

SENATE BILL 405

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2000 Regular Session
0lr2129
CF 0lr1586

By: **Senator Astle**
Introduced and read first time: February 3, 2000
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 24, 2000

CHAPTER _____

1 AN ACT concerning

2 **Health Maintenance Organizations - ~~Subscribers and Enrollees~~ - Private**
3 **~~Contracts for Health Care Services~~ Reimbursement of Non-Contracting**
4 **Providers**

5 FOR the purpose of ~~authorizing health care providers or representatives to collect~~
6 ~~certain payments or charges from subscribers or enrollees of health~~
7 ~~maintenance organizations under certain circumstances; establishing the usual,~~
8 ~~customary, and reasonable rate of payment to health care providers by health~~
9 ~~maintenance organizations under certain circumstances; providing that health~~
10 ~~maintenance organizations shall bear the burden of proving that their payments~~
11 ~~are at the usual, customary, and reasonable rate; authorizing subscribers or~~
12 ~~enrollees of health maintenance organizations to enter into certain private~~
13 ~~contracts for health care services with health care providers under which the~~
14 ~~subscribers or enrollees accept financial responsibility for health care services~~
15 ~~under certain circumstances; requiring the Health Education and Advocacy Unit~~
16 ~~in the Consumer Protection Division of the Office of the Attorney General to~~
17 ~~develop a certain form; authorizing the enforcement of the provisions of this Act~~
18 ~~in a certain manner under certain circumstances; altering the reimbursement~~
19 ~~that a health maintenance organization must pay a non-contracting health care~~
20 ~~provider for certain services delivered to an enrollee or subscriber; requiring a~~
21 ~~health maintenance organization to reimburse a non-contracting health care~~
22 ~~provider at a certain rate; requiring a health maintenance organization to~~
23 ~~disclose a certain reimbursement rate on request of a certain health care~~
24 ~~provider; authorizing the enforcement of certain provisions of this Act in a~~
25 ~~certain manner under certain circumstances; repealing certain provisions of law~~
26 ~~requiring the Maryland Insurance Administration to conduct a certain study~~
27 ~~and submit certain reports; requiring the Health Services Cost Review~~
28 ~~Commission to submit a certain report to certain committees of the General~~

1 Assembly on or before a certain date; providing for the termination of certain
 2 provisions of this Act; and generally relating to ~~private contracts reimbursement~~
 3 of non-contracting providers for health care services ~~made by~~ delivered to
 4 subscribers or enrollees of health maintenance organizations.

5 BY repealing

6 Chapter 120 of the Acts of the General Assembly of 1999
 7 Section 5

8 BY repealing and reenacting, without amendments,

9 Article - Health - General
 10 Section 19-710(o)
 11 Annotated Code of Maryland
 12 (1996 Replacement Volume and 1999 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article - Health - General
 15 Section ~~19-710(o)~~ and 19-710.1
 16 Annotated Code of Maryland
 17 (1996 Replacement 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 **Chapter 120 of the Acts of 1999**

21 [SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland
 22 Insurance Administration, in consultation with the Health Care Access and Cost
 23 Commission, shall study the usual, customary, and reasonable rates paid by health
 24 maintenance organizations for the claims of non-contracting health care providers
 25 under the provisions of § 19-710.1 of the Health - General Article. The study shall
 26 include a review of methodologies for rates of payment for services provided by
 27 non-contracting health care providers in the State. The findings of the study shall be
 28 presented in an interim report submitted on or before January 1, 2000 and, subject to
 29 § 2-1246 of the State Government Article, a final report submitted on or before
 30 September 1, 2000 to the House Economic Matters Committee and the Senate
 31 Finance Committee.]

32 **Article - Health - General**

33 19-710.

34 (o) (1) Except as provided in paragraph (3) of this subsection, individual
 35 enrollees and subscribers of health maintenance organizations issued certificates of
 36 authority to operate in this State shall not be liable to any health care provider for
 37 any covered services provided to the enrollee or subscriber.

1 (2) (i) A health care provider or any representative of a health care
 2 provider may not collect or attempt to collect from any subscriber or enrollee any
 3 money owed to the health care provider by a health maintenance organization issued
 4 a certificate of authority to operate in this State.

5 (ii) A health care provider or any representative of a health care
 6 provider may not maintain any action against any subscriber or enrollee to collect or
 7 attempt to collect any money owed to the health care provider by a health
 8 maintenance organization issued a certificate of authority to operate in this State.

