

(PRE-FILED)

By: **Delegate Dembrow**
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Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Adverse Decisions and Grievance Decisions -**
3 **Notification Requirements**

4 FOR the purpose of requiring insurance carriers to include certain information in ~~an~~
5 ~~initial~~ a notice of an adverse decision or grievance decision that is sent to a
6 member; eliminating a certain notification requirement; altering the
7 information that insurance carriers must include in certain policies, plans,
8 certificates, enrollment materials, or other evidences of coverage; and generally
9 relating to notification of an adverse decision or grievance decision under the
10 appeals and grievance process.

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 15-10A-02
14 Annotated Code of Maryland
15 (1997 Volume and 1999 Supplement)

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

18 **Article - Insurance**

19 15-10A-02.

20 (a) Each carrier shall establish an internal grievance process for its members.

1 (b) (1) An internal grievance process shall meet the same requirements
2 established under Subtitle 10B of this title.

3 (2) In addition to the requirements of Subtitle 10B of this title, an
4 internal grievance process established by a carrier under this section shall:

5 (i) include an expedited procedure for use in an emergency case for
6 purposes of rendering a grievance decision within 24 hours of the date a grievance is
7 filed with the carrier;

8 (ii) provide that a carrier render a final decision in writing on a
9 grievance within 30 working days after the date on which the grievance is filed
10 unless:

11 1. the grievance involves an emergency case under item (i) of
12 this paragraph;

13 2. the member or a health care provider filing a grievance on
14 behalf of a member agrees in writing to an extension for a period of no longer than 30
15 working days; or

16 3. the grievance involves a retrospective denial under item
17 (iv) of this paragraph;

18 (iii) allow a grievance to be filed on behalf of a member by a health
19 care provider; and

20 (iv) provide that a carrier render a final decision in writing on a
21 grievance within 45 working days after the date on which the grievance is filed when
22 the grievance involves a retrospective denial.

23 (3) For purposes of using the expedited procedure for an emergency case
24 that a carrier is required to include under paragraph (2)(i) of this subsection, the
25 Commissioner shall define by regulation the standards required for a grievance to be
26 considered an emergency case.

27 (c) Except as provided in subsection (d) of this section, the carrier's internal
28 grievance process shall be exhausted prior to filing a complaint with the
29 Commissioner under this subtitle.

30 (d) (1) (i) A member or a health care provider filing a complaint on behalf
31 of a member may file a complaint with the Commissioner without first filing a
32 grievance with a carrier and receiving a final decision on the grievance if the member
33 or the health care provider provides sufficient information and supporting
34 documentation in the complaint that demonstrates a compelling reason to do so.

35 (ii) The Commissioner shall define by regulation the standards that
36 the Commissioner shall use to decide what demonstrates a compelling reason under
37 subparagraph (i) of this paragraph.

1 (2) Subject to subsections (b)(2)(ii) and (h) of this section, a member or a
2 health care provider may file a complaint with the Commissioner if the member or
3 the health care provider does not receive a grievance decision from the carrier on or
4 before the 30th working day on which the grievance is filed.

5 (3) Whenever the Commissioner receives a complaint under paragraph
6 (1) or (2) of this subsection, the Commissioner shall notify the carrier that is the
7 subject of the complaint within 5 working days after the date the complaint is filed
8 with the Commissioner.

9 (e) Each carrier shall:

10 (1) file for review with the Commissioner and submit to the Health
11 Advocacy Unit a copy of its internal grievance process established under this subtitle;
12 and

13 (2) update the initial filing annually to reflect any changes made.

14 [(f) Except for an emergency case under subsection (b)(2)(i) of this section, at
15 the time a member first contacts a carrier about an adverse decision, the carrier shall
16 send in writing to the member within 2 working days after the initial contact:

17 (1) the details of its internal grievance process and procedures under the
18 provisions of this subtitle;

19 (2) information stating that:

20 (i) the Health Advocacy Unit:

21 1. is available to assist the member with filing a grievance
22 under the carrier's internal grievance process; but

23 2. is not available to represent or accompany the member
24 during the proceedings of the internal grievance process;

25 (ii) the Health Advocacy Unit can assist the member in mediating a
26 resolution of the adverse decision with the carrier, but that any time during the
27 mediation, the member or a health care provider on behalf of the member may file a
28 grievance; and

29 (iii) the member or a health care provider on behalf of the member
30 may file a complaint with the Commissioner without first filing a grievance if
31 sufficient information and supporting documentation is filed with the complaint that
32 demonstrates a compelling reason to do so;

33 (3) the address, telephone number, facsimile number, and e-mail
34 address of the Health Advocacy Unit;

35 (4) the address, telephone number, and facsimile number of the
36 Commissioner; and

1 (5) information on where the information required by this subsection can
2 be found in the member's policy, plan, certificate, enrollment materials, or other
3 evidence of coverage.]

