

SENATE BILL 267

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1999 Regular Session  
9r1632  
CF 9r1226

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By: **Senators Dorman, Exum, Ferguson, and Hollinger**  
Introduced and read first time: February 4, 1999  
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Maintenance Organizations - Patient Access to Choice of Provider**

3 FOR the purpose of altering certain standards of care for health maintenance  
4 organizations to make them apply to services of certain types of health care  
5 providers in addition to physicians; requiring health maintenance organizations  
6 to designate certain providers as primary care providers; defining certain terms;  
7 and generally relating to health maintenance organizations.

8 BY repealing and reenacting, without amendments,  
9 Article - Health - General  
10 Section 19-701(a)  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume and 1998 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article - Health - General  
15 Section 19-701(f), (h), and (i) and 19-705.1(b)  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 1998 Supplement)

18 Preamble

19 WHEREAS, The 1997 federal budget bill contains provisions allowing direct  
20 Medicare reimbursement to nurse practitioners regardless of geographic setting; and

21 WHEREAS, The new Maryland Medicaid Program, known as "HealthChoice"  
22 has recognized nurse practitioners as primary care providers; and

23 WHEREAS, The Maryland General Assembly passed Chapter 605 of the Acts of  
24 1995, better known as the "Patient Access Act", which provided Health Maintenance  
25 Organization (HMO) members or subscribers greater access and choice of providers;  
26 and

27 WHEREAS, The intent of the Maryland General Assembly is to support health  
28 care providers who are practicing as their licenses allow; and

1 WHEREAS, The intent of the Maryland General Assembly is to allow members  
2 or subscribers of HMOs the most choice in selecting a primary care provider; and

3 WHEREAS, This legislation is not intended to interfere with the current  
4 relationship between physicians and nurse practitioners; and

5 WHEREAS, The intent of the Maryland General Assembly is to clarify the laws  
6 of Maryland as they relate to allowing members or subscribers of HMO's the greatest  
7 amount of choice in selecting a primary care provider for the provision of their health  
8 care needs; now, therefore,

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

11 **Article - Health - General**

12 19-701.

13 (a) In this subtitle the following words have the meanings indicated.

14 (f) "Health maintenance organization" means any person, including a profit  
15 or nonprofit corporation organized under the laws of any state or country, that:

16 (1) Operates or proposes to operate in this State;

17 (2) Except as provided in § 19-703(b) and (f) of this subtitle, provides or  
18 otherwise makes available to its members health care services that include at least  
19 physician, hospitalization, laboratory, X-ray, emergency, and preventive services,  
20 out-of-area coverage, and any other health care services that the Commissioner  
21 determines to be available generally on an insured or prepaid basis in the area  
22 serviced by the health maintenance organization, and, at the option of the health  
23 maintenance organization, may provide additional coverage;

24 (3) Except for any copayment or deductible arrangement, is compensated  
25 only on a predetermined periodic rate basis for providing to members the minimum  
26 services that are specified in item (2) of this subsection;

27 (4) Assures its subscribers and members, the Commissioner, and the  
28 Department that one clearly specified legal and administrative focal point or element  
29 of the health maintenance organization has the responsibility of providing the  
30 availability, accessibility, quality, and effective use of comprehensive health care  
31 services; and

32 (5) Primarily provides services of physicians OR PRIMARY CARE  
33 PROVIDERS:

34 (i) Directly through physicians OR PRIMARY CARE PROVIDERS who  
35 are either employees or partners of the health maintenance organization; or

1 (ii) Under arrangements with one or more groups of physicians OR  
2 PRIMARY CARE PROVIDERS, who are organized on a group practice or individual  
3 practice basis, under which each group:

4 1. Is compensated for its services primarily on the basis of an  
5 aggregate fixed sum or on a per capita basis; and

6 2. Is provided with an effective incentive to avoid  
7 unnecessary inpatient use, whether the individual physician OR PRIMARY CARE  
8 PROVIDER members of the group are paid on a fee-for-service or other basis.

