Goldwater**
Introduced and read first time: February 11, 1999
Assigned to: Environmental Matters
Reassigned: Economic Matters, February 18, 1999

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 27, 1999

CHAPTER _____

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 authorizing certain health care providers to collect or attempt to~~
19 ~~collect payment for certain health care services from certain individuals in~~
20 ~~certain circumstances; requiring the Insurance Administration, in consultation~~
21 ~~with the Health Advocacy Unit of the Office of the Attorney General, to develop~~
22 ~~the format and content of a certain waiver form; requiring the Insurance~~
23 ~~Administration, in consultation with the Health Care Access and Cost~~
24 ~~Commission, to perform a certain study and present findings to the House~~
25 ~~Economic Matters Committee and Senate Finance Committee by certain dates;~~
26 ~~providing for the effective dates of the provisions of this Act; making certain~~
27 ~~stylistic changes; and generally relating to health maintenance organizations~~

1 and health care providers.

2 BY repealing and reenacting, with amendments,

3 Article - Health - General

4 Section 19-710(o) ~~and 19-710.1~~

5 Annotated Code of Maryland

6 (1996 Replacement Volume and 1998 Supplement)

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 19-710.

11 (o) (1) Except as provided in ~~paragraph (3)~~ **PARAGRAPHS (3) AND (4)** of this
 12 subsection, individual enrollees and subscribers of A health maintenance
 13 [organizations] ORGANIZATION THAT IS issued [certificates] A CERTIFICATE of
 14 authority to operate in this State shall not be liable to any health care provider
 15 ~~UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION~~ for
 16 any covered services provided to the enrollee or subscriber.

17 (2) (i) A health care provider ~~UNDER WRITTEN CONTRACT WITH A~~
 18 ~~HEALTH MAINTENANCE ORGANIZATION~~ or any representative of a health care
 19 provider ~~UNDER WRITTEN CONTRACT WITH A HEALTH MAINTENANCE~~
 20 ~~ORGANIZATION~~ may not collect or attempt to collect from any subscriber or enrollee
 21 any money owed to the health care provider by a health maintenance organization
 22 issued a certificate of authority to operate in this State.

23 (ii) A health care provider ~~UNDER WRITTEN CONTRACT WITH THE~~
 24 ~~HEALTH MAINTENANCE ORGANIZATION~~ or any representative of a health care
 25 provider ~~UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE~~
 26 ~~ORGANIZATION~~ may not maintain any action against any subscriber or enrollee to
 27 collect or attempt to collect any money owed to the health care provider by a health
 28 maintenance organization issued a certificate of authority to operate in this State.

29 (3) ~~Notwithstanding any other provision of this subsection, a~~ A health
 30 care provider ~~UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE~~
 31 ~~ORGANIZATION~~ or representative of a health care provider ~~UNDER WRITTEN~~
 32 ~~CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION~~ may collect or attempt
 33 to collect from a subscriber or enrollee:

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

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

1 (4) A NONHOSPITAL-BASED HEALTH CARE PROVIDER THAT IS NOT
 2 UNDER WRITTEN CONTRACT WITH A HEALTH MAINTENANCE ORGANIZATION MAY
 3 COLLECT OR ATTEMPT TO COLLECT FROM A SUBSCRIBER OR ENROLLEE OF THE
 4 HEALTH MAINTENANCE ORGANIZATION PAYMENT FOR NONEMERGENCY HEALTH
 5 CARE SERVICES RENDERED IF:

6 (I) THE SUBSCRIBER OR ENROLLEE, AT THE TIME THE SERVICES
 7 WERE RENDERED, WAS AWARE THAT THE NONHOSPITAL-BASED HEALTH CARE
 8 PROVIDER WAS NOT UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE
 9 ORGANIZATION;

10 (II) THE SUBSCRIBER OR ENROLLEE VOLUNTARILY SOUGHT,
 11 WITHOUT A REFERRAL FROM THE HEALTH MAINTENANCE ORGANIZATION, HEALTH
 12 CARE SERVICES FROM THE NONHOSPITAL-BASED HEALTH CARE PROVIDER;

13 (III) THE SUBSCRIBER OR ENROLLEE, PRIOR TO THE HEALTH CARE
 14 SERVICES BEING RENDERED, SIGNED A WAIVER, DEVELOPED BY THE INSURANCE
 15 COMMISSIONER, ACKNOWLEDGING RESPONSIBILITY FOR THE FULL COST OF THE
 16 SERVICES TO BE PROVIDED; AND

17 (IV) THE NONHOSPITAL-BASED HEALTH CARE PROVIDER DOES NOT
 18 SEEK OR ACCEPT REIMBURSEMENT FROM THE HEALTH MAINTENANCE
 19 ORGANIZATION.

20 (5) THE PROVISIONS OF PARAGRAPH (4) OF THIS SUBSECTION DO NOT
 21 APPLY TO HEALTH CARE SERVICES THAT ARE COVERED BY A HEALTH MAINTENANCE
 22 ORGANIZATION UNDER A POINT OF SERVICE OPTION AS DEFINED IN § 19-710.2 OF
 23 THIS SUBTITLE.

24 19-710.1.

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

26 (2) ~~"Enrollee" means a subscriber or member of the health maintenance~~
 27 ~~organization.~~

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

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

35 (ii) ~~That has been preauthorized or otherwise approved either~~
 36 ~~verbally or in writing by the enrollee's health maintenance organization or a provider~~
 37 ~~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 (e) (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.~~

6 SECTION 2. AND BE IT FURTHER ENACTED, That:

7 (a) The Maryland Insurance Administration, in consultation with the Health
8 Advocacy Unit of the Office of the Attorney General, shall develop the format and
9 content of the written waiver required under this Act.

10 (b) The Maryland Insurance Administration, in consultation with the Health
11 Care Access and Cost Commission, shall study the usual, customary, and reasonable
12 rates paid by health maintenance organizations for the payment of claims of
13 noncontracting, health care providers under the provisions of § 19-710.1 of the
14 Health - General Article. The study shall review rates of payment for services
15 provided by health care providers in the State. The findings of the study shall be
16 presented in an interim report submitted by January 1, 2000 and a final report
17 submitted by September 1, 2000 to the House Economic Matters Committee and the
18 Senate Finance Committee.

19 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
20 take effect June 1, 1999.

21 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
22 Section 3 of this Act, this Act shall take effect October 1, 1999.