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

Introduced and read first time: February 8, 2002

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Field Verification of Facilities that**  
3 **Participate in the Program - Appeals Process**

4 FOR the purpose of requiring a hospital or nursing facility that participates in the  
5 Maryland Medical Assistance Program that wishes to appeal the results of a  
6 field verification of costs and allowable charges that results in the facility owing  
7 money to the State to deposit the amount in controversy in an escrow account  
8 until a final decision is made; requiring the Department of Health and Mental  
9 Hygiene to determine the amount due from the facility; providing for the  
10 distribution of moneys from an escrow account required by this Act under  
11 certain circumstances; and generally relating to the appeals process with  
12 respect to field verification of facilities that participate in the Maryland Medical  
13 Assistance Program.

14 BY repealing and reenacting, with amendments,  
15 Article - Health - General  
16 Section 15-108  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2001 Supplement)

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

21 **Article - Health - General**

22 15-108.

23 (a) In this section, "board" means an appeal board established under this  
24 section.

25 (b) (1) The Secretary may:

26 (i) Establish one or more boards for purposes of this section; and

27 (ii) Designate the jurisdiction of a board.

1 (2) A board shall consist of 3 members.

2 (3) Of the 3 board members:

3 (i) 2 shall be appointed by the Secretary; and

4 (ii) 1 shall be chosen by the appointed members.

5 (4) Of the 2 appointed members of a board:

6 (i) 1 shall be a representative of the industry affected who is an  
7 individual knowledgeable in Medicare and Medicaid reimbursement principles; and

8 (ii) 1 shall be an individual who is employed by this State and  
9 knowledgeable in Medicare and Medicaid reimbursement principles and who does not  
10 participate directly in the field verifications.

11 (c) (1) If the Department or an agent of the Department does a field  
12 verification of the costs and allowable charges of a facility that participates in the  
13 Program, the Department or agent shall notify the facility of the results of the field  
14 verification.

15 (2) Within 60 days after the facility receives the notification required  
16 under paragraph (1) of this subsection, the Department shall pay the facility the  
17 amount the Department has determined is due the facility by the Department  
18 regardless of whether or not the facility files an appeal.

19 (d) (1) A facility may appeal the results of a field verification by filing  
20 written notice with the appropriate board within 30 days after the facility receives  
21 the notice from the Department or its agent.

22 (2) (i) Within 30 days after the filing of an appeal to the board by a  
23 facility that the Department has determined owes money to the State, the  
24 Department shall recalculate the amount that is due to the State based on the field  
25 verification, exclusive of the amount in controversy which is subject to the appeal,  
26 and shall notify the facility of that amount.

27 (II) IN ORDER TO PROCEED WITH THE APPEAL, THE FACILITY MUST  
28 DEPOSIT THE AMOUNT IN CONTROVERSY IN AN INTEREST BEARING ESCROW  
29 ACCOUNT UNTIL A FINAL DECISION IS RENDERED BY A BOARD.

30 [(ii)] (III) Subject to the provisions of subparagraphs [(iii)] (IV)  
31 and [(iv)] (V) of this paragraph, payment for the amount due the State, if any, after  
32 the recalculation shall be made within 60 days after the facility receives notification  
33 of the recalculation.

34 [(iii)] (IV) If a facility requests a longer payment schedule within  
35 60 days after the facility receives notification of the recalculation, the Department  
36 may establish, after consultation with the facility, a longer payment schedule.

1 [(iv)] (V) The Department shall establish a longer payment  
2 schedule if, in the Department's reasonable judgment, failure to grant a longer  
3 payment schedule would:

- 4 1. Result in financial hardship to the facility; or
- 5 2. Have an adverse effect on the quality of patient care  
6 furnished by the facility.

7 (VI) AFTER THE DEPARTMENT RECEIVES THE FINDINGS OF A  
8 BOARD, THE DEPARTMENT SHALL:

9 1. DETERMINE THE AMOUNT THAT IS DUE EITHER TO THE  
10 STATE OR TO THE FACILITY; AND

11 2. NOTIFY THE FACILITY OF THE AMOUNT THAT IS DUE.

12 (3) (I) SUBJECT TO THE PROVISIONS OF PARAGRAPH (5) OF THIS  
13 SUBSECTION, UPON FINAL DECISION OF A BOARD, THE APPROPRIATE PERSON  
14 ADMINISTERING THE ESCROW ACCOUNT SHALL DISTRIBUTE THE MONEY IN THAT  
15 ACCOUNT, INCLUDING ANY INTEREST, IN CONFORMITY WITH THE FINAL DECISION  
16 OF THE BOARD.

17 (II) IF A BOARD DETERMINES THAT THE DEPARTMENT OWES THE  
18 FACILITY AN AMOUNT IN EXCESS OF THE AMOUNT IN CONTROVERSY, SUBJECT TO  
19 THE PROVISIONS OF PARAGRAPH (5) OF THIS SUBSECTION, THE DEPARTMENT SHALL  
20 PAY THE EXCESS AMOUNT PLUS INTEREST TO THE FACILITY WITHIN 60 DAYS.

21 [(3)] (4) (i) [If a facility files an appeal, the portion of the amount in  
22 controversy that is actually paid shall be subject to an award of interest that is]  
23 INTEREST SHALL BE:

24 1. Calculated from the date the appeal was filed through the  
25 date of payment; and

26 2. Determined in accordance with a rate of interest  
27 established by regulation.

28 (ii) Interest paid by a facility under subparagraph (i) of this  
29 paragraph is not an allowable cost.

30 (iii) Interest paid to a facility under subparagraph (i) of this  
31 paragraph is not subject to any offset or other reduction against otherwise allowable  
32 costs.

33 [(4)] (5) If a facility other than a hospital, or if the Department is  
34 aggrieved by a final decision of the board under this section, the facility or the  
35 Department shall place any money due from the facility or from the Department in  
36 an interest bearing escrow account. The money shall remain in escrow until a final  
37 decision has been rendered.

1            [(5)]    (6)    Upon a final determination of the dispute, the appropriate  
2 person administering the escrow account shall distribute the money in that account,  
3 including any interest accrued, in conformity with the final determination.

4            [(e)    (1)    After the Department receives the findings of a board, the  
5 Department shall determine the amount that is due either to this State or to the  
6 facility and notify the facility of that amount.

7            (2)    If the facility has accepted the determination made under paragraph  
8 (1) of this subsection, within 60 days after the facility receives the notification under  
9 paragraph (1) of this subsection the Department shall pay the amount the  
10 Department has determined is due the facility, if any.

11           (3)    Subject to the provisions of paragraphs (4) and (5) of this subsection,  
12 within 60 days after the facility receives notification, the facility shall pay the amount  
13 due the Department, if any.

14           (4)    If a facility requests a longer payment schedule within 30 days after  
15 the facility receives notification of the amount due the Department, the Department  
16 may establish, after consultation with the facility, a longer payment schedule.

17           (5)    The Department shall establish a longer payment schedule if, in the  
18 Department's reasonable judgment, failure to grant a longer payment schedule  
19 would:

20                    (i)    Result in financial hardship to the facility; or

21                    (ii)    Have an adverse effect on the quality of patient care furnished  
22 by the facility.]

23           [(f)]    (E)    (1)    The Department or any facility aggrieved by a reimbursement  
24 decision of the board under this section may not appeal to the Board of Review but  
25 may take a direct judicial appeal.

26           (2)    The appeal shall be made as provided for judicial review of final  
27 decisions in the Administrative Procedure Act.

28        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
29 effect July 1, 2002.