9 (h) (1) "PRIMARY CARE PROVIDER" MEANS A PROVIDER WHO PROVIDES  
10 ACCESSIBLE AND COORDINATED CARE THAT ADDRESSES A PATIENT'S HEALTH  
11 NEEDS, INCLUDING BUT NOT LIMITED TO MAINTAINING THE CONTINUITY OF  
12 PATIENT CARE, MAINTAINING AN ENROLLEE'S HEALTH RECORD, AND INITIATING  
13 REFERRALS FOR MEDICALLY NECESSARY AND APPROPRIATE SPECIALTY CARE.

14 (2) "PRIMARY CARE PROVIDER" INCLUDES A GENERAL PRACTITIONER,  
15 FAMILY PRACTITIONER, INTERNIST, PEDIATRICIAN, OBSTETRICIAN/GYNECOLOGIST,  
16 AND NURSE PRACTITIONER.

17 (I) "Provider" means any person, including a physician or hospital, who is  
18 licensed or otherwise authorized in this State to provide health care services.

19 [(i)] (J) "Subscriber" means a person who makes a contract with a health  
20 maintenance organization, either directly or through an insurer or marketing  
21 organization, under which the person or other designated persons are entitled to the  
22 health care services.

23 19-705.1.

24 (b) The standards of quality of care shall include:

25 (1) (i) A requirement that a health maintenance organization shall  
26 provide for regular hours during which a member may receive services, including  
27 providing for services to a member in a timely manner that takes into account the  
28 immediacy of need for services; and

29 (ii) Provisions for assuring that all covered services, including any  
30 services for which the health maintenance organization has contracted, are accessible  
31 to the enrollee with reasonable safeguards with respect to geographic locations;

32 (2) A requirement that a health maintenance organization shall have a  
33 system for providing a member with 24-hour access to a physician in cases where  
34 there is an immediate need for medical services, and for promoting timely access to  
35 and continuity of health care services for members, including:

36 (i) Providing 24-hour access by telephone to a person who is able  
37 to appropriately respond to calls from members and providers concerning after-hours  
38 care; and

1 (ii) Providing a 24-hour toll free telephone access system for use in  
2 hospital emergency departments in accordance with § 19-705.7 of this subtitle;

3 (3) A requirement that any nonparticipating provider shall submit to the  
4 health maintenance organization the appropriate documentation of the medical  
5 complaint of the member and the services rendered;

6 (4) A requirement that a health maintenance organization shall have a  
7 physician OR PRIMARY CARE PROVIDER available at all times to provide diagnostic  
8 and treatment services;

9 (5) A requirement that a health maintenance organization shall assure  
10 that:

11 (i) Each member who is seen for a medical complaint is evaluated  
12 under the direction of a physician OR PRIMARY CARE PROVIDER; and

13 (ii) Each member who receives diagnostic evaluation or treatment  
14 is under the direct medical management of a health maintenance organization  
15 physician who provides continuing medical management;

16 (6) A requirement that each member shall have an opportunity to select  
17 a primary physician OR PRIMARY CARE PROVIDER from among those available to the  
18 health maintenance organization; [and]

19 (7) A REQUIREMENT THAT A HEALTH MAINTENANCE ORGANIZATION  
20 SHALL DESIGNATE WHICH PHYSICIANS OR PROVIDERS AMONG THOSE AVAILABLE  
21 TO THE HEALTH MAINTENANCE ORGANIZATION MAY BE CLASSIFIED AS PRIMARY  
22 CARE PROVIDERS; AND

23 (8) A requirement that a health maintenance organization print, in any  
24 directory of participating providers or hospitals, in a conspicuous manner, the  
25 address, telephone number, and facsimile number of the State agency that members,  
26 enrollees, and insureds may call to discuss quality of care issues, life and health  
27 insurance complaints, and assistance in resolving billing and payment disputes with  
28 the health plan or health care provider, as follows:

29 (i) For quality of care issues and life and health care insurance  
30 complaints, the Maryland Insurance Administration; and

31 (ii) For assistance in resolving a billing or payment dispute with  
32 the health plan or a health care provider, the Health Education and Advocacy Unit of  
33 the Consumer Protection Division of the Office of the Attorney General.

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