

HOUSE BILL 980

Unofficial Copy  
C3

1999 Regular Session  
(9r1835)

*ENROLLED BILL*  
*-- Economic Matters /Finance --*

Introduced by **Delegate Hurson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Insurance—Pharmaceutical Benefits—Patients' Rights**  
3 **Health Maintenance Organizations - Formulary Development Process -**  
4 **Accreditation Status**

5 FOR the purpose of requiring certain health insurance carriers to establish and  
6 implement a procedure by which a member may receive a prescription drug that  
7 is not in a carrier's formulary under certain circumstances; providing that a  
8 member may not be required to pay any fee or copayment for the prescription  
9 drug other than that required for a prescription drug in the carrier's formulary;  
10 requiring certain health insurance carriers to give a certain notice to certain  
11 members before substituting another prescription drug for a prescription drug  
12 in its formulary under certain circumstances; prohibiting certain health  
13 insurance carriers from limiting or excluding coverage for certain prescription  
14 drugs under certain circumstances; requiring certain health insurance carriers  
15 to provide coverage for certain new prescription drugs for a certain period of  
16 time under certain circumstances; requiring the Maryland Health Care Access  
17 and Cost Commission to develop and implement a certain rating system for

1 certain prescription drug coverage plans; requiring the Commission to establish  
 2 a certain consumer advisory panel to advise the Commission in developing and  
 3 implementing the rating system; specifying the composition of the panel;  
 4 requiring certain health insurance carriers to include certain information about  
 5 the rating system in any documents that describe a prescription drug coverage  
 6 plan offered by a carrier and that are provided to employers or members;  
 7 requiring certain health insurance carriers to include certain information in  
 8 certain documents provided to members; defining certain terms; providing for  
 9 the application of this Act; and generally relating to prescription drug coverage  
 10 the Maryland Health Care Access and Cost Commission to include in a certain  
 11 annual evaluation information regarding whether the formulary development  
 12 process of certain health maintenance organizations meets certain accreditation  
 13 standards; making a certain stylistic change; and generally relating to the  
 14 publication of quality of care and performance measurements of health  
 15 maintenance organizations.

16 ~~BY adding to~~  
 17 ~~Article Insurance~~  
 18 ~~Section 15-126~~  
 19 ~~Annotated Code of Maryland~~  
 20 ~~(1997 Volume and 1998 Supplement)~~

21 ~~BY adding to~~  
 22 ~~Article Health General~~  
 23 ~~Section 19-706(ff)~~  
 24 ~~Annotated Code of Maryland~~  
 25 ~~(1996 Replacement Volume and 1998 Supplement)~~

26 BY repealing and reenacting, with amendments,  
 27 Article - Health - General  
 28 Section 19-1508(c)  
 29 Annotated Code of Maryland  
 30 (1996 Replacement Volume and 1998 Supplement)

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

33 **Article - Insurance**

34 ~~15-126.~~

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

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

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

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

6                     ~~(II)     "MEMBER" INCLUDES A SUBSCRIBER.~~

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

8           ~~(1)     INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT:~~

9                     ~~(I)     PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER~~  
10 ~~HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE DELIVERED OR ISSUED~~  
11 ~~FOR DELIVERY IN THE STATE TO EMPLOYERS OR INDIVIDUALS ON A GROUP OR~~  
12 ~~INDIVIDUAL BASIS; AND~~

13                    ~~(II)     LIMIT COVERAGE OF PRESCRIPTION DRUGS TO THOSE IN A~~  
14 ~~FORMULARY; AND~~

15           ~~(2)     HEALTH MAINTENANCE ORGANIZATIONS THAT:~~

16                    ~~(I)     PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER~~  
17 ~~CONTRACTS THAT ARE DELIVERED OR ISSUED FOR DELIVERY IN THE STATE TO~~  
18 ~~EMPLOYERS OR INDIVIDUALS ON A GROUP OR INDIVIDUAL BASIS; AND~~