4 (F) FOR NONEMERGENCY CASES, WHEN A CARRIER RENDERS AN ADVERSE
5 DECISION, THE CARRIER SHALL:

6 (1) DOCUMENT THE ADVERSE DECISION IN WRITING AFTER THE
7 CARRIER HAS PROVIDED ORAL COMMUNICATION OF THE DECISION TO THE MEMBER
8 OR THE HEALTH CARE PROVIDER ACTING ON BEHALF OF THE MEMBER; AND

9 (2) SEND, WITHIN 5 WORKING DAYS AFTER THE ADVERSE DECISION HAS
10 BEEN MADE, A WRITTEN NOTICE TO THE MEMBER AND THE HEALTH CARE PROVIDER
11 ACTING ON BEHALF OF THE MEMBER THAT:

12 (I) STATES IN DETAIL IN CLEAR, UNDERSTANDABLE LANGUAGE
13 THE SPECIFIC FACTUAL BASES FOR THE CARRIER'S DECISION;

14 (II) REFERENCES THE SPECIFIC CRITERIA AND STANDARDS,
15 INCLUDING INTERPRETIVE GUIDELINES, ON WHICH THE DECISION WAS BASED, AND
16 DOES NOT SOLELY USE GENERALIZED TERMS SUCH AS "EXPERIMENTAL PROCEDURE
17 NOT COVERED", "COSMETIC PROCEDURE NOT COVERED", "SERVICE INCLUDED
18 UNDER ANOTHER PROCEDURE", OR "NOT MEDICALLY NECESSARY";

19 (III) STATES THE NAME, BUSINESS ADDRESS, AND BUSINESS
20 TELEPHONE NUMBER OF:

21 1. THE MEDICAL DIRECTOR OR ASSOCIATE MEDICAL
22 DIRECTOR, AS APPROPRIATE, WHO MADE THE DECISION IF THE CARRIER IS A
23 HEALTH MAINTENANCE ORGANIZATION; OR

24 2. THE DESIGNATED EMPLOYEE OR REPRESENTATIVE OF
25 THE CARRIER WHO HAS RESPONSIBILITY FOR THE CARRIER'S INTERNAL GRIEVANCE
26 PROCESS IF THE CARRIER IS NOT A HEALTH MAINTENANCE ORGANIZATION;

27 (IV) GIVES WRITTEN DETAILS OF THE CARRIER'S INTERNAL
28 GRIEVANCE PROCESS AND PROCEDURES UNDER THIS SUBTITLE; AND

29 (V) INCLUDES THE FOLLOWING INFORMATION:

30 1. THAT THE MEMBER OR A HEALTH CARE PROVIDER ON
31 BEHALF OF THE MEMBER HAS A RIGHT TO FILE A COMPLAINT WITH THE
32 COMMISSIONER WITHIN 30 DAYS AFTER RECEIPT OF A CARRIER'S GRIEVANCE
33 DECISION;

34 2. THAT A COMPLAINT MAY BE FILED WITHOUT FIRST
35 FILING A GRIEVANCE IF THE MEMBER OR A HEALTH CARE PROVIDER FILING A
36 GRIEVANCE ON BEHALF OF THE MEMBER CAN DEMONSTRATE A COMPELLING
37 REASON TO DO SO AS DETERMINED BY THE COMMISSIONER;

1 HEALTH CARE PROVIDER WHO FILED THE GRIEVANCE ON BEHALF OF THE MEMBER2 THAT:

3 (i) ~~state~~ STATES in detail in clear, understandable language the
4 specific factual bases for the carrier's decision;

5 (ii) ~~reference~~ REFERENCES the specific criteria and standards,
6 including interpretive guidelines, on which the ~~adverse decision or~~ grievance decision
7 was based;

