

HOUSE BILL 814

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HB 833/99 - ECM

2000 Regular Session
0lr2111

By: **Delegate Elliott**

Introduced and read first time: February 11, 2000

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Unfair Claim Settlement Practices - Liability of Insurer for Costs and**
3 **Damages**

4 FOR the purpose of establishing the liability of an insurer or nonprofit health service
5 plan for certain costs, attorney's fees, and damages if the insurer or nonprofit
6 health service plan is found to have engaged in certain unfair claim settlement
7 practices or certain other activities.

8 BY repealing and reenacting, without amendments,
9 Article - Insurance
10 Section 27-303
11 Annotated Code of Maryland
12 (1997 Volume and 1999 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Insurance
15 Section 27-305
16 Annotated Code of Maryland
17 (1997 Volume and 1999 Supplement)

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

20 **Article - Insurance**

21 27-303.

22 It is an unfair claim settlement practice and a violation of this subtitle for an
23 insurer or nonprofit health service plan to:

24 (1) misrepresent pertinent facts or policy provisions that relate to the
25 claim or coverage at issue;

26 (2) refuse to pay a claim for an arbitrary or capricious reason based on
27 all available information;

1 (3) attempt to settle a claim based on an application that is altered
2 without notice to, or the knowledge or consent of, the insured;

3 (4) fail to include with each claim paid to an insured or beneficiary a
4 statement of the coverage under which payment is being made;

5 (5) fail to settle a claim promptly whenever liability is reasonably clear
6 under one part of a policy, in order to influence settlements under other parts of the
7 policy;

8 (6) fail to provide promptly on request a reasonable explanation of the
9 basis for a denial of a claim;

10 (7) fail to meet the requirements of Title 15, Subtitle 10B of this article
11 for preauthorization for a health care service; or

12 (8) fail to comply with the provisions of Title 15, Subtitle 10A of this
13 article.

14 27-305.

15 (a) The Commissioner may impose a penalty not exceeding \$2,500 for each
16 violation of § 27-303 of this subtitle or a regulation adopted under § 27-303 of this
17 subtitle.

18 (b) The penalty for a violation of § 27-304 of this subtitle is as provided in §§
19 1-301, 4-113, 4-114, and 27-103 of this article.

20 (c) (1) On finding a violation of this subtitle, the Commissioner may require
21 an insurer or nonprofit health service plan to make restitution to each claimant who
22 has suffered actual economic damage because of the violation.

23 (2) Restitution may not exceed the amount of actual economic damage
24 sustained, subject to the limits of any applicable policy.

25 (D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN
26 ANY CIVIL ACTION THAT INVOLVES A POLICY ISSUED TO A PERSON IN THE STATE OR
27 ISSUED WITH RESPECT TO PROPERTY IN THE STATE IN WHICH A COURT
28 DETERMINES THAT AN INSURER OR NONPROFIT HEALTH SERVICE PLAN IS IN
29 VIOLATION OF § 27-303(1) OR (2) OF THIS SUBTITLE, HAS COMMENCED GROUNDLESS
30 LITIGATION AGAINST THE INSURED, HAS ASSERTED A BASELESS DEFENSE IN
31 LITIGATION BROUGHT BY THE INSURED, OR HAS ACTED IN ANY OTHER PURPOSEFUL
32 MANNER SO AS TO DECEITFULLY, INCLUDING THROUGH ATTEMPTED FRAUD OR
33 TRICKERY, INTERFERE WITH THE INSURED'S RIGHT TO COLLECT INSURANCE
34 PROCEEDS TO WHICH THE INSURED IS LAWFULLY ENTITLED, THE INSURER OR
35 NONPROFIT HEALTH SERVICE PLAN IS LIABLE FOR ACTUAL ECONOMIC LOSSES
36 CAUSED BY THE VIOLATION, INCLUDING THE AMOUNT OF ANY WRONGFULLY
37 DENIED CLAIM OR PART OF A CLAIM, PLUS REASONABLE LITIGATION COSTS AND
38 ATTORNEY'S FEES, AS DETERMINED BY THE COURT.

1 (2) IN ADDITION TO AN AWARD UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION, THE COURT MAY AWARD PUNITIVE DAMAGES IN AN AMOUNT NOT
3 EXCEEDING THE GREATER OF \$100,000 OR TWICE THE AMOUNT OF ACTUAL
4 ECONOMIC LOSSES AWARDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF THE
5 COURT DETERMINES THAT THE VIOLATION:

6 (I) WAS COMMITTED WITH WILLFUL, WANTON, OR MALICIOUS
7 MOTIVES; OR

8 (II) WAS PART OF A DESIGN OR SCHEME:

9 1. TO INJURE AN INSURED OR PROPERTY OF AN INSURED;

10 2. IMPROPERLY OR DECEITFULLY TO DENY AN INSURED
11 PROCEEDS TO WHICH THE INSURED WAS LAWFULLY ENTITLED;

12 3. IMPROPERLY OR DECEITFULLY TO DELAY AN INSURED'S
13 COLLECTION OF PROCEEDS TO WHICH THE INSURED WAS LAWFULLY ENTITLED; OR

14 4. IMPROPERLY OR DECEITFULLY TO FORCE OR PRESSURE
15 AN INSURED TO ACCEPT LESS THAN THE FULL AMOUNT OF THE PROCEEDS TO
16 WHICH THE INSURED WAS LAWFULLY ENTITLED.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 June 1, 2000.