

SENATE BILL 54

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(PRE-FILED)

By: **Chairman, Finance Committee (Departmental - Health and Mental Hygiene)**

Requested: November 3, 1999

Introduced and read first time: January 12, 2000

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2000

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Managed Care Organizations -**
3 **Administrative Service Provider Contracts**

4 FOR the purpose of requiring certain standards concerning administrative service
5 provider contracts to be applicable to managed care organizations under the
6 Maryland Medical Assistance Program; requiring the Insurance Commissioner
7 to consult with the Secretary of Health and Mental Hygiene before taking
8 certain actions; and generally relating to administrative service provider
9 contracts under the Maryland Medical Assistance Program.

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 15-102.3
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1999 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Health - General
17 Section 19-712(b) and 19-713.2
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1999 Supplement)

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

1

Article - Health - General

2 15-102.3.

3 (a) The provisions of § 15-112 of the Insurance Article (Provider panels) shall
4 apply to managed care organizations in the same manner they apply to carriers.

5 (b) The provisions of § 15-1005 of the Insurance Article shall apply to
6 managed care organizations in the same manner they apply to health maintenance
7 organizations.

8 (C) (1) THE PROVISIONS OF ~~§ 19-713.2~~ §§ 19-712(B) AND 19-713.2 OF THIS
9 ARTICLE (ADMINISTRATIVE SERVICE PROVIDER CONTRACTS) SHALL APPLY TO
10 MANAGED CARE ORGANIZATIONS IN THE SAME MANNER THEY APPLY TO HEALTH
11 MAINTENANCE ORGANIZATIONS.

12 (2) THE INSURANCE COMMISSIONER SHALL CONSULT WITH THE
13 SECRETARY BEFORE TAKING AN ACTION UNDER THIS SUBSECTION.

14 [(c)] (D) (1) Except as otherwise provided in this subsection, the provisions
15 of § 19-718 of this article (Financial affairs examination) shall apply to managed care
16 organizations in the same manner they apply to health maintenance organizations.

17 (2) The Insurance Commissioner or an agent of the Commissioner shall
18 examine the financial affairs and status of each managed care organization at least
19 once every 5 years.

20 19-712.

21 (b) (1) A person who holds a certificate of authority to operate a health
22 maintenance organization under this subtitle and who enters into any administrative
23 service provider contract, as defined in § 19-713.1 of this subtitle, with a person or
24 entity for the provision of health care services to subscribers shall be responsible for
25 all claims or payments for health care services:

26 (i) Covered under the subscriber's contract; and

27 (ii) Rendered by a provider, who is not the person or entity which
28 entered into the administrative service provider contract with the health
29 maintenance organization, pursuant to a referral by a person or entity which entered
30 into the administrative service provider contract with the health maintenance
31 organization.

32 (2) Responsibility for claims and payments under this subsection is
33 subject to the provisions of § 19-712.1 of this subtitle.

34 19-713.2.

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

1 (2) "Administrative service provider contract" means a contract or
2 capitation agreement between a health maintenance organization and a contracting
3 provider which includes requirements that:

4 (i) The contracting provider accept payments from a health
5 maintenance organization for health care services to be provided to members of the
6 health maintenance organization that the contracting provider arranges to be
7 provided by external providers; and

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

11 (3) "Contracting provider" means a physician or other health care
12 provider who enters into an administrative service provider contract with a health
13 maintenance organization.

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

16 (i) A contracting provider; or

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

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

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

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

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

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

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

33 (3) Require the creation by the contracting provider, or on the
34 contracting provider's behalf, of a segregated fund (which may include withheld
35 funds, escrow accounts, letters of credit, or similar arrangements), or require the
36 availability of other resources that are sufficient to satisfy the contracting provider's

1 obligations to external providers for services rendered to members of the health
2 maintenance organization;

3 (4) Require an explanation of how the fund or resources required under
4 paragraph (3) of this subsection create funds or other resources sufficient to satisfy
5 the contracting provider's obligations to external providers for services rendered to
6 members of the health maintenance organization; and

7 (5) Permit the health maintenance organization, at mutually agreed
8 upon times and upon reasonable prior notice, to audit and inspect the contracting
9 provider's books, records, and operations relevant to the provider's contract for the
10 purpose of determining the contracting provider's compliance with the plan.

11 (d) The health maintenance organization and the contracting provider shall
12 comply with the plan.

13 (e) (1) The health maintenance organization shall monitor the contracting
14 provider to assure compliance with the plan, and the health maintenance
15 organization shall notify the contracting provider whenever a failure to comply with
16 the plan occurs.

17 (2) Upon the failure of the contracting provider to comply with the plan
18 following notice of noncompliance, or upon termination of the administrative service
19 provider contract for any reason, the health maintenance organization shall assume
20 the administration of any payments due from the contracting provider to external
21 providers on behalf of the contracting provider.

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 July 1, 2000.