

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 206 (Delegate Brown)
Health and Government Operations

Civil Actions - Enforcement of Prompt Payment of Claims

This bill authorizes a health care provider to bring a civil action against a health insurer to collect interest due on a claim that remains unpaid after 30 days without first exhausting the health care provider's administrative remedies. If a provider brings an action under the bill, the provider may not also file a complaint with the Maryland Insurance Commissioner for the same purpose. The bill requires a court to award reasonable attorney's fees if an action under the bill is sustained.

Fiscal Summary

State Effect: The bill could be handled with existing resources of the Judiciary and would not materially affect the operations or finances of the Maryland Insurance Administration (MIA).

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Within 30 days after receipt of a claim for reimbursement from a licensed health care provider or hospital, a health insurance carrier must pay the claim or send a notice of receipt and status of the claim. The notice must state that: (1) the carrier refuses to reimburse all or part of the claim and the reason for the refusal; (2) the legitimacy of the claim or the appropriate amount of reimbursement is in dispute, and additional information is necessary to determine whether the claim will be reimbursed

and what specific additional information is necessary; or (3) the claim is not “clean.” The Insurance Commissioner is required to adopt a definition of a “clean claim” by regulation. A clean claim must contain specified information about the insured and the treatment, including any attachments required by the insurer, in order for the insurer to determine whether the claim is payable and the proper payment amount. If the claim is not clean, the carrier must also specify the information necessary for the claim to be considered clean. The insurance carrier must pay any undisputed part of the claim within 30 days from the receipt of the claim.

A health insurance carrier must allow a provider at least 180 days from the date service is rendered to submit a claim for reimbursement. If the claim is denied in whole or in part, a provider must be given at least 90 working days from the date of denial to appeal.

If a health insurance carrier fails to pay the claim or send the required notice, the carrier must pay interest on the amount unpaid 30 days after receipt of the claim at the monthly rate of: (1) 1.5% from the thirty-first day through the sixtieth day; (2) 2% from the sixtieth day through the one-hundred and twentieth day; and (3) 2.5% after the one-hundred and twentieth day.

Violating carriers are subject to a fine of up to \$500 for each violation. If the violation is committed with a frequency that indicates a general business practice, the Insurance Commissioner may suspend or revoke a certificate of authority, impose a penalty from \$100 to \$125,000, and require the carrier to make restitution to a person who has suffered financial injury.

Background: Generally, attorney’s fees are not recoverable as damages in a civil action absent a requirement in statute, in a contractual agreement, or under the Maryland Rules. Under the Maryland Rules, a court must find that the conduct of a party in maintaining or defending a proceeding was in bad faith or without substantial justification before the court may require the offending party, the attorney advising the conduct, or both to pay the adverse party’s costs, including reasonable attorney’s fees.

Additional Information

Prior Introductions: An identical bill, HB 450, was introduced in the 2002 session and received an unfavorable report from the House Economic Matters Committee. Similar bills, SB 343 and HB 551, were introduced in the 2001 session. SB 343 received an unfavorable report from the Senate Judicial Proceedings Committee, and HB 551 received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Maryland Health Care Commission, Maryland Insurance Administration, Department of Legislative Services

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mdf/jr

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