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By: **Senator Dorman**  
Introduced and read first time: January 31, 2000  
Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted  
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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Insurance - Retroactive Denial of Reimbursement to Health Care**  
3 **Providers**

4 FOR the purpose of clarifying that a carrier may retroactively deny reimbursement to  
5 a health care provider or attempt in any manner to retroactively collect  
6 reimbursement already paid to a health care provider only during a certain  
7 period of time under certain circumstances; ~~authorizing a health care provider~~  
8 ~~to enforce certain provisions on retroactive denial of reimbursement by filing a~~  
9 ~~complaint with the Maryland Insurance Administration or by filing a certain~~  
10 ~~civil action; providing that certain provisions of law related to the retroactive~~  
11 ~~denial of reimbursement to a health care provider do not apply to adjustments to~~  
12 ~~reimbursements made as part of an annual contracted reconciliation of a risk~~  
13 ~~sharing arrangement under an administrative service provider contract;~~  
14 defining a certain term; and generally relating to retroactive denial of  
15 reimbursement to health care providers by carriers under health insurance.

16 BY repealing and reenacting, with amendments,  
17 Article - Insurance  
18 Section 15-1008  
19 Annotated Code of Maryland  
20 (1997 Volume and 1999 Supplement)

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

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**Article - Insurance**

2 15-1008.

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) "Code" means:

12 (i) the applicable current procedural terminology (CPT) code, as  
13 adopted by the American Medical Association;14 (ii) if for a dental service, the applicable code adopted by the  
15 American Dental Association; or16 (iii) another applicable code under an appropriate uniform coding  
17 scheme used by a carrier in accordance with this section.18 (4) "Coding guidelines" means those standards or procedures used or  
19 applied by a payor to determine the most accurate and appropriate code or codes for  
20 payment by the payor for a service or services.21 (5) "Health care provider" means a person or entity licensed, certified or  
22 otherwise authorized under the Health Occupations Article or the Health - General  
23 Article to provide health care services.24 (6) "REIMBURSEMENT" MEANS PAYMENTS MADE TO A HEALTH CARE  
25 PROVIDER BY A CARRIER ON EITHER A FEE-FOR-SERVICE, CAPITATED, OR PREMIUM  
26 BASIS.27 (B) THIS SECTION DOES NOT APPLY TO AN ADJUSTMENT TO REIMBURSEMENT  
28 MADE AS PART OF AN ANNUAL CONTRACTED RECONCILIATION OF A RISK SHARING  
29 ARRANGEMENT UNDER AN ADMINISTRATIVE SERVICE PROVIDER CONTRACT.30 ~~(b)~~ (C) (1) If a carrier retroactively denies reimbursement to a health care  
31 provider, the carrier:32 (i) may only retroactively deny reimbursement for services subject  
33 to coordination of benefits with another carrier, the Maryland Medical Assistance

1 Program, or the Medicare Program during the 18-month period after the date that  
2 the carrier paid ~~the claim submitted by~~ the health care provider; and

3 (ii) except as provided in item (i) of this paragraph, may only  
4 retroactively deny reimbursement during the 6-month period after the date that the  
5 carrier paid ~~the claim submitted by~~ the health care provider.

6 (2) (i) A carrier that retroactively denies reimbursement to a health  
7 care provider under paragraph (1) of this subsection shall provide the health care  
8 provider with a written statement specifying the basis for the retroactive denial.

9 (ii) If the retroactive denial of reimbursement results from  
10 coordination of benefits, the written statement shall provide the name and address of  
11 the entity acknowledging responsibility for payment of the denied claim.

12 ~~(e)~~ (D) Except as provided in subsection ~~(d)~~ (E) of this section, a carrier that  
13 does not comply with the provisions of subsection ~~(b)~~ (C) of this section may not  
14 retroactively deny reimbursement or attempt in any manner to retroactively collect  
15 reimbursement already paid to a health care provider [ by reducing reimbursements  
16 currently owed to the health care provider, withholding future reimbursement, or in  
17 any other manner affecting the future reimbursement to the health care provider].

18 ~~(d)~~ (E) (1) The provisions of subsection ~~(b)(1)~~ (C)(1) of this section do not  
19 apply if A CARRIER RETROACTIVELY DENIES REIMBURSEMENT TO A HEALTH CARE  
20 PROVIDER BECAUSE:

21 (i) ~~a carrier retroactively denies reimbursement to a health care~~  
22 ~~provider because~~ the information submitted to the carrier was fraudulent ~~or~~  
23 ~~improperly coded; and;~~

24 (ii) ~~in the case of improper coding,~~ THE INFORMATION SUBMITTED  
25 TO THE CARRIER WAS IMPROPERLY CODED AND the carrier has provided to the  
26 health care provider sufficient information regarding the coding guidelines used by  
27 the carrier at least 30 days prior to the date the services subject to the retroactive  
28 denial were rendered; OR

29 (III) THE CLAIM SUBMITTED TO THE CARRIER WAS A DUPLICATE  
30 CLAIM.

31 (2) Information submitted to the carrier may be considered to be  
32 improperly coded under paragraph (1) of this subsection if the information submitted  
33 to the carrier by the health care provider:

34 (i) uses codes that do not conform with the coding guidelines used  
35 by the carrier applicable as of the date the service or services were rendered; or

36 (ii) does not otherwise conform with the contractual obligations of  
37 the health care provider to the carrier applicable as of the date the service or services  
38 were rendered.

1       (⊖)     (F)     If a carrier retroactively denies reimbursement for services as a  
2 result of coordination of benefits under provisions of subsection ~~(b)(1)(i)~~ (C)(1)(I) of this  
3 section, the health care provider shall have 6 months from the date of denial, unless  
4 a carrier permits a longer time period, to submit a claim for reimbursement for the  
5 service to the carrier, Maryland Medical Assistance Program, or Medicare Program  
6 responsible for payment.

7       (F)     ~~A HEALTH CARE PROVIDER MAY ENFORCE THE PROVISIONS OF THIS~~  
8 ~~SECTION BY FILING A COMPLAINT WITH THE ADMINISTRATION OR BY FILING A CIVIL~~  
9 ~~ACTION IN A COURT OF COMPETENT JURISDICTION UNDER § 1-501 OR § 4-201 OF THE~~  
10 ~~COURTS ARTICLE.~~

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