

## CHAPTER 591

(House Bill 157)

AN ACT concerning

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

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

BY adding to

Article – Health – General

Section 19–706(jjj)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 27–210

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

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

#### **Article – Health – General**

19-706.

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

**Article – Insurance**

27-210.

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

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

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

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

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

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

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

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

**(II) “BONA FIDE WELLNESS PROGRAM” MEANS A PROGRAM THAT IS DESIGNED TO:**

- 1. PREVENT OR DETECT DISEASE OR ILLNESS;**
- 2. REDUCE OR AVOID POOR CLINICAL OUTCOMES;**
- 3. PREVENT COMPLICATIONS FROM MEDICAL CONDITIONS; OR**
- 4. PROMOTE HEALTHY BEHAVIORS AND LIFESTYLE CHOICES.**

**(III) “CARRIER” MEANS:**

- 1. AN INSURER;**
- 2. A NONPROFIT HEALTH SERVICE PLAN; ~~OR~~**
- 3. A HEALTH MAINTENANCE ORGANIZATION; OR**
- 4. A DENTAL PLAN ORGANIZATION.**

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

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

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

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

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

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

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

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

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

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

**Approved by the Governor, May 17, 2007.**