
By: **Senators Kelley, Astle, Britt, Conway, Currie, DeGrange, Della, Dyson,
Exum, Forehand, Frosh, Garagiola, Giannetti, Gladden, Green,
Grosfeld, Hogan, Hollinger, Hughes, Jones, Kramer, Lawlah, McFadden,
Miller, Pinsky, Ruben, Stone, and Teitelbaum**

Introduced and read first time: February 2, 2005

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Maintenance Organizations - Rate Increases - Disapproval by**
3 **Insurance Commissioner**

4 FOR the purpose of requiring an increase in rates of a health maintenance
5 organization to be based on certain factors; requiring the Insurance
6 Commissioner to disapprove a rate increase for a health maintenance
7 organization under certain circumstances; requiring the Commissioner to
8 reconsider a certain rate increase under certain circumstances; making this Act
9 an emergency measure; and generally relating to rate increases of health
10 maintenance organizations.

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 19-713
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2004 Supplement)

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

18 **Article - Health - General**

19 19-713.

20 (a) Each health maintenance organization shall file with the Commissioner
21 and pay the applicable filing fee as provided in § 2-112 of the Insurance Article,
22 before they become effective:

23 (1) All rates that the health maintenance organization charges
24 subscribers or groups of subscribers; and

1 (2) The form and content of each contract between the health
2 maintenance organization and its subscribers or groups of subscribers.

3 (b) (1) Rates of a health maintenance organization may not be excessive,
4 inadequate, or unfairly discriminatory in relation to the services offered.

5 (2) IN ADDITION TO ANY OTHER FACTORS CONSIDERED BY THE
6 COMMISSIONER, AN INCREASE IN RATES OF A HEALTH MAINTENANCE
7 ORGANIZATION SHALL BE BASED ON:

8 (I) THE REPORTED CLAIMS AND OTHER COSTS OF THE HEALTH
9 MAINTENANCE ORGANIZATION;

10 (II) THE HEALTH MAINTENANCE ORGANIZATION'S SURPLUS;

11 (III) ANY CAPITAL PROJECTS OF THE HEALTH MAINTENANCE
12 ORGANIZATION; AND

13 (IV) THE COMPENSATION PACKAGES OF THE EXECUTIVES OF THE
14 HEALTH MAINTENANCE ORGANIZATION.

15 (3) A health maintenance organization that includes a subrogation
16 provision in its contract as authorized under § 19-713.1(d) of this subtitle shall:

17 (i) Use in its rating methodology an adjustment that reflects the
18 subrogation; and

19 (ii) Identify in its rate filing with the Maryland Insurance
20 Administration, and annually in a form approved by the Insurance Commissioner, all
21 amounts recovered through subrogation.

22 (c) (1) If, at any time, a health maintenance organization wishes to amend
23 any contract with its subscribers or change any rate charged, the health maintenance
24 organization shall file with the Commissioner the number of copies of the amendment
25 or rate change that the Commissioner requires.

26 (2) The Commissioner shall provide the Department with the number of
27 copies it requires.

28 (d) The Commissioner shall coordinate the contract and related rate filing
29 review under this section.

30 (e) (1) If within 60 days after a filing made pursuant to this section, the
31 Commissioner finds the filing does not meet the requirements of subsection (f) of this
32 section, the filer shall be sent notice of disapproval specifying in what respects the
33 Commissioner finds that the filing fails to meet the requirements of this section and
34 stating that the filing shall not become effective.

35 (2) The Commissioner may not issue a notice of disapproval of a filing
36 under subsection (f) of this section without a statutory or regulatory basis for the

1 disapproval and an explanation of the application of the statutory or regulatory basis
2 which resulted in the disapproval.

3 (f) The Commissioner shall disapprove any form filed, or withdraw any
4 previous approval, if the form:

5 (1) Is in any respect in violation or does not comply with this article or
6 applicable regulations;

7 (2) Contains, or incorporates by reference, any inconsistent or
8 inapplicable clauses, exceptions, or conditions which affect the risk purported to be
9 assumed in the general coverage of the contract;

10 (3) Has any title, heading, or other indication of its provisions which is
11 likely to mislead the subscriber or member;

12 (4) Includes provisions that are inequitable, or provisions that lack any
13 substantial benefit to the subscriber or member;

14 (5) Is printed or otherwise reproduced in a manner as to render any
15 provision of the form substantially illegible; or

16 (6) Provides benefits that are unreasonable in relation to the premium
17 charged.

18 (g) THE COMMISSIONER SHALL DISAPPROVE A RATE INCREASE FOR A
19 HEALTH MAINTENANCE ORGANIZATION UNLESS:

20 (1) THE HEALTH MAINTENANCE ORGANIZATION SUBMITS A RATE
21 FILING TO THE COMMISSIONER;

22 (2) THE COMMISSIONER CONSIDERS THE FACTORS LISTED IN
23 SUBSECTION (B)(2) OF THIS SECTION; AND

24 (3) THE COMMISSIONER HOLDS A PUBLIC HEARING ON THE PROPOSED
25 RATE INCREASE.

26 (H) (1) Except as provided in paragraph (2) of this subsection, unless the
27 Commissioner disapproves a filing under this section, the filing becomes effective 60
28 days after the office of the Commissioner receives the filing or on any other date that
29 the Commissioner sets.

30 (2) The Commissioner may adopt regulations to allow a type or kind of
31 form to be effective upon receipt of the filing by the Commissioner.

32 (3) If a health maintenance organization uses a form which becomes
33 effective in accordance with the provisions of paragraph (2) of this subsection and the
34 form would be subject to disapproval under subsection (f) of this section, the
35 Commissioner may:

36 (i) Subsequently disapprove the form; and

1 (ii) Find the health maintenance organization to be in violation of §
2 19-729 of this subtitle and impose a penalty as provided in § 19-730 of this subtitle.

3 (4) If a health maintenance organization files a form with the
4 Commissioner which becomes effective in accordance with the provisions of
5 paragraph (2) of this subsection, the health maintenance organization shall pay the
6 applicable filing fee provided in § 2-112 of the Insurance Article.

7 (I) THE COMMISSIONER SHALL RECONSIDER ANY RATE INCREASE NOT
8 DISAPPROVED BY THE COMMISSIONER ON OR AFTER JANUARY 1, 2005 UNLESS THE
9 COMMISSIONER CONSIDERED THE FACTORS LISTED IN SUBSECTION (B)(2) OF THIS
10 SECTION IN DETERMINING NOT TO DISAPPROVE THE RATE FILING.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety,
13 has been passed by a ye and nay vote supported by three-fifths of all the members
14 elected to each of the two Houses of the General Assembly, and shall take effect from
15 the date it is enacted.