SENATE BILL 811

C3 8lr3146
CF 8lr2541

By: **Senator Pipkin**
Introduced and read first time: February 7, 2008
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Health Care Provider Panels – Provider Contracts**

3 FOR the purpose of repealing a prohibition that certain health insurance carriers that
4 offer coverage for health care services in a certain manner may not require
5 certain health care providers to serve on certain provider panels under certain
6 circumstances; repealing a certain exception to the prohibition; repealing
7 certain requirements for providers that elect to terminate participation on
8 certain provider panels; prohibiting certain provider contracts from containing a
9 provision that requires certain health care providers to participate in certain
10 provider panels under certain circumstances; authorizing certain provider
11 contracts to contain a requirement that certain providers participate in a
12 certain managed care organization under certain circumstances; requiring
13 certain provider contracts to disclose certain information; prohibiting certain
14 provider contracts from containing a provision requiring providers to accept
15 certain schedules of fees under certain circumstances; prohibiting a provider
16 contract from requiring providers to treat certain enrollees of certain carriers
17 under certain circumstances; defining certain terms; making stylistic changes;
18 and generally relating to health care provider panels and provider contracts
19 under health insurance.

20 BY repealing and reenacting, without amendments,
21 Article – Insurance
22 Section 15–112(a)(1), (3), (5), (7), and (8)
23 Annotated Code of Maryland
24 (2006 Replacement Volume and 2007 Supplement)

25 BY repealing
26 Article – Insurance
27 Section 15–112(l)
28 Annotated Code of Maryland
29 (2006 Replacement Volume and 2007 Supplement)

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW**.
[Brackets] indicate matter deleted from existing law.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–112(m), (n), (o), and (p)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 15–112.2
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Insurance

15–112.

(a) (1) In this section the following words have the meanings indicated.

(3) (i) "Carrier" means:

1. an insurer;

2. a nonprofit health service plan;

3. a health maintenance organization;

4. a dental plan organization; or

5. any other person that provides health benefit plans subject to regulation by the State.

(ii) "Carrier" includes an entity that arranges a provider panel for a carrier.

(5) "Enrollee" means a person entitled to health care benefits from a carrier.

(7) "Provider" means a health care practitioner or group of health care practitioners licensed, certified, or otherwise authorized by law to provide health care services.

(8) (i) "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to the carrier's enrollees under the carrier's health benefit plan.

1 (ii) "Provider panel" does not include an arrangement in which
2 any provider may participate solely by contracting with the carrier to provide health
3 care services at a discounted fee–for–service rate.

4 **[**(l) (1) (i) In this subsection the following words have the meanings
5 indicated.

6 (ii) 1. "Health benefit plan" has the meaning stated in §
7 15–1201 of this title.

8 2. "Health benefit plan" includes dental plans and other
9 health benefit plans that contract with dentists to offer dental care services.

10 (iii) "Provider panel" includes an arrangement in which any
11 provider may participate solely by contracting with the carrier to provide health care
12 services at a discounted fee–for–service rate.

13 (2) Except as provided in paragraph (3) of this subsection, a carrier
14 that offers coverage for health care services through one or more health benefit plans
15 or contracts with providers to offer health care services through one or more provider
16 panels may not require a provider, as a condition of participation or continuation on a
17 provider panel for one health benefit plan of a carrier, to serve also on a provider panel
18 of another health benefit plan of the carrier.

19 (3) Subject to § 15–102.5 of the Health – General Article, a carrier that
20 offers health care services as a managed care organization as defined under §
21 15–101(e) of the Health – General Article, may require a provider, as a condition of
22 participation on a provider panel for one or more health benefit plans of the carrier, to
23 serve on a provider panel of the managed care organization.

24 (4) If a provider elects to terminate participation on the provider panel
25 of a health benefit plan, the provider shall:

26 (i) notify the carrier at least 90 days before the date of
27 termination; and

28 (ii) for at least 90 days after the date of the notice of
29 termination, continue to furnish health care services to an enrollee of the carrier for
30 whom the provider was responsible for the delivery of health care services prior to the
31 notice of termination.**]**

32 **[**(m)**] (L)** A carrier may not include in a contract with a provider,
33 ambulatory surgical facility, or hospital a term or condition that:

(1) prohibits the provider, ambulatory surgical facility, or hospital from offering to provide services to the enrollees of another carrier at a lower rate of reimbursement;

(2) requires the provider, ambulatory surgical facility, or hospital to provide the carrier with the same reimbursement arrangement that the provider, ambulatory surgical facility, or hospital has with another carrier if the reimbursement arrangement with the other carrier is for a lower rate of reimbursement; or

(3) requires the provider, ambulatory surgical facility, or hospital to certify to the carrier that the reimbursement rate being paid by the carrier to the provider, ambulatory surgical facility, or hospital is not higher than the reimbursement rate being received by the provider, ambulatory surgical facility, or hospital from another carrier.

[(n)**] (M)** (1) A carrier shall update its provider information under subsection (j)(3)(ii) of this section within 15 working days after receipt of written notification from the participating provider of a change in the applicable information.

(2) Notification is presumed to have been received by a carrier:

(i) 3 working days after the date the participating provider placed the notification in the U.S. mail, if the participating provider maintains the stamped certificate of mailing for the notice; or

(ii) on the date recorded by the courier, if the notification was delivered by courier.

