

# SENATE BILL 714

C3

71r2856  
CF HB 157

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By: **Senator Astle**

Introduced and read first time: February 7, 2007

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Prohibited Discrimination and Rebates – Incentives for**  
3 **Participation in Wellness Programs and Other Exceptions**

4 FOR the purpose of providing that it is not discrimination or a rebate under certain  
5 insurance laws for an insurer, nonprofit health service plan, or health  
6 maintenance organization to provide reasonable incentives to an insured,  
7 subscriber, or member for participation in a bona fide wellness program offered  
8 by the insurer, nonprofit health service plan, or health maintenance  
9 organization under certain circumstances; requiring any incentive offered for  
10 participation in a bona fide wellness program to be reasonably related to the  
11 program; prohibiting the value of the incentive from exceeding a certain limit;  
12 requiring the Maryland Insurance Commissioner to adopt certain regulations;  
13 applying certain exceptions to certain prohibitions against certain  
14 discrimination and rebates to health maintenance organizations; defining  
15 certain terms; and generally relating to exceptions to prohibitions against  
16 discrimination and rebates under insurance laws.

17 BY adding to

18 Article – Health – General  
19 Section 19–706(jjj)  
20 Annotated Code of Maryland  
21 (2005 Replacement Volume and 2006 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Insurance  
24 Section 27–210

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2006 Replacement Volume and 2006 Supplement)

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

5 **Article - Health - General**

6 19-706.

7 **(JJJ) THE PROVISIONS OF § 27-210 OF THE INSURANCE ARTICLE APPLY**  
8 **TO HEALTH MAINTENANCE ORGANIZATIONS.**

9 **Article - Insurance**

10 27-210.

11 (a) Sections 27-208 and 27-209 of this subtitle may not be construed to  
12 include within the definition of discrimination or rebates any of the practices set forth  
13 in this section.

14 (b) For a contract of life insurance or an annuity contract, it is not  
15 discrimination or a rebate to pay bonuses to policyholders or otherwise abate their  
16 premiums wholly or partly out of the surplus accumulated from nonparticipating  
17 insurance, if the bonuses or abatement of premiums is fair, equitable to, and in the  
18 best interest of policyholders.

19 (c) For policies of life insurance or health insurance issued on the industrial  
20 debit, preauthorized check, bank draft, or similar plans, it is not discrimination or a  
21 rebate to make an allowance to policyholders who have continuously for a specified  
22 period made premium payments directly to an office of the insurer or by preauthorized  
23 check, bank draft, or similar plans in an amount that fairly represents the savings in  
24 collection expense.

25 (d) It is not discrimination or a rebate to readjust the rate of premium for a  
26 group policy based on the loss or expense experience under the policy, at the end of  
27 any policy year, retroactive only for that policy year.

28 (e) It is not discrimination or a rebate to reduce the premium rate for policies  
29 of large amount, if the reduction does not exceed savings in issuance and  
30 administrative expenses reasonably attributable to policies of large amount as  
31 compared with policies of similar plan issued in smaller amounts.

1 (f) It is not discrimination or a rebate to issue policies of life insurance or  
2 health insurance or annuity contracts on a salary savings or payroll deduction plan or  
3 other distribution plan at a reduced rate reasonably commensurate with the savings  
4 made by use of the plan.

5 (g) It is not discrimination or a rebate to issue policies of health insurance  
6 that provide for increases in benefits to policyholders who maintain their policies  
7 continuously in force without lapse for specified periods.

8 (H) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE  
9 THE MEANINGS INDICATED.

10 (II) "BONA FIDE WELLNESS PROGRAM" MEANS A PROGRAM  
11 THAT IS DESIGNED TO:

- 12 1. PREVENT OR DETECT DISEASE OR ILLNESS;
- 13 2. REDUCE OR AVOID POOR CLINICAL OUTCOMES;
- 14 3. PREVENT COMPLICATIONS FROM MEDICAL  
15 CONDITIONS; OR
- 16 4. PROMOTE HEALTHY BEHAVIORS AND LIFESTYLE  
17 CHOICES.

18 (III) "CARRIER" MEANS:

- 19 1. AN INSURER;
- 20 2. A NONPROFIT HEALTH SERVICE PLAN; OR
- 21 3. A HEALTH MAINTENANCE ORGANIZATION.

22 (2) IT IS NOT DISCRIMINATION OR A REBATE FOR A CARRIER TO  
23 PROVIDE REASONABLE INCENTIVES TO AN INSURED, A SUBSCRIBER, OR A  
24 MEMBER FOR PARTICIPATION IN A BONA FIDE WELLNESS PROGRAM OFFERED  
25 BY THE CARRIER IF:

1                   (I)     THE CARRIER DOES NOT MAKE PARTICIPATION IN THE  
2 BONA FIDE WELLNESS PROGRAM A CONDITION OF COVERAGE UNDER A POLICY  
3 OR CONTRACT;

4                   (II)    PARTICIPATION IN THE BONA FIDE WELLNESS  
5 PROGRAM IS VOLUNTARY AND A PENALTY IS NOT IMPOSED ON AN INSURED,  
6 SUBSCRIBER, OR MEMBER FOR NONPARTICIPATION;

7                   (III)   AN INSURED, SUBSCRIBER, OR MEMBER IS NOT  
8 REQUIRED TO ACHIEVE ANY SPECIFIC OUTCOME IN ORDER TO RECEIVE AN  
9 INCENTIVE FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM; AND

10                  (IV)    THE CARRIER DOES NOT MARKET THE BONA FIDE  
11 WELLNESS PROGRAM IN A MANNER THAT REASONABLY COULD BE CONSTRUED  
12 TO HAVE AS ITS PRIMARY PURPOSE THE PROVISION OF AN INCENTIVE OR  
13 INDUCEMENT TO PURCHASE COVERAGE FROM THE CARRIER.

14                  (3)     ANY INCENTIVE OFFERED FOR PARTICIPATION IN A BONA  
15 FIDE WELLNESS PROGRAM:

16                   (I)     SHALL BE REASONABLY RELATED TO THE BONA FIDE  
17 WELLNESS PROGRAM; AND

18                   (II)    MAY NOT HAVE A VALUE THAT EXCEEDS ANY LIMIT  
19 ESTABLISHED IN REGULATIONS ADOPTED BY THE COMMISSIONER.

20                  (4)     THE COMMISSIONER SHALL ADOPT REGULATIONS TO  
21 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.

22                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2007.