

**Department of Legislative Services**

Maryland General Assembly

2001 Session

**FISCAL NOTE**

Senate Bill 45

(Chairman, Finance Committee)

(Departmental – Insurance Administration, Maryland)

Finance

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**Insurance - Unfair Claim Settlement Practices**

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This departmental bill adds to the list of offenses that constitute an unfair claim settlement practice. The bill provides that it is an unfair claim settlement practice for an insurer or nonprofit health service plan to: (1) refuse to pay any part of a claim for an arbitrary or capricious reason; (2) fail to acknowledge and act with reasonable promptness on communications about claims; (3) refuse to pay a claim without conducting a reasonable investigation; (4) fail to make a prompt, fair, and equitable good faith attempt to settle claims for which liability has become reasonably clear; or (5) delay an investigation or payment of a claim by requiring a claimant or health care provider to submit a preliminary claim report and a subsequent formal proof of loss that contains substantially the same information.

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**Fiscal Summary**

**State Effect:** The bill's requirements could be handled with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** The Maryland Insurance Administration (MIA) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

**Current Law:** It is an unfair claim settlement practice for an insurer or nonprofit health service plan to: (1) misrepresent pertinent facts or policy provisions relating to the claim or coverage at issue; (2) refuse to pay a claim for an arbitrary or capricious reason; (3) attempt to settle a claim based on an application that is altered without notice to, or the knowledge or consent of, the insured; (4) fail to include a statement of the coverage under which payment is being made with each claim paid; (5) fail to settle a claim promptly whenever liability is reasonably clear under one part of a policy in order to influence settlements under other parts of the policy; (6) fail to provide, promptly on request, a reasonable explanation of the basis for a denial of a claim; (7) fail to meet the requirements for preauthorization for a health care service; or (8) fail to comply with the provisions governing the complaint process for adverse decisions or grievances with health insurers. Violation is punishable by a penalty of up to \$2,500 for each violation. The Insurance Commissioner may require violators to make restitution to a claimant who has suffered actual economic damage.

It is also an unfair claim settlement practice for an insurer or nonprofit health service plan, when committed with the frequency to indicate a general business practice, to commit specified acts, such as misrepresenting pertinent facts or policy provisions relating to the claim or coverage at issue; failing to acknowledge and act with reasonable promptness on communications about claims; refusing to pay a claim without conducting a reasonable investigation; failing to make a prompt, fair, and equitable good faith attempt to settle claims for which liability has become reasonably clear; or failing to settle a claim promptly whenever liability is reasonably clear under one part of a policy in order to influence settlements under other parts of the policy. Violation is a misdemeanor, punishable by a fine of up to \$100,000. The Commissioner may also issue a cease and desist order and may suspend, refuse to renew, or revoke a certificate of authority. The Commissioner may require violators to make restitution to a claimant who has suffered actual economic damage.

**Background:** The MIA advises that it receives numerous complaints from insureds that are determined not to violate Maryland law because the insurer's practice was not committed with sufficient frequency to be a violation of the general business practice statute.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 151 (Chairman, Economic Matters Committee) – Economic Matters.

**Information Source(s):** Maryland Insurance Administration, Office of the Attorney General, Department of Legislative Services

**Fiscal Note History:** First Reader – January 22, 2001  
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