

SENATE BILL 811

C3

8lr3146
CF HB 1219

By: **Senator Pipkin**

Introduced and read first time: February 7, 2008

Assigned to: Rules

Re-referred to: Finance, February 18, 2008

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2008

CHAPTER _____

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; authorizing a provider contract, notwithstanding
18 certain provisions of law, to include a provision that requires a provider, as a
19 condition of participation, to accept a certain schedule of applicable fees;
20 providing for a certain exception; requiring a provider that elects to terminate
21 participation on a certain provider panel to provide certain notification and
22 continue to furnish certain health care services for a certain period of time;
23 providing for the application of this Act; providing for a delayed effective date;
24 making certain provisions of law applicable to health maintenance
25 organizations; defining certain terms; making stylistic changes; and generally

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 relating to health care provider panels and provider contracts under health
2 insurance.

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

8 BY repealing
9 Article – Insurance
10 Section 15–112(l)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2007 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Insurance
15 Section 15–112(m), (n), (o), and (p)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2007 Supplement)

18 BY adding to
19 Article – Insurance
20 Section 15–112.2
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2007 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Health – General
25 Section 19–706(i)
26 Annotated Code of Maryland
27 (2005 Replacement Volume and 2007 Supplement)

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

30 **Article – Insurance**

31 15–112.

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

33 (3) (i) “Carrier” means:

34 1. an insurer;

35 2. a nonprofit health service plan;

- 1 3. a health maintenance organization;
- 2 4. a dental plan organization; or
- 3 5. any other person that provides health benefit plans
4 subject to regulation by the State.

5 (ii) “Carrier” includes an entity that arranges a provider panel
6 for a carrier.

7 (5) “Enrollee” means a person entitled to health care benefits from a
8 carrier.

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

12 (8) (i) “Provider panel” means the providers that contract either
13 directly or through a subcontracting entity with a carrier to provide health care
14 services to the carrier’s enrollees under the carrier’s health benefit plan.

15 (ii) “Provider panel” does not include an arrangement in which
16 any provider may participate solely by contracting with the carrier to provide health
17 care services at a discounted fee-for-service rate.

18 [(1) (1) (i) In this subsection the following words have the meanings
19 indicated.

20 (ii) 1. “Health benefit plan” has the meaning stated in §
21 15–1201 of this title.

22 2. “Health benefit plan” includes dental plans and other
23 health benefit plans that contract with dentists to offer dental care services.

24 (iii) “Provider panel” includes an arrangement in which any
25 provider may participate solely by contracting with the carrier to provide health care
26 services at a discounted fee-for-service rate.

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

33 (3) Subject to § 15–102.5 of the Health – General Article, a carrier that
34 offers health care services as a managed care organization as defined under §

1 15–101(e) of the Health – General Article, may require a provider, as a condition of
2 participation on a provider panel for one or more health benefit plans of the carrier, to
3 serve on a provider panel of the managed care organization.

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

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

8 (ii) for at least 90 days after the date of the notice of
9 termination, continue to furnish health care services to an enrollee of the carrier for
10 whom the provider was responsible for the delivery of health care services prior to the
11 notice of termination.]

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

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

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

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

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

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

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

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

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

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

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

12 (2) A nonparticipating provider shall notify an enrollee:

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

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

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

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

19 (2) is a participating provider on the carrier’s provider panel; and

20 (3) acts as a credentialing intermediary for that carrier for health care
 21 practitioners that:

22 (i) participate on the carrier’s provider panel; and

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

24 **15-112.2.**

25 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
 26 **MEANINGS INDICATED.**

27 (2) **“CARRIER” MEANS:**

28 (I) **AN INSURER;**

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

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

1 (IV) A DENTAL PLAN ORGANIZATION.

2 (3) "DENTAL PROVIDER PANEL" MEANS A PROVIDER PANEL FOR
3 ONE OR MORE DENTAL PLAN ~~ORGANIZATIONS~~ ORGANIZATIONS, INSURERS, OR
4 NONPROFIT HEALTH SERVICE PLANS OFFERING CONTRACTS ONLY FOR DENTAL
5 SERVICES.

6 (4) "ENROLLEE" MEANS A PERSON ENTITLED TO HEALTH CARE
7 BENEFITS FROM A CARRIER.