8 (iii) ~~state~~ STATES the name, business address, and business
9 telephone number of:

10 1. the medical director or associate medical director, as
11 appropriate, who made the ~~adverse decision or~~ grievance decision if the carrier is a
12 health maintenance organization; or

13 2. the designated employee or representative of the carrier
14 who has responsibility for the carrier's internal grievance process if the carrier is not
15 a health maintenance organization; and

16 (iv) ~~include~~ INCLUDES the following information:

17 1. ~~THAT THE MEMBER HAS A RIGHT TO APPEAL THE~~
18 ~~ADVERSE DECISION THROUGH THE CARRIER'S INTERNAL GRIEVANCE PROCESS;~~

19 2. ~~THE DETAILS OF THE CARRIER'S INTERNAL GRIEVANCE~~
20 ~~PROCESS AND PROCEDURES UNDER THE PROVISIONS OF THIS SUBTITLE;~~

21 3. ~~A STATEMENT THAT THE HEALTH ADVOCACY UNIT IS~~
22 ~~AVAILABLE TO ASSIST THE MEMBER IN BOTH MEDIATING AND FILING A GRIEVANCE~~
23 ~~UNDER THE CARRIER'S INTERNAL GRIEVANCE PROCESS;~~

24 4. ~~THE ADDRESS, TELEPHONE NUMBER, FACSIMILE~~
25 ~~NUMBER, AND E-MAIL ADDRESS OF THE HEALTH ADVOCACY UNIT;~~

26 {1.} 5. that the member has a right to file a complaint with
27 the Commissioner within 30 days after receipt of a carrier's grievance decision; AND

28 {2.} 6. ~~that a complaint may be filed without first filing a~~
29 ~~grievance if the member or a health care provider filing a grievance on behalf of the~~
30 ~~member can demonstrate a compelling reason to do so; and~~

31 {3.} 7. 2. the Commissioner's address, telephone number,
32 and facsimile number.

33 (3) (2) A carrier may not use solely in a notice sent under paragraph
34 (1) of this subsection generalized terms such as "experimental procedure not covered",
35 "cosmetic procedure not covered", "service included under another procedure", or "not

1 medically necessary" to satisfy the requirements of ~~paragraph (2)(i) or (ii)~~ of this
2 subsection.

3 ~~{(j)}~~ ~~(H)~~ (1) For an emergency case under subsection (b)(2)(i) of this section,
4 within 1 day after a decision has been orally communicated to the member or health
5 care provider, the carrier shall send notice in writing of any adverse decision or
6 grievance decision to:

7 (i) the member; and

8 (ii) if the grievance was filed on behalf of the member under
9 subsection (b)(2)(iii) of this section, the health care provider.

10 (2) ~~The A~~ notice REQUIRED TO BE SENT UNDER PARAGRAPH (1) OF THIS
11 SUBSECTION shall include the ~~information required under subsection (i)(2) of this~~
12 ~~section~~ FOLLOWING:

13 (I) FOR AN ADVERSE DECISION, THE INFORMATION REQUIRED
14 UNDER SUBSECTION (F) OF THIS SECTION; AND

15 (II) FOR A GRIEVANCE DECISION, THE INFORMATION REQUIRED
16 UNDER SUBSECTION (I) OF THIS SECTION.

17 ~~{(k)}~~ ~~(J)~~ Each carrier shall include the information required by [subsections
18 (f) and (i)(2)(iii)] SUBSECTION ~~(H)(2)(HH)~~ (F)(2)(III), (IV), AND (V) of this section in the
19 policy, plan, certificate, enrollment materials, or other evidence of coverage that the
20 carrier provides to a member at the time of the member's initial coverage or renewal
21 of coverage.

22 ~~{(l)}~~ ~~(K)~~ (1) Nothing in this subtitle prohibits a carrier from delegating its
23 internal grievance process to a private review agent that has a certificate issued
24 under Subtitle 10B of this title and is acting on behalf of the carrier.

25 (2) If a carrier delegates its internal grievance process to a private
26 review agent, the carrier shall be:

27 (i) bound by the grievance decision made by the private review
28 agent acting on behalf of the carrier; and

29 (ii) responsible for a violation of any provision of this subtitle
30 regardless of the delegation made by the carrier under paragraph (1) of this
31 subsection.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2000.