9 (3) Notwithstanding any other provision of this subsection, a health care
 10 provider or representative of a health care provider may collect or attempt to collect
 11 from a subscriber or enrollee:

12 (i) Any copayment or coinsurance sums owed by the subscriber or
 13 enrollee to a health maintenance organization issued a certificate of authority to
 14 operate in this State for covered services provided by the health care provider; {or}

15 (ii) Any payment or charges for services not covered under the
 16 subscriber's contract; ~~OR~~

17 ~~(iii) ANY PAYMENT OR CHARGES FOR COVERED SERVICES UNDER §~~
 18 ~~19-710.1(D) OF THIS SUBTITLE.~~

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 20 read as follows:

21 **Article - Health - General**

22 19-710.1.

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

24 (2) "Enrollee" means a subscriber or member of the health maintenance
 25 organization.

26 (3) "Covered service" means a health care service included in the benefit
 27 package of the health maintenance organization and rendered to an enrollee of the
 28 health maintenance organization by a health care provider, including a physician or
 29 hospital, not under written contract with the health maintenance organization:

30 (i) Pursuant to a verbal or written referral by the enrollee's health
 31 maintenance organization or by a provider under written contract with the enrollee's
 32 health maintenance organization; or

33 (ii) That has been preauthorized or otherwise approved either
 34 verbally or in writing by the enrollee's health maintenance organization or a provider
 35 under written contract with the enrollee's health maintenance organization.

1 (4) "Adjunct claims documentation" means an abstract of an enrollee's
 2 medical record which describes and summarizes the diagnosis and treatment of, and
 3 services rendered to, the enrollee.

4 (b) (1) In addition to any other provisions of this subtitle, for a covered
 5 service rendered to an enrollee of a health maintenance organization by a health care
 6 provider not under written contract with the health maintenance organization, the
 7 health maintenance organization or its agent:

8 (i) Shall pay the health care provider within 30 days after the
 9 receipt of a claim in accordance with the applicable provisions of this subtitle; and

10 (ii) Shall pay the claim submitted by:

11 1. A hospital at the rate approved by the Health Services
 12 Cost Review Commission; and

13 2. Any other health care provider at ~~the rate billed or at the~~
 14 ~~usual, customary, and reasonable rate~~ THE GREATER OF:

15 A. 125% OF THE RATE THE HEALTH MAINTENANCE
 16 ORGANIZATION PAYS IN THE SAME GEOGRAPHIC AREA, FOR THE SAME COVERED
 17 SERVICE, TO A SIMILARLY LICENSED PROVIDER UNDER WRITTEN CONTRACT WITH
 18 THE HEALTH MAINTENANCE ORGANIZATION; OR

19 B. THE RATE AS OF JANUARY 1, 2000 THAT THE HEALTH
 20 MAINTENANCE ORGANIZATION PAID IN THE SAME GEOGRAPHIC AREA, FOR THE
 21 SAME COVERED SERVICE, TO A SIMILARLY LICENSED PROVIDER NOT UNDER
 22 WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION.

23 ~~(2) A health maintenance organization that pays a health care provider~~
 24 ~~at the usual, customary, and reasonable rate:~~

25 ~~(i) Except for services rendered to medical assistance recipients or~~
 26 ~~for services rendered under a contract entered into under § 1876(g) of the federal~~
 27 ~~Social Security Act (42 U.S.C. § 1395mm), may not use Medicare, Medicaid, or~~
 28 ~~workers' compensation payments as part of any methodology used to determine a~~
 29 ~~payment at the usual, customary, and reasonable rate; [and]~~

30 ~~(II) SHALL BEAR THE BURDEN OF PROVING THAT ITS PAYMENT IS~~
 31 ~~AT THE USUAL, CUSTOMARY, AND REASONABLE RATE; AND~~

32 ~~[(ii)] (III) On request of the health care provider, shall disclose the~~
 33 ~~methodology used to determine the amount of payment.~~

34 (2) A HEALTH MAINTENANCE ORGANIZATION SHALL DISCLOSE, ON
 35 REQUEST OF A HEALTH CARE PROVIDER NOT UNDER WRITTEN CONTRACT WITH THE
 36 HEALTH MAINTENANCE ORGANIZATION, THE REIMBURSEMENT RATE REQUIRED
 37 UNDER PARAGRAPH (1)(II)2 OF THIS SUBSECTION.

~~1 (3) THE USUAL, CUSTOMARY, AND REASONABLE RATE IS THE AMOUNT
2 AT WHICH 90% OF ALL CLAIMS SUBMITTED TO THE HEALTH MAINTENANCE
3 ORGANIZATION IN THE PRECEDING CALENDAR YEAR FOR THE SAME SERVICE
4 WOULD BE PAID IN FULL.~~

5 (c) (1) A health maintenance organization may seek reimbursement from an
6 enrollee for any payment under subsection (b) of this section for a claim or portion of
7 a claim submitted by a health care provider and paid by the health maintenance
8 organization that the health maintenance organization determines is the
9 responsibility of the enrollee.

