

SENATE BILL 714

C3

71r2856
CF HB 157

By: **Senator Astle**

Introduced and read first time: February 7, 2007

Assigned to: Rules

Re-referred to: Finance, February 16, 2007

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 2007

CHAPTER _____

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, or dental plan organization to provide reasonable
7 incentives to an individual who is an insured, subscriber, or member for
8 participation in a bona fide wellness program offered by the insurer, nonprofit
9 health service plan, ~~or~~ health maintenance organization, or dental plan
10 organization under certain circumstances; requiring any incentive offered for
11 participation in a bona fide wellness program to be reasonably related to the
12 program; prohibiting the value of the incentive from exceeding a certain limit;
13 requiring the Maryland Insurance Commissioner to adopt certain regulations;
14 applying certain exceptions to certain prohibitions against certain
15 discrimination and rebates to health maintenance organizations; defining
16 certain terms; and generally relating to exceptions to prohibitions against
17 discrimination and rebates under insurance laws.

18 BY adding to
19 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 19-706(jjj)
2 Annotated Code of Maryland
3 (2005 Replacement Volume and 2006 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Insurance
6 Section 27-210
7 Annotated Code of Maryland
8 (2006 Replacement Volume and 2006 Supplement)

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

11 **Article – Health – General**

12 19-706.

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

15 **Article – Insurance**

16 27-210.

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

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

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

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

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

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

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

15 (H) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE
 16 THE MEANINGS INDICATED.

17 (II) "BONA FIDE WELLNESS PROGRAM" MEANS A PROGRAM
 18 THAT IS DESIGNED TO:

- 19 1. PREVENT OR DETECT DISEASE OR ILLNESS;
- 20 2. REDUCE OR AVOID POOR CLINICAL OUTCOMES;
- 21 3. PREVENT COMPLICATIONS FROM MEDICAL
- 22 CONDITIONS; OR
- 23 4. PROMOTE HEALTHY BEHAVIORS AND LIFESTYLE
- 24 CHOICES.

25 (III) "CARRIER" MEANS:

- 26 1. AN INSURER;
- 27 2. A NONPROFIT HEALTH SERVICE PLAN; ~~OR~~
- 28 3. A HEALTH MAINTENANCE ORGANIZATION; OR

1 **4. A DENTAL PLAN ORGANIZATION.**

2 **(2) IT IS NOT DISCRIMINATION OR A REBATE FOR A CARRIER TO**
3 **PROVIDE REASONABLE INCENTIVES TO AN INDIVIDUAL WHO IS AN INSURED, A**
4 **SUBSCRIBER, OR A MEMBER FOR PARTICIPATION IN A BONA FIDE WELLNESS**
5 **PROGRAM OFFERED BY THE CARRIER IF:**

6 **(I) THE CARRIER DOES NOT MAKE PARTICIPATION IN THE**
7 **BONA FIDE WELLNESS PROGRAM A CONDITION OF COVERAGE UNDER A POLICY**
8 **OR CONTRACT;**

9 **(II) PARTICIPATION IN THE BONA FIDE WELLNESS**
10 **PROGRAM IS VOLUNTARY AND A PENALTY IS NOT IMPOSED ON AN INSURED,**
11 **SUBSCRIBER, OR MEMBER FOR NONPARTICIPATION;**

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

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

19 **(3) ANY INCENTIVE OFFERED FOR PARTICIPATION IN A BONA**
20 **FIDE WELLNESS PROGRAM:**

21 **(I) SHALL BE REASONABLY RELATED TO THE BONA FIDE**
22 **WELLNESS PROGRAM; AND**

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

25 **(4) THE COMMISSIONER SHALL ADOPT REGULATIONS TO**
26 **IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.**

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