

BY: Finance Committee

AMENDMENTS TO HOUSE BILL NO. 5
(Third Reading File Bill)

AMENDMENT NO. 1

At the top of page 1, insert "EMERGENCY BILL".

On page 1, strike beginning with "Maintenance" in line 2 down through "Risk" in line 3 and substitute "Insurance - Administrative Service Provider Contract Law - Clarification and Modification".

On pages 1 through 3, strike beginning with "requiring" in line 4 on page 1 through "contracts" in line 6 on page 3 and substitute "clarifying that a health maintenance organization is responsible for certain obligations under an administrative service provider contract under certain circumstances; clarifying that certain responsibilities of a health maintenance organization are not subject to certain limitations and exist irrespective of certain conditions; requiring a health maintenance organization to create a segregated fund for certain purposes under certain circumstances; requiring a health maintenance organization to audit and inspect certain books, records, and operations of a contracting provider under certain circumstances; requiring a health maintenance organization to include certain information in a certain annual report; prohibiting the consideration of a certain segregated fund as an asset or account of a contracting provider under certain circumstances; applying to managed care organizations certain provisions of law that relate to health maintenance organizations; requiring the Maryland Insurance Administration to make a certain report to the Governor and to the General Assembly in a certain manner by a certain date; making this Act an emergency measure; and generally relating to the clarification and modification of administrative service provider contract law".

AMENDMENT NO. 2

On page 3, strike in their entirety lines 8 through 13, inclusive; in line 21, strike "19-712(b)," and substitute "19-712(b) and"; in the same line, strike ", 19-729, and 19-730"; and strike in their

(Over)

entirety lines 24 through 38, inclusive.

On page 4, strike beginning with “That” in line 9 down through “ENACTED” in line 12; in line 22, strike “§§ 19-712,” and substitute “§§ 19-712(B) AND”; in the same line, strike “, AND 19-713.3”; in the same line, after “ARTICLE” insert “SHALL”; and in line 35, after “(1)” insert “(I)”; and in the same line, strike “A” and substitute “SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A”.

AMENDMENT NO. 3

On page 5, in line 1, strike the opening bracket; in the same line, strike “§ 19-713.2”; in line 2, after “be” insert “FINANCIALLY AND ADMINISTRATIVELY”; in line 4, strike “(i)” and substitute “1.”; in line 5, strike “(ii)” and substitute “2.”; and after line 9, insert:

“(II) THE FINANCIAL AND ADMINISTRATIVE RESPONSIBILITIES OF A HEALTH MAINTENANCE ORGANIZATION UNDER AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT:

1. ARE NOT LIMITED BY THE VALUE OF THE ASSETS OF A SEGREGATED FUND ESTABLISHED UNDER AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT;

2. EXIST IRRESPECTIVE OF WHETHER THE CONTRACTING PROVIDER IS INSOLVENT; AND

3. EXIST IRRESPECTIVE OF ANY CONTRARY OR LIMITING CONTRACT PROVISION.”;

and in line 11, strike the opening bracket; and strike beginning with the closing bracket in line 11 down through “LAW” in line 28.

AMENDMENT NO. 4

On pages 6 through 25, strike in their entirety the lines beginning with line 1 on page 6 through line 19 on page 25, inclusive, and substitute:

“(ii) The contracting provider administer payments pursuant to the contract within the health maintenance organization for the health care services to the external providers.

(3) “Contracting provider” means a physician or other health care provider who

enters into an administrative service provider contract with a health maintenance organization.

(4) "External provider" means a health care provider, including a physician or hospital, who is not:

(i) A contracting provider; or

(ii) An employee, shareholder, or partner of a contracting provider.

(b) A health maintenance organization may not enter into an administrative service provider contract unless:

(1) The health maintenance organization files with the Insurance Commissioner a plan that satisfies the requirements of subsection (c) of this section; and

(2) The Insurance Commissioner does not disapprove the filing within 30 days after the plan is filed.

(c) The plan required under subsection (b) of this section shall:

(1) Require the contracting provider to provide the health maintenance organization with regular reports, at least quarterly, that identify payments made or owed to external providers in sufficient detail to determine if the payments are being made in compliance with law;

(2) Require the contracting provider to provide to the health maintenance organization a current annual financial statement of the contracting provider each year;

(3) Require the creation by the [contracting provider, or on the contracting provider's behalf,] HEALTH MAINTENANCE ORGANIZATION of a segregated fund (which may include withheld funds, escrow accounts, letters of credit, or similar arrangements), or require the availability of other resources that are sufficient to satisfy the contracting provider's obligations to external providers for services rendered to members of the health maintenance organization;

(4) Require an explanation of how the fund or resources required under paragraph

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(3) of this subsection create funds or other resources sufficient to satisfy the contracting provider's obligations to external providers for services rendered to members of the health maintenance organization; [and]

(5) [Permit] REQUIRE the health maintenance organization, at mutually agreed upon times and upon reasonable prior notice, to audit and inspect the contracting provider's books, records, and operations relevant to the provider's contract for the purpose of determining the contracting provider's compliance with the plan; AND

(6) REQUIRE THE HEALTH MAINTENANCE ORGANIZATION TO INCLUDE A COPY OF EACH CURRENT ANNUAL FINANCIAL STATEMENT OBTAINED UNDER ITEM (2) OF THIS SUBSECTION IN ITS ANNUAL REPORT FILED UNDER § 19-717 OF THIS SUBTITLE.

(D) A SEGREGATED FUND ESTABLISHED AS A RESULT OF AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT MAY NOT BE CONSIDERED AN ASSET OR AN ACCOUNT OF THE CONTRACTING PROVIDER FOR THE PURPOSES OF DETERMINING THE ASSETS AND ACCOUNTS OF A BANKRUPT CONTRACTING PROVIDER.

[(d)] (E) The health maintenance organization and the contracting provider shall comply with the plan.

[(e)] (F) (1) The health maintenance organization shall monitor the contracting provider to assure compliance with the plan, and the health maintenance organization shall notify the contracting provider whenever a failure to comply with the plan occurs.

(2) (I) [Upon] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, UPON the failure of the contracting provider to comply with the plan following notice of noncompliance, or upon termination of the administrative service provider contract for any reason, the health maintenance organization shall assume the FINANCIAL RESPONSIBILITY FOR AND THE administration of any payments due UNDER THE ADMINISTRATIVE SERVICE PROVIDER CONTRACT from the contracting provider to external providers on behalf of the contracting provider.

(II) THE FINANCIAL AND ADMINISTRATIVE RESPONSIBILITIES OF A HEALTH MAINTENANCE ORGANIZATION UNDER AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT:

1. ARE NOT LIMITED BY THE VALUE OF THE ASSETS OF A SEGREGATED FUND ESTABLISHED UNDER AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT;

2. EXIST IRRESPECTIVE OF WHETHER THE CONTRACTING PROVIDER IS INSOLVENT; AND

3. EXIST IRRESPECTIVE OF ANY CONTRARY OR LIMITING CONTRACT PROVISION.

[(f)] (G) The plan and all supporting documentation submitted in connection with the plan shall be treated as confidential and proprietary, and may not be disclosed except as otherwise required by law.

[(g)] (H) On July 1, 1991, any health maintenance organization which has existing contracts or arrangements subject to this section shall file a plan under this section within 120 days.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall report to the Governor, and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on or before December 1, 2000 on the effects of this Act and any recommendations for further legislative or regulatory action related to administrative service provider contracts.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yeay and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted."