

SENATE BILL 497  
EMERGENCY BILL

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2000 Regular Session  
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By: **Senators Bromwell and Miller**

Introduced and read first time: February 4, 2000

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Administrative Service Provider Contract Law -**  
3 **Clarification and Modification**

4 FOR the purpose of clarifying that a health maintenance organization is responsible  
5 for certain obligations under an administrative service provider contract under  
6 certain circumstances; clarifying that certain responsibilities of a health  
7 maintenance organization are not subject to certain limitations and exist  
8 irrespective of certain conditions; requiring a health maintenance organization  
9 to create a segregated fund for certain purposes under certain circumstances;  
10 requiring a health maintenance organization to audit and inspect certain books,  
11 records, and operations of a contracting provider under certain circumstances;  
12 requiring a health maintenance organization to include certain information in a  
13 certain annual report; prohibiting the consideration of a certain segregated fund  
14 as an asset or account of a contracting provider under certain circumstances;  
15 applying to managed care organizations certain provisions of law that relate to  
16 health maintenance organizations; requiring the Maryland Insurance  
17 Administration to make a certain report to the Governor and to the General  
18 Assembly in a certain manner by a certain date; making this Act an emergency  
19 measure; and generally relating to the clarification and modification of  
20 administrative service provider contract law.

21 BY repealing and reenacting, with amendments,  
22 Article - Health - General  
23 Section 15-102.3  
24 Annotated Code of Maryland  
25 (1994 Replacement Volume and 1999 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article - Health - General  
28 Section 19-712(b) and 19-713.2  
29 Annotated Code of Maryland  
30 (1996 Replacement Volume and 1999 Supplement)

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

3 **Article - Health - General**

4 15-102.3.

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

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

10 (C) THE PROVISIONS OF §§ 19-712(B) AND 19-713.2 OF THIS ARTICLE SHALL  
11 APPLY TO MANAGED CARE ORGANIZATIONS IN THE SAME MANNER THEY APPLY TO  
12 HEALTH MAINTENANCE ORGANIZATIONS.

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

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

19 19-712.

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

26 [(i)] 1. Covered under the subscriber's contract; and

27 [(ii)] 2. Rendered by a provider, who is not the person or entity  
28 which 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 (II) THE FINANCIAL AND ADMINISTRATIVE RESPONSIBILITIES OF A  
33 HEALTH MAINTENANCE ORGANIZATION UNDER AN ADMINISTRATIVE SERVICE  
34 PROVIDER CONTRACT:

35 1. ARE NOT LIMITED BY THE VALUE OF THE ASSETS OF A  
36 SEGREGATED FUND ESTABLISHED UNDER AN ADMINISTRATIVE SERVICE PROVIDER  
37 CONTRACT;



1 owed to external providers in sufficient detail to determine if the payments are being  
2 made in compliance with law;

3           (2)       Require the contracting provider to provide to the health  
4 maintenance organization a current annual financial statement of the contracting  
5 provider each year;

6           (3)       Require the creation by the [contracting provider, or on the  
7 contracting provider's behalf,] HEALTH MAINTENANCE ORGANIZATION of a  
8 segregated fund (which may include withheld funds, escrow accounts, letters of credit,  
9 or similar arrangements), or require the availability of other resources that are  
10 sufficient to satisfy the contracting provider's obligations to external providers for  
11 services rendered to members of the health maintenance organization;

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

16           (5)       [Permit] REQUIRE the health maintenance organization, at  
17 mutually agreed upon times and upon reasonable prior notice, to audit and inspect  
18 the contracting provider's books, records, and operations relevant to the provider's  
19 contract for the purpose of determining the contracting provider's compliance with  
20 the plan; AND

21           (6)       REQUIRE THE HEALTH MAINTENANCE ORGANIZATION TO INCLUDE  
22 A COPY OF EACH CURRENT ANNUAL FINANCIAL STATEMENT OBTAINED UNDER ITEM  
23 (2) OF THIS SUBSECTION IN ITS ANNUAL REPORT FILED UNDER § 19-717 OF THIS  
24 SUBTITLE.

25       (D)       A SEGREGATED FUND ESTABLISHED AS A RESULT OF AN ADMINISTRATIVE  
26 SERVICE PROVIDER CONTRACT MAY NOT BE CONSIDERED AN ASSET OR AN ACCOUNT  
27 OF THE CONTRACTING PROVIDER FOR THE PURPOSES OF DETERMINING THE ASSETS  
28 AND ACCOUNTS OF A BANKRUPT CONTRACTING PROVIDER.

29       [(d)]   (E)       The health maintenance organization and the contracting provider  
30 shall comply with the plan.

31       [(e)]   (F)       (1)       The health maintenance organization shall monitor the  
32 contracting provider to assure compliance with the plan, and the health maintenance  
33 organization shall notify the contracting provider whenever a failure to comply with  
34 the plan occurs.

35           (2)       (I)       [Upon] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
36 UPON the failure of the contracting provider to comply with the plan following notice  
37 of noncompliance, or upon termination of the administrative service provider contract  
38 for any reason, the health maintenance organization shall assume the FINANCIAL  
39 RESPONSIBILITY FOR AND THE administration of any payments due UNDER THE  
40 ADMINISTRATIVE SERVICE PROVIDER CONTRACT from the contracting provider to  
41 external providers on behalf of the contracting provider.

1 (II) THE FINANCIAL AND ADMINISTRATIVE RESPONSIBILITIES OF A  
2 HEALTH MAINTENANCE ORGANIZATION UNDER AN ADMINISTRATIVE SERVICE  
3 PROVIDER CONTRACT:

4 1. ARE NOT LIMITED BY THE VALUE OF THE ASSETS OF A  
5 SEGREGATED FUND ESTABLISHED UNDER AN ADMINISTRATIVE SERVICE PROVIDER  
6 CONTRACT;

7 2. EXIST IRRESPECTIVE OF WHETHER THE CONTRACTING  
8 PROVIDER IS INSOLVENT; AND

9 3. EXIST IRRESPECTIVE OF ANY CONTRARY OR LIMITING  
10 CONTRACT PROVISION.

11 [(f)] (G) The plan and all supporting documentation submitted in connection  
12 with the plan shall be treated as confidential and proprietary, and may not be  
13 disclosed except as otherwise required by law.

14 [(g)] (H) On July 1, 1991, any health maintenance organization which has  
15 existing contracts or arrangements subject to this section shall file a plan under this  
16 section within 120 days.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance  
18 Administration shall report to the Governor, and, in accordance with § 2-1246 of the  
19 State Government Article, to the General Assembly on or before December 1, 2000 on  
20 the effects of this Act and any recommendations for further legislative or regulatory  
21 action related to administrative service provider contracts.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
23 measure, is necessary for the immediate preservation of the public health and safety,  
24 has been passed by a ye and nay vote supported by three-fifths of all the members  
25 elected to each of the two Houses of the General Assembly, and shall take effect from  
26 the date it is enacted.