[(o)**] (N)** (1) A carrier may not require a provider that provides health care services through a group practice or health care facility that participates on the carrier's provider panel under a contract with the carrier to be considered a participating provider or accept the reimbursement fee schedule applicable under the contract when:

(i) providing health care services to enrollees of the carrier through an individual or group practice or health care facility that does not have a contract with the carrier; and

(ii) billing for health care services provided to enrollees of the carrier using a different federal tax identification number than that used by the group practice or health care facility under a contract with the carrier.

(2) A nonparticipating provider shall notify an enrollee:

(i) that the provider does not participate on the provider panel of the enrollee's carrier; and

1 (ii) of the anticipated total charges for the health care services.

2 **[**(p)**] (O)** The provisions of subsection (d)(3)(iii) of this section do not apply to a
3 carrier that uses a credentialing intermediary that:

4 (1) is a hospital or academic medical center;

5 (2) is a participating provider on the carrier's provider panel; and

6 (3) acts as a credentialing intermediary for that carrier for health care
7 practitioners that:

8 (i) participate on the carrier's provider panel; and

9 (ii) have privileges at the hospital or academic medical center.

10 **15–112.2.**

11 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
12 **MEANINGS INDICATED.**

13 **(2) "CARRIER" MEANS:**

14 **(I) AN INSURER;**

15 **(II) A NONPROFIT HEALTH SERVICE PLAN;**

16 **(III) A HEALTH MAINTENANCE ORGANIZATION; OR**

17 **(IV) A DENTAL PLAN ORGANIZATION.**

18 **(3) "DENTAL PROVIDER PANEL" MEANS A PROVIDER PANEL FOR**
19 **ONE OR MORE DENTAL PLAN ORGANIZATIONS OR NONPROFIT HEALTH SERVICE**
20 **PLANS OFFERING CONTRACTS ONLY FOR DENTAL SERVICES.**

21 **(4) "ENROLLEE" MEANS A PERSON ENTITLED TO HEALTH CARE**
22 **BENEFITS FROM A CARRIER.**

23 **(5) "HMO PROVIDER PANEL" MEANS A PROVIDER PANEL FOR**
24 **ONE OR MORE HEALTH MAINTENANCE ORGANIZATIONS.**

25 **(6) "MANAGED CARE ORGANIZATION" HAS THE MEANING STATED**
26 **IN § 15–101 OF THE HEALTH – GENERAL ARTICLE.**

(7) "NON–HMO PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE NONPROFIT HEALTH SERVICE PLANS OR INSURERS.

(8) "PROVIDER" HAS THE MEANING STATED IN § 19–701 OF THE HEALTH – GENERAL ARTICLE.

(9) "PROVIDER CONTRACT" MEANS A CONTRACT:

(I) BETWEEN A PROVIDER AND A CARRIER, AN AFFILIATE OF A CARRIER, OR AN ENTITY THAT CONTRACTS WITH A PROVIDER TO SERVE A CARRIER; AND

(II) UNDER WHICH THE PROVIDER AGREES TO PROVIDE HEALTH CARE SERVICES TO ENROLLEES.

(10) "PROVIDER PANEL" MEANS THE PROVIDERS THAT CONTRACT EITHER DIRECTLY OR THROUGH A SUBCONTRACTING ENTITY WITH A CARRIER TO PROVIDE HEALTH CARE SERVICES TO ENROLLEES.

(B) (1) A PROVIDER CONTRACT MAY NOT CONTAIN A PROVISION THAT REQUIRES A PROVIDER, AS A CONDITION OF PARTICIPATING IN A NON–HMO PROVIDER PANEL, TO PARTICIPATE IN AN HMO PROVIDER PANEL OR DENTAL PROVIDER PANEL.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A PROVIDER CONTRACT MAY CONTAIN A PROVISION THAT REQUIRES A PROVIDER, AS A CONDITION OF PARTICIPATING IN A NON–HMO PROVIDER PANEL, AN HMO PROVIDER PANEL, OR A DENTAL PROVIDER PANEL, TO PARTICIPATE IN A MANAGED CARE ORGANIZATION.

(C) EACH PROVIDER CONTRACT SHALL DISCLOSE:

(1) THE CARRIERS COMPRISING EACH PROVIDER PANEL; AND

(2) ALL SCHEDULES OF APPLICABLE FEES FOR UP TO THE 20 MOST COMMON SERVICES BILLED BY A PROVIDER IN THE SAME SPECIALTY AS THE PROVIDER FOR EACH PROVIDER PANEL AND EACH CARRIER IN THE PROVIDER PANEL.

(D) (1) IF A PROVIDER CONTRACT INCLUDES MORE THAN ONE SCHEDULE OF APPLICABLE FEES, THE PROVIDER CONTRACT MAY NOT CONTAIN A PROVISION THAT REQUIRES A PROVIDER AS A CONDITION OF PARTICIPATION TO ACCEPT EACH SCHEDULE OF APPLICABLE FEES INCLUDED IN THE PROVIDER CONTRACT.

1 **(2) IF A PROVIDER REJECTS A SCHEDULE OF APPLICABLE FEES,**
2 **THE PROVIDER CONTRACT MAY NOT REQUIRE THE PROVIDER TO TREAT THE**
3 **ENROLLEES OF THE CARRIERS THAT REIMBURSE THE PROVIDER IN**
4 **ACCORDANCE WITH ANY OF THE REJECTED SCHEDULES OF APPLICABLE FEES.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 June 1, 2008.