

SENATE BILL 506

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SB 644/98 - FIN

1999 Regular Session
9r1770

By: **Senators Van Hollen, Dorman, Della, and Teitelbaum**
Introduced and read first time: February 5, 1999
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Patient Protection Act**

3 FOR the purpose of altering the manner of determining the amount of reimbursement
4 of health care practitioners by certain health insurance carriers; providing that
5 certain health insurance carriers may not reimburse a health care practitioner
6 in an amount less than that specified in a certain reimbursement schedule;
7 requiring certain health insurance carriers to provide a copy of certain
8 reimbursement schedules and the methodology used to determine any bonuses
9 or other incentive-based compensation under certain circumstances; prohibiting
10 certain health insurance carriers from providing bonuses or other
11 incentive-based compensation to health care practitioners under certain
12 circumstances; permitting certain health insurance carriers to distribute risk
13 pool funds to health care practitioners under certain circumstances; authorizing
14 the Maryland Insurance Administration to adopt certain regulations; defining
15 certain terms; providing for a delayed effective date; and generally relating to
16 compensation of health care practitioners by health insurance carriers.

17 BY repealing and reenacting, with amendments,
18 Article - Insurance
19 Section 15-113
20 Annotated Code of Maryland
21 (1997 Volume and 1998 Supplement)

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

24 **Article - Insurance**

25 15-113.

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

27 (2) "Carrier" means:

28 (i) an insurer;

- 1 (ii) a nonprofit health service plan;
- 2 (iii) a health maintenance organization;
- 3 (iv) a dental plan organization; or
- 4 (v) any other person that provides health benefit plans subject to
5 regulation by the State.

6 (3) "Health care practitioner" means an individual who is licensed,
7 certified, or otherwise authorized under the Health Occupations Article to provide
8 health care services.

9 (4) "MEDICAL SERVICES" MEANS ANY COVERED SERVICES THAT AN
10 ENROLLEE OR INSURED IS ENTITLED TO UNDER A CARRIER'S CONTRACT WITH THE
11 ENROLLEE OR INSURED.

12 (5) "REIMBURSEMENT SCHEDULE" MEANS THE PAYMENT AMOUNTS,
13 WHETHER PAID ON A CAPITATED BASIS, FEE FOR SERVICES BASIS, OR OTHER BASIS,
14 THAT A CARRIER HAS ESTABLISHED FOR PAYMENTS TO A HEALTH CARE
15 PRACTITIONER, OR A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS, FOR THE
16 PERFORMANCE OF A SPECIFIC MEDICAL SERVICE OR GROUP OF MEDICAL SERVICES.

17 (6) "RISK POOL FUNDS" MEANS THE PORTION OF PREMIUM INCOME
18 THAT A CARRIER MAY SET ASIDE FOR SUBSEQUENT PERIODIC DISTRIBUTION TO A
19 HEALTH CARE PRACTITIONER OR A PRACTICE GROUP OF HEALTH CARE
20 PRACTITIONERS WITH WHOM THE CARRIER HAS CONTRACTED BASED ON THE
21 OVERALL UTILIZATION OF SERVICES IN THE CARRIER'S ENTIRE HEALTH CARE PLAN
22 OVER A DESIGNATED PERIOD OF TIME.

23 (b) A carrier may not reimburse a health care practitioner in an amount less
24 than [the sum or rate negotiated in the carrier's provider contract with the health
25 care practitioner] THAT SPECIFIED IN THE REIMBURSEMENT SCHEDULE THAT IS
26 APPLICABLE TO THE HEALTH CARE PRACTITIONER AND IS IN EFFECT ON THE DATE
27 THAT MEDICAL SERVICES ARE PROVIDED BY THE HEALTH CARE PRACTITIONER TO
28 THE CARRIER'S ENROLLEE OR INSURED.

29 [(c) This section does not prohibit a carrier from providing bonuses or other
30 incentive-based compensation to a health care practitioner if the bonus or other
31 incentive-based compensation does not:

- 32 (1) violate § 19-705.1 of the Health - General Article; or
- 33 (2) deter the delivery of medically appropriate care to an enrollee.]

34 (C) (1) A CARRIER MAY NOT ADOPT A REIMBURSEMENT SCHEDULE THAT
35 REDUCES THE AMOUNT OF REIMBURSEMENT TO A HEALTH CARE PRACTITIONER OR
36 A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS BASED ON THE OVERALL
37 NUMBER OR COST OF MEDICAL SERVICES PROPOSED OR RECOMMENDED BY THE

1 HEALTH CARE PRACTITIONER OR THE PRACTICE GROUP OF HEALTH CARE
2 PRACTITIONERS.

3 (2) (I) A CARRIER MAY PROVIDE BONUSES OR OTHER
4 INCENTIVE-BASED COMPENSATION TO A HEALTH CARE PRACTITIONER ONLY IF THE
5 BONUS OR OTHER INCENTIVE-BASED COMPENSATION DOES NOT:

6 1. VIOLATE § 19-705.1 OF THE HEALTH - GENERAL ARTICLE;
7 OR

8 2. DETER THE DELIVERY OF MEDICALLY APPROPRIATE
9 CARE TO AN ENROLLEE OR INSURED.