19                    ~~(II)     LIMIT COVERAGE OF PRESCRIPTION DRUGS TO THOSE IN A~~  
20 ~~FORMULARY.~~

21     ~~(C)     (1)     EACH ENTITY SUBJECT TO THIS SECTION SHALL ESTABLISH AND~~  
22 ~~IMPLEMENT A PROCEDURE BY WHICH A MEMBER MAY RECEIVE A PRESCRIPTION~~  
23 ~~DRUG THAT IS NOT IN A FORMULARY IF, IN THE JUDGMENT OF THE PHYSICIAN WHO~~  
24 ~~IS CARING FOR THE MEMBER, THE PRESCRIPTION DRUG IS MEDICALLY NECESSARY~~  
25 ~~BECAUSE THE FORMULARY DRUG:~~

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

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

30           ~~(2)     A MEMBER WHO OBTAINS A PRESCRIPTION DRUG UNDER THIS~~  
31 ~~SUBSECTION MAY NOT BE REQUIRED TO PAY ANY FEE OR COPAYMENT OTHER THAN~~  
32 ~~THAT REQUIRED FOR A PRESCRIPTION DRUG IN THE FORMULARY.~~

33           ~~(3)     AN ENTITY SUBJECT TO THIS SECTION MAY NOT LIMIT THE RIGHT~~  
34 ~~OF A MEMBER WHO HAS A RECURRING DISEASE OR CONDITION TO OBTAIN A~~  
35 ~~PRESCRIPTION DRUG UNDER THIS SUBSECTION FOR TREATMENT OF THAT DISEASE~~  
36 ~~OR CONDITION.~~

~~1 (D) (1) AT LEAST 90 DAYS BEFORE SUBSTITUTING ANOTHER PRESCRIPTION  
2 DRUG FOR A PRESCRIPTION DRUG IN ITS FORMULARY, AN ENTITY SUBJECT TO THIS  
3 SECTION SHALL NOTIFY ANY MEMBER AFFECTED BY THE SUBSTITUTION, IF THE  
4 SUBSTITUTION IS THE RESULT OF FINANCIAL INCENTIVES, INCLUDING REBATES,  
5 OFFERED TO THE ENTITY.~~

~~6 (2) AN ENTITY SUBJECT TO THIS SECTION MAY NOT LIMIT OR EXCLUDE  
7 COVERAGE FOR A PRESCRIPTION DRUG PRESCRIBED FOR A MEMBER IF:~~

~~8 (I) THE PRESCRIPTION DRUG WAS PRESCRIBED BY AN  
9 AUTHORIZED PRESCRIBER FOR A DISEASE OR CONDITION OF THE MEMBER UNDER A  
10 PRIOR HEALTH INSURANCE PLAN OF THE MEMBER'S EMPLOYER; AND~~

~~11 (II) AN AUTHORIZED PRESCRIBER CONTINUES TO PRESCRIBE THE  
12 PRESCRIPTION DRUG FOR THE MEMBER FOR TREATMENT OF THAT DISEASE OR  
13 CONDITION.~~

~~14 (E) (1) IF PRESCRIBED FOR A MEMBER BY AN AUTHORIZED PRESCRIBER, AN  
15 ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR A NEW  
16 PRESCRIPTION DRUG APPROVED BY THE FEDERAL FOOD AND DRUG  
17 ADMINISTRATION FOR AT LEAST 1 YEAR FROM THE FIRST DAY OF SALE OF THE DRUG  
18 AFTER APPROVAL BY THE ADMINISTRATION.~~

~~19 (2) THIS SUBSECTION DOES NOT APPLY TO EXPERIMENTAL DRUGS,  
20 INVESTIGATIONAL DRUGS, PRESCRIPTIONS AND INJECTIONS FOR CENTRAL  
21 NERVOUS SYSTEM STIMULANTS AND ANORECTIC AGENTS WHEN USED FOR WEIGHT  
22 CONTROL, OR DRUGS USED FOR COSMETIC PURPOSES.~~

