

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

Committee Report: Favorable
Senate action: Adopted
Read second time: March 9, 1999

CHAPTER _____

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:

1

Article - Insurance

2 15-113.

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

4 (2) "Carrier" means:

5 (i) an insurer;

6 (ii) a nonprofit health service plan;

7 (iii) a health maintenance organization;

8 (iv) a dental plan organization; or

9 (v) any other person that provides health benefit plans subject to
10 regulation by the State.11 (3) "Health care practitioner" means an individual who is licensed,
12 certified, or otherwise authorized under the Health Occupations Article to provide
13 health care services.14 (4) "MEDICAL SERVICES" MEANS ANY COVERED SERVICES THAT AN
15 ENROLLEE OR INSURED IS ENTITLED TO UNDER A CARRIER'S CONTRACT WITH THE
16 ENROLLEE OR INSURED.17 (5) "REIMBURSEMENT SCHEDULE" MEANS THE PAYMENT AMOUNTS,
18 WHETHER PAID ON A CAPITATED BASIS, FEE FOR SERVICES BASIS, OR OTHER BASIS,
19 THAT A CARRIER HAS ESTABLISHED FOR PAYMENTS TO A HEALTH CARE
20 PRACTITIONER, OR A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS, FOR THE
21 PERFORMANCE OF A SPECIFIC MEDICAL SERVICE OR GROUP OF MEDICAL SERVICES.22 (6) "RISK POOL FUNDS" MEANS THE PORTION OF PREMIUM INCOME
23 THAT A CARRIER MAY SET ASIDE FOR SUBSEQUENT PERIODIC DISTRIBUTION TO A
24 HEALTH CARE PRACTITIONER OR A PRACTICE GROUP OF HEALTH CARE
25 PRACTITIONERS WITH WHOM THE CARRIER HAS CONTRACTED BASED ON THE
26 OVERALL UTILIZATION OF SERVICES IN THE CARRIER'S ENTIRE HEALTH CARE PLAN
27 OVER A DESIGNATED PERIOD OF TIME.28 (b) A carrier may not reimburse a health care practitioner in an amount less
29 than [the sum or rate negotiated in the carrier's provider contract with the health
30 care practitioner] THAT SPECIFIED IN THE REIMBURSEMENT SCHEDULE THAT IS
31 APPLICABLE TO THE HEALTH CARE PRACTITIONER AND IS IN EFFECT ON THE DATE
32 THAT MEDICAL SERVICES ARE PROVIDED BY THE HEALTH CARE PRACTITIONER TO
33 THE CARRIER'S ENROLLEE OR INSURED.34 [(c) This section does not prohibit a carrier from providing bonuses or other
35 incentive-based compensation to a health care practitioner if the bonus or other
36 incentive-based compensation does not:

1 (1) violate § 19-705.1 of the Health - General Article; or

2 (2) deter the delivery of medically appropriate care to an enrollee.]

3 (C) (1) A CARRIER MAY NOT ADOPT A REIMBURSEMENT SCHEDULE THAT
4 REDUCES THE AMOUNT OF REIMBURSEMENT TO A HEALTH CARE PRACTITIONER OR
5 A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS BASED ON THE OVERALL
6 NUMBER OR COST OF MEDICAL SERVICES PROPOSED OR RECOMMENDED BY THE
7 HEALTH CARE PRACTITIONER OR THE PRACTICE GROUP OF HEALTH CARE
8 PRACTITIONERS.

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

12 1. VIOLATE § 19-705.1 OF THE HEALTH - GENERAL ARTICLE;
13 OR

14 2. DETER THE DELIVERY OF MEDICALLY APPROPRIATE
15 CARE TO AN ENROLLEE OR INSURED.

16 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
17 PARAGRAPH, NO BONUS OR OTHER INCENTIVE-BASED COMPENSATION THAT IS
18 BASED ON THE AMOUNT OF HEALTH CARE SERVICES OR RESOURCES PROVIDED TO
19 AN ENROLLEE OR INSURED MAY BE PROVIDED TO A HEALTH CARE PRACTITIONER OR
20 A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS, EXCEPT THAT A BONUS MAY
21 BE BASED, IN WHOLE OR IN PART, ON THE PROVISION OF PREVENTATIVE HEALTH
22 CARE SERVICES.

23 (III) RISK POOL FUNDS MAY BE DISTRIBUTED TO A HEALTH CARE
24 PRACTITIONER OR A PRACTICE GROUP OF HEALTH CARE PRACTITIONERS SO LONG
25 AS THE AMOUNT OF THE DISTRIBUTION TO ANY PARTICULAR HEALTH CARE
26 PRACTITIONER OR ANY PARTICULAR PRACTICE GROUP OF HEALTH CARE
27 PRACTITIONERS IS NOT INVERSELY LINKED TO THE OVERALL NUMBER OR COST OF
28 MEDICAL SERVICES PROPOSED OR RECOMMENDED BY THE HEALTH CARE
29 PRACTITIONER OR THE PRACTICE GROUP OF HEALTH CARE PRACTITIONERS.

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

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

37 (II) ONCE A YEAR ON REQUEST OF A HEALTH CARE PRACTITIONER
38 WITH WHOM THE CARRIER HAS A CONTRACT TO PROVIDE SERVICES TO THE
39 CARRIER'S ENROLLEES OR INSURED; AND

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

4 (2) THE REIMBURSEMENT SCHEDULE PROVIDED UNDER PARAGRAPH (1)
5 OF THIS SUBSECTION SHALL INCLUDE THE PROPOSED PAYMENTS FOR THE MOST
6 COMMON EVALUATION AND MANAGEMENT SERVICES AND SURGICAL PROCEDURES
7 THAT THE HEALTH CARE PRACTITIONER REASONABLY WOULD BE EXPECTED TO
8 PERFORM FOR THE CARRIER'S ENROLLEES OR INSUREDS.

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

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

16 (2) A carrier may reimburse a health care practitioner an amount that is
17 less than the cost to the health care practitioner for the cost of an oncology drug used
18 by the health care practitioner in treating a patient in the office of the health care
19 practitioner if the carrier provides an alternative mechanism or program for the
20 health care practitioner to use to obtain the oncology drug.

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

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

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