8 (5) "HMO PROVIDER PANEL" MEANS A PROVIDER PANEL FOR
9 ONE OR MORE HEALTH MAINTENANCE ORGANIZATIONS.

10 (6) "MANAGED CARE ORGANIZATION" HAS THE MEANING STATED
11 IN § 15-101 OF THE HEALTH - GENERAL ARTICLE.

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

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

16 (9) "PROVIDER CONTRACT" MEANS A CONTRACT:

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

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

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

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

29 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
30 PROVIDER CONTRACT MAY CONTAIN A PROVISION THAT REQUIRES A PROVIDER,
31 AS A CONDITION OF PARTICIPATING IN A NON-HMO PROVIDER PANEL, AN

1 HMO PROVIDER PANEL, OR A DENTAL PROVIDER PANEL, TO PARTICIPATE IN A
2 MANAGED CARE ORGANIZATION.

3 (C) (1) THIS SUBSECTION DOES NOT APPLY TO A PROVIDER
4 CONTRACT FOR A DENTAL PROVIDER PANEL.

5 (2) EACH PROVIDER CONTRACT SHALL DISCLOSE:

6 ~~(1) THE CARRIERS COMPRISING EACH PROVIDER PANEL; AND~~

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

11 (D) (1) THIS SUBSECTION DOES NOT APPLY TO A PROVIDER
12 CONTRACT FOR A DENTAL PROVIDER PANEL.

13 (2) IF A PROVIDER CONTRACT INCLUDES MORE THAN ONE
14 SCHEDULE OF APPLICABLE FEES, THE PROVIDER CONTRACT MAY NOT CONTAIN
15 A PROVISION THAT REQUIRES A PROVIDER AS A CONDITION OF PARTICIPATION
16 TO ACCEPT EACH SCHEDULE OF APPLICABLE FEES INCLUDED IN THE PROVIDER
17 CONTRACT.

18 ~~(2)~~ (3) IF A PROVIDER REJECTS A SCHEDULE OF APPLICABLE
19 FEES, THE PROVIDER CONTRACT MAY NOT REQUIRE THE PROVIDER TO TREAT
20 THE ENROLLEES OF THE CARRIERS THAT REIMBURSE THE PROVIDER IN
21 ACCORDANCE WITH ANY OF THE REJECTED SCHEDULES OF APPLICABLE FEES.

22 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF
23 THIS SUBSECTION, A PROVIDER CONTRACT MAY INCLUDE A PROVISION THAT
24 REQUIRES A PROVIDER, AS A CONDITION OF PARTICIPATION, TO ACCEPT EACH
25 SCHEDULE OF APPLICABLE FEES FOR A CARRIER THAT IS NOT AFFILIATED
26 THROUGH COMMON OWNERSHIP WITH THE ENTITY ARRANGING THE PROVIDER
27 PANEL.

28 (E) IF A PROVIDER ELECTS TO TERMINATE PARTICIPATION ON A
29 PROVIDER PANEL, THE PROVIDER SHALL:

30 (1) NOTIFY THE CARRIER AT LEAST 90 DAYS BEFORE THE DATE
31 OF TERMINATION; AND

32 (2) FOR AT LEAST 90 DAYS AFTER THE DATE OF THE NOTICE OF
33 TERMINATION, CONTINUE TO FURNISH HEALTH CARE SERVICES TO AN
34 ENROLLEE OF THE CARRIER FOR WHOM THE PROVIDER WAS RESPONSIBLE FOR

1 THE DELIVERY OF HEALTH CARE SERVICES BEFORE THE NOTICE OF
2 TERMINATION.

3 Article - Health - General

4 19-706.

5 (i) The provisions of §§ 12-203(g), 15-105, 15-112, **15-112.2**, 15-113,
6 15-804, 15-812, 15-826, 15-828, and 15-836 of the Insurance Article shall apply to
7 health maintenance organizations.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
9 provider contracts issued or delivered in the State on or after June 1, 2010, or, for
10 provider contracts in effect in the State on June 1, 2010, but not subject to renewal in
11 2010, no later than December 31, 2010.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 June 1, ~~2008~~ 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.