

HOUSE BILL 142

C3

9lr0052

By: **Chair, Health and Government Operations Committee (By Request –
Departmental – Insurance Administration, Maryland)**

Introduced and read first time: January 23, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Antifraud Plans**

3 FOR the purpose of making certain provisions of law relating to antifraud plans
4 applicable to health maintenance organizations and third party administrators;
5 authorizing certain insurers, as part of an antifraud plan, to require an insured
6 who is receiving benefits under certain policies to make certain affirmations;
7 requiring certain insurers to make certain disclosures to insureds under certain
8 circumstances; and generally relating to antifraud plans.

9 BY adding to

10 Article – Health – General
11 Section 19–706(ttt)
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2008 Supplement)

14 BY adding to

15 Article – Insurance
16 Section 8–321.1
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2008 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Insurance
21 Section 27–803
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Health – General

2 19–706.

3 **(TTT) THE PROVISIONS OF § 27–803 OF THE INSURANCE ARTICLE APPLY**
4 **TO HEALTH MAINTENANCE ORGANIZATIONS.**

5

Article – Insurance6 **8–321.1.**

7 **A THIRD PARTY ADMINISTRATOR SHALL COMPLY WITH § 27–803 OF THIS**
8 **ARTICLE.**

9 27–803.

10 (a) (1) Each authorized insurer shall institute and maintain an insurance
11 antifraud plan.

12 (2) Within 30 days after instituting or modifying an antifraud plan,
13 the authorized insurer shall notify the Commissioner in writing.

14 (b) Each antifraud plan shall establish specific procedures to:

15 (1) prevent insurance fraud, including:

16 (i) internal fraud that involves the authorized insurer's
17 employees or insurance producers;

18 (ii) fraud that results from misrepresentations on insurance
19 applications; and

20 (iii) claims fraud;

21 (2) report insurance fraud to appropriate law enforcement authorities;

22 (3) cooperate with the prosecution of insurance fraud cases; and

23 (4) report fraud–related data to the Commissioner and Fraud
24 Division.

25 (c) (1) Each authorized insurer shall file its antifraud plan with the
26 Commissioner.

27 (2) The Commissioner may review each antifraud plan to determine
28 whether it complies with the requirements of this section.

1 (3) An antifraud plan is deemed approved unless disapproved by the
2 Commissioner within 30 days after the date of filing.

3 (d) (1) If the Commissioner finds that an antifraud plan does not comply
4 with the requirements of this section, the Commissioner shall disapprove the
5 antifraud plan and send a notice of disapproval, including the reasons for disapproval,
6 to the authorized insurer.

7 (2) If the Commissioner disapproves an antifraud plan, the authorized
8 insurer shall submit a new antifraud plan to the Commissioner within 60 days after
9 the date of disapproval.

10 (e) During an examination under § 2-205 of this article, the Commissioner
11 shall examine the authorized insurer's procedures to determine whether the
12 authorized insurer is complying with its antifraud plan.

13 (f) The Commissioner may withhold from public inspection any part of an
14 antifraud plan for as long as the Commissioner considers the withholding to be in the
15 public interest.

16 (g) (1) **AS PART OF AN ANTIFRAUD PLAN, AN AUTHORIZED INSURER**
17 **MAY REQUIRE AN INSURED WHO IS RECEIVING BENEFITS UNDER A WORKERS'**
18 **COMPENSATION INSURANCE POLICY OR A DISABILITY INSURANCE POLICY TO**
19 **AFFIRM ON A PERIODIC BASIS THAT THE INSURED:**

20 (i) **REMAINS ENTITLED TO THE BENEFITS; AND**

21 (ii) **HAS HAD NO CHANGE IN THE CONDITION ENTITLING**
22 **THE INSURED TO THE BENEFITS.**

23 (2) **AN AUTHORIZED INSURER THAT REQUIRES THE AFFIRMATION**
24 **PERMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL DISCLOSE TO**
25 **THE INSURED THAT ANY PERSON THAT KNOWINGLY PROVIDES FALSE**
26 **INFORMATION OR FAILS TO PROVIDE MATERIAL INFORMATION IN CONNECTION**
27 **WITH THE INSURED'S ELIGIBILITY OR CONTINUED ELIGIBILITY FOR BENEFITS**
28 **UNDER A WORKERS' COMPENSATION INSURANCE POLICY OR A DISABILITY**
29 **INSURANCE POLICY IS GUILTY OF A CRIME AND MAY BE SUBJECT TO A FINE AND**
30 **IMPRISONMENT.**

31 [(g)] (h) The Commissioner shall adopt regulations that establish minimum
32 standards for antifraud plans required to be filed under this section.

33 [(h)] (i) It is a violation of this subtitle if the Commissioner finds that an
34 authorized insurer has failed to:

35 (1) file an antifraud plan;

1 (2) file a revised antifraud plan after disapproval by the Commissioner
2 of the initial antifraud plan; or

3 (3) comply with the antifraud plan filed by the authorized insurer.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2009.