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By: **Delegate Elliott**

Introduced and read first time: February 12, 1999

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Unfair Claim Settlement Practices - Liability of Insurer for Costs and**  
3                                   **Damages**

4 FOR the purpose of establishing the liability of an insurer or nonprofit health service  
5 plan for certain costs, attorney fees, and damages if the insurer or nonprofit  
6 health service plan is found to have engaged in certain unfair claim settlement  
7 practices.

8 BY repealing and reenacting, without amendments,  
9 Article - Insurance  
10 Section 27-303  
11 Annotated Code of Maryland  
12 (1997 Volume and 1998 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article - Insurance  
15 Section 27-305  
16 Annotated Code of Maryland  
17 (1997 Volume and 1998 Supplement)

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

20                                   **Article - Insurance**

21 27-303.

22 It is an unfair claim settlement practice and a violation of this subtitle for an  
23 insurer or nonprofit health service plan to:

24                   (1) misrepresent pertinent facts or policy provisions that relate to the  
25 claim or coverage at issue;

26                   (2) refuse to pay a claim for an arbitrary or capricious reason based on  
27 all available information;

1 (3) attempt to settle a claim based on an application that is altered  
2 without notice to, or the knowledge or consent of, the insured;

3 (4) fail to include with each claim paid to an insured or beneficiary a  
4 statement of the coverage under which payment is being made;

5 (5) fail to settle a claim promptly whenever liability is reasonably clear  
6 under one part of a policy, in order to influence settlements under other parts of the  
7 policy;

8 (6) fail to provide promptly on request a reasonable explanation of the  
9 basis for a denial of a claim;

10 (7) fail to meet the requirements of Title 15, Subtitle 10B of this article  
11 for preauthorization for a health care service; or

12 (8) fail to comply with the provisions of Title 15, Subtitle 10A of this  
13 article.

14 27-305.

15 (a) The Commissioner may impose a penalty not exceeding \$2,500 for each  
16 violation of § 27-303 of this subtitle or a regulation adopted under § 27-303 of this  
17 subtitle.

18 (b) The penalty for a violation of § 27-304 of this subtitle is as provided in §§  
19 1-301, 4-113, 4-114, and 27-103 of this article.

20 (c) (1) On finding a violation of this subtitle, the Commissioner may require  
21 an insurer or nonprofit health service plan to make restitution to each claimant who  
22 has suffered actual economic damage because of the violation.

23 (2) Restitution may not exceed the amount of actual economic damage  
24 sustained, subject to the limits of any applicable policy.

25 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN ANY  
26 CIVIL ACTION BROUGHT AGAINST AN INSURER OR NONPROFIT HEALTH SERVICE  
27 PLAN THAT IS FOUND TO BE IN VIOLATION OF § 27-303(1) OR (2) OF THIS SUBTITLE,  
28 THE INSURER OR NONPROFIT HEALTH SERVICE PLAN IS LIABLE FOR REASONABLE  
29 COSTS AND ATTORNEY FEES OF THE INSURED AND ANY PUNITIVE DAMAGES THAT A  
30 COURT CONSIDERS APPROPRIATE.

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