10 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
11 PARAGRAPH, NO BONUS OR OTHER INCENTIVE-BASED COMPENSATION THAT IS
12 BASED ON THE AMOUNT OF HEALTH CARE SERVICES OR RESOURCES PROVIDED TO
13 AN ENROLLEE OR INSURED MAY BE PROVIDED TO A HEALTH CARE PRACTITIONER OR
14 A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS, EXCEPT THAT A BONUS MAY
15 BE BASED, IN WHOLE OR IN PART, ON THE PROVISION OF PREVENTATIVE HEALTH
16 CARE SERVICES.

17 (III) RISK POOL FUNDS MAY BE DISTRIBUTED TO A HEALTH CARE
18 PRACTITIONER OR A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS SO LONG
19 AS THE AMOUNT OF THE DISTRIBUTION TO ANY PARTICULAR HEALTH CARE
20 PRACTITIONER OR ANY PARTICULAR PRACTICE GROUP OF HEALTH CARE
21 PRACTITIONERS IS NOT INVERSELY LINKED TO THE OVERALL NUMBER OR COST OF
22 MEDICAL SERVICES PROPOSED OR RECOMMENDED BY THE HEALTH CARE
23 PRACTITIONER OR THE PRACTICE GROUP OF HEALTH CARE PRACTITIONERS.

24 (D) (1) A CARRIER SHALL PROVIDE A COPY OF THE CARRIER'S
25 REIMBURSEMENT SCHEDULE THAT IS APPROPRIATE TO THE HEALTH CARE
26 PRACTITIONER'S SPECIALTY, SUBSPECIALTY, OR GEOGRAPHIC REGION AND THE
27 METHODOLOGY USED TO DETERMINE ANY BONUSES OR OTHER INCENTIVE-BASED
28 COMPENSATION:

29 (I) WITH ANY NEW CONTRACT OFFERING TO HEALTH CARE
30 PRACTITIONERS WHO DO NOT CURRENTLY HAVE A CONTRACT WITH THE CARRIER;

31 (II) ONCE A YEAR ON REQUEST OF A HEALTH CARE PRACTITIONER
32 WITH WHOM THE CARRIER HAS A CONTRACT TO PROVIDE SERVICES TO THE
33 CARRIER'S ENROLLEES OR INSUREDS; AND

34 (III) 90 DAYS BEFORE ANY PROPOSED CHANGE IN THE
35 REIMBURSEMENT SCHEDULE OR IN THE METHODOLOGY USED TO DETERMINE
36 BONUSES OR OTHER INCENTIVE-BASED COMPENSATION.

37 (2) THE REIMBURSEMENT SCHEDULE PROVIDED UNDER PARAGRAPH (1)
38 OF THIS SUBSECTION SHALL INCLUDE THE PROPOSED PAYMENTS FOR THE MOST
39 COMMON EVALUATION AND MANAGEMENT SERVICES AND SURGICAL PROCEDURES

1 THAT THE HEALTH CARE PRACTITIONER REASONABLY WOULD BE EXPECTED TO
2 PERFORM FOR THE CARRIER'S ENROLLEES OR INSUREDS.

3 (E) THE ADMINISTRATION MAY ADOPT REGULATIONS TO CARRY OUT THE
4 PROVISIONS OF SUBSECTIONS (B), (C), AND (D) OF THIS SECTION.

5 [(d)] (F)(1) Except as provided in paragraph (2) of this subsection, a carrier may
6 not reimburse a health care practitioner in an amount that is less than the cost to the
7 health care practitioner for the cost of an oncology drug covered under the patient's
8 health benefit policy, plan, or certificate used by the health care practitioner in
9 treating a patient in the office of the health care practitioner.

10 (2) A carrier may reimburse a health care practitioner an amount that is
11 less than the cost to the health care practitioner for the cost of an oncology drug used
12 by the health care practitioner in treating a patient in the office of the health care
13 practitioner if the carrier provides an alternative mechanism or program for the
14 health care practitioner to use to obtain the oncology drug.

15 [(e)] (G) (1) A carrier that compensates health care practitioners wholly or
16 partly on a capitated basis may not retain any capitated fee attributable to an
17 enrollee or covered person during an enrollee's or covered person's contract year.

18 (2) A carrier is in compliance with paragraph (1) of this subsection if,
19 within 45 days after an enrollee or covered person chooses or obtains health care from
20 a health care practitioner, the carrier pays to the health care practitioner all accrued
21 but unpaid capitated fees attributable to that enrollee or person that the health care
22 practitioner would have received had the enrollee or person chosen the health care
23 practitioner at the beginning of the enrollee's or covered person's contract year.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 January 1, 2000.