~~23 (F) (1) (I) THE MARYLAND HEALTH CARE ACCESS AND COST COMMISSION  
24 SHALL DEVELOP AND IMPLEMENT A SYSTEM OF RATING THE PRESCRIPTION DRUG  
25 COVERAGE PLANS OFFERED BY ENTITIES SUBJECT TO THIS SECTION TO ASSIST  
26 EMPLOYERS AND CONSUMERS IN EVALUATING AND SELECTING A PLAN.~~

~~27 (II) THE COMMISSION SHALL ESTABLISH A CONSUMER ADVISORY  
28 PANEL CONSISTING OF 12 MEMBERS TO ADVISE THE COMMISSION IN DEVELOPING  
29 AND IMPLEMENTING THE RATING SYSTEM REQUIRED UNDER SUBPARAGRAPH (I) OF  
30 THIS PARAGRAPH.~~

~~31 (III) THE PANEL SHALL CONSIST OF A REPRESENTATIVE OF:~~

~~32 1. THE NATIONAL COALITION FOR CANCER SURVIVORSHIP;~~

~~33 2. THE NATIONAL KIDNEY FOUNDATION;~~

~~34 3. THE MARYLAND MENTAL HEALTH ASSOCIATION;~~

~~35 4. THE AMERICAN DIABETES ASSOCIATION;~~

~~36 5. THE AMERICAN HEART ASSOCIATION;~~



1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all~~  
 2 ~~policies, contracts, and health benefit plans issued, delivered, or renewed in the State~~  
 3 ~~on or after October 1, 1999.~~  
 4 ~~19-1508.~~

5 (c) (1) The Commission shall:

6 (i) [On or before January 1, 1994, establish] ESTABLISH and  
 7 implement a system to comparatively evaluate the quality of care outcomes and  
 8 performance measurements of health maintenance organization benefit plans and  
 9 services on an objective basis; and

10 (ii) Annually publish the summary findings of the evaluation.

11 (2) The purpose of a comparable performance measurement system  
 12 established under this section is to assist health maintenance organization benefit  
 13 plans to improve the quality of care provided by establishing a common set of  
 14 performance measurements and disseminating the findings of the performance  
 15 measurements to health maintenance organizations and interested parties.

16 (3) The system, where appropriate, shall solicit performance information  
 17 from enrollees of health maintenance organizations.

18 (4) (i) The Commission shall adopt regulations to establish the system  
 19 of evaluation provided under this section.

20 (ii) Before adopting regulations to implement an evaluation system  
 21 under this section, the Commission shall consider any recommendations of the  
 22 quality of care subcommittee of the Group Health Association of America and the  
 23 National Committee for Quality Assurance.

24 (5) The Commission may contract with a private, nonprofit entity to  
 25 implement the system required under this subsection provided that the entity is not  
 26 an insurer.

27 (6) THE ANNUAL EVALUATION SUMMARY REQUIRED UNDER  
 28 PARAGRAPH (1) OF THIS SUBSECTION SHALL:

29 (I) INCLUDE A SUMMARY OF THE DRUG FORMULARY  
 30 ACCREDITATION STANDARDS OF THE NATIONAL COMMITTEE ~~ON~~ FOR QUALITY  
 31 ASSURANCE (NCQA); AND

32 (II) INDICATE WHETHER THE FORMULARY DEVELOPMENT  
 33 PROCESS OF EACH HEALTH MAINTENANCE ORGANIZATION EVALUATED COMPLIES  
 34 WITH THE NATIONAL COMMITTEE ~~ON~~ FOR QUALITY ASSURANCE (NCQA)  
 35 ACCREDITATION STANDARDS.

36 ~~SECTION 3. 2.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
 37 effect October 1, 1999.