10 (2) The health maintenance organization may request and the health
11 care provider shall provide adjunct claims documentation to assist in making the
12 determination under paragraph (1) of this subsection or under subsection (b) of this
13 section.

~~14 (D) (1) A HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER OR
15 ENROLLEE MAY ENTER INTO A PRIVATE CONTRACT WITH A HEALTH CARE PROVIDER
16 THAT CONTAINS A PROVISION UNDER WHICH THE SUBSCRIBER OR ENROLLEE
17 ACCEPTS RESPONSIBILITY FOR PAYING CHARGES TO THE HEALTH CARE PROVIDER
18 IF:~~

~~19 (I) THE HEALTH CARE PROVIDER DOES NOT HAVE A CONTRACT
20 WITH THE SUBSCRIBER'S OR ENROLLEE'S HEALTH MAINTENANCE ORGANIZATION;~~

~~21 (II) THE HEALTH MAINTENANCE ORGANIZATION DID NOT REFER
22 THE SUBSCRIBER OR ENROLLEE TO THE HEALTH CARE PROVIDER;~~

~~23 (III) THE HEALTH CARE SERVICES PROVIDED ARE NOT EMERGENCY
24 SERVICES; AND~~

~~25 (IV) BEFORE TREATMENT, THE PATIENT AND HEALTH CARE
26 PROVIDER SIGN A FORM DEVELOPED BY THE HEALTH EDUCATION AND ADVOCACY
27 UNIT IN THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY
28 GENERAL.~~

~~29 (2) THE FORM DESCRIBED IN PARAGRAPH (1)(IV) OF THIS SUBSECTION
30 SHALL STATE IN PLAIN LANGUAGE THAT:~~

~~31 (I) THE SUBSCRIBER OR ENROLLEE IS ACCEPTING FINANCIAL
32 RESPONSIBILITY FOR THE HEALTH CARE SERVICES; AND~~

~~33 (II) THE CONDITIONS OF PARAGRAPH (1)(I), (II), AND (III) OF THE
34 SUBSECTION ARE MET.~~

~~35 (E) THE PROVISIONS OF THIS SECTION AND § 19-710(O) OF THIS SUBTITLE DO
36 NOT APPLY TO HEALTH CARE SERVICES THAT ARE COVERED BY THE HEALTH
37 MAINTENANCE ORGANIZATION SOLELY AS A RESULT OF A POINT OF SERVICE
38 OPTION OF A HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19-710.2 OF
39 THIS SUBTITLE.~~

1 ~~(F)~~ IF THE HEALTH MAINTENANCE ORGANIZATION PAYS A CLAIM FOR A
2 HEALTH CARE SERVICE FOR WHICH THE SUBSCRIBER OR ENROLLEE HAS PRIVATELY
3 CONTRACTED WITH A HEALTH CARE PROVIDER UNDER SUBSECTION (D) OF THIS
4 SECTION, THE PATIENT OR HEALTH CARE PROVIDER MAY ACCEPT PAYMENT
5 WITHOUT AFFECTING THE PRIVATE CONTRACT.

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

11 (2) THE MARYLAND INSURANCE ADMINISTRATION OR A COURT SHALL
12 AWARD REASONABLE ATTORNEY FEES IF THE COMPLAINT OF THE HEALTH CARE
13 PROVIDER IS SUSTAINED.

14 [(d)] ~~(H)~~ (E) In addition to any other penalties under this subtitle, the
15 Commissioner may impose a penalty not to exceed \$5,000 on any health maintenance
16 organization which violates the provisions of this section if the violation is committed
17 with such frequency as to indicate a general business practice of the health
18 maintenance organization.

19 SECTION 3. AND BE IT FURTHER ENACTED, That the Health Services
20 Cost Review Commission, in consultation with the Maryland Health Care
21 Commission, the Maryland Insurance Administration, health care providers, and
22 health maintenance organizations, shall develop a methodology for ensuring
23 reasonable payment to health care providers not under written contract with a health
24 maintenance organization. The Commission shall report its findings and
25 recommendations to the House Economic Matters Committee and the Senate Finance
26 Committee, in accordance with § 2-1246 of the State Government Article, on or before
27 January 1, 2002.

28 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act
29 shall take effect October 1, 2000. Section 2 of this Act shall remain effective for a
30 period of 1 year and 9 months and, at the end of June 30, 2002, with no further action
31 required by the General Assembly, Section 2 of this Act shall be abrogated and of no
32 further force and effect.

33 ~~SECTION 5.~~ SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
34 this Act, this Act shall take effect October 1, 2000.

