

SENATE BILL 1064

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By: **Chair, Finance Committee (By Request – Departmental – Health and Mental Hygiene)**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 19, 2009

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medicaid State Plan Amendments – Medical Assistance Program**
3 **Reimbursements**

4 FOR the purpose of clarifying the circumstances under which Maryland Medical
5 Assistance Program providers and recipients may seek payment for invoices and
6 other claims within a certain period of time; specifying procedures for seeking
7 reimbursement of certain recipient claims; establishing the effective date of
8 Medicaid State Plan Amendments; reaffirming the Program's continuing
9 immunity with respect to certain retroactive recipient claims for which no
10 payment may be made; establishing procedures for securing consideration of
11 certain deductions relating to medical expenses incurred by a recipient;
12 providing that the failure to adhere to certain procedures gives rise to a waiver
13 of certain claims and deductions; providing for the application of this Act; and
14 generally relating to the implementation of Medicaid State Plan Amendments
15 and permitted reimbursements under the Medical Assistance Program.

16 BY repealing and reenacting, with amendments,

17 Article – Health – General
18 Section 15–105(b) and (c)
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2008 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Health – General
23 Section 15–134(c)
24 Annotated Code of Maryland
25 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to

2 Article – Health – General
3 Section 5–134(d) and (e)
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2008 Supplement)

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

8 **Article – Health – General**

9 15–105.

10 (b) (1) The Department shall adopt rules and regulations for the
11 reimbursement of providers under the Program. However, except for an invoice that
12 must be submitted to a Medicare intermediary or Medicare carrier for an individual
13 with dual eligibility, payment may not be made for an invoice that is received more
14 than 1 year after the dates of the services given.

15 (2) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW,**
16 **PAYMENT MAY NOT BE MADE FOR A CLAIM FOR MEDICAL EXPENSES INCURRED**
17 **BY A PROGRAM RECIPIENT PRIOR TO THE DATE MEDICAL ASSISTANCE**
18 **ELIGIBILITY IS ESTABLISHED UNLESS:**

19 (I) **THE PAYMENTS ARE SPECIFICALLY PERMITTED UNDER**
20 **AN APPLICABLE STATE PLAN AMENDMENT AS SET FORTH IN § 15–134 OF THIS**
21 **SUBTITLE;**

22 (II) **THE INDIVIDUAL HAS PROVIDED THE PROGRAM WITH**
23 **WRITTEN NOTICE OF THE CLAIM AS PART OF THE INITIAL MEDICAL ASSISTANCE**
24 **APPLICATION PROCESS; AND**

25 (III) **IF THE CLAIM IS NOT APPROVED, THE RECIPIENT HAS**
26 **NOTED A TIMELY APPEAL FROM THE PROGRAM'S ACTION OR INACTION WITHIN**
27 **THE TIME AS IS PERMITTED BY THE PROGRAM'S FAIR HEARING REGULATIONS.**

28 (c) A provider who fails to submit an invoice within the required time may
29 not recover the amount later from the Program recipient **OR FROM THE PROGRAM.**

30 15–134.

31 (c) If the Department submits to the federal Centers for Medicare and
32 Medicaid Services an amendment to the Medicaid State Plan or Medical Assistance
33 Program, the Department shall submit a copy of the amendment to the members of
34 the Medicaid Advisory Committee no later than five business days after the

1 Department submits the amendment to the federal Centers for Medicare and Medicaid
2 Services.

3 **(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, STATE PLAN
4 AMENDMENTS SHALL BE EFFECTIVE ON THEIR FEDERALLY APPROVED
5 EFFECTIVE DATE.**

6 **(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, STATE PLAN
7 AMENDMENTS AND OTHER CHANGES TO FEDERAL MEDICAID STANDARDS MAY
8 NOT GIVE RISE TO ANY RETROACTIVE LIABILITY THAT IMPAIRS THE
9 COST-EFFECTIVE OPERATION OF THE PROGRAM OR CONSTITUTES A WAIVER OF
10 THE STATE'S IMMUNITIES.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That it has been and
12 continues to be the policy of this State that State Plan Amendments and other changes
13 to federal Medicaid standards may not give rise to any retroactive liability that
14 impairs the cost-effective operation of the Program or constitutes a waiver of the
15 State's immunities.

16 SECTION 3. AND BE IT FURTHER ENACTED, That with respect to State
17 Plan Amendments addressing a recipient's posteligibility deductions for medical
18 expenses and notwithstanding any other provision of law, rule, or regulation:

19 (a) the State has not waived and continues to retain its sovereign immunity
20 with respect to any past or future claims relating to posteligibility deductions, charges,
21 or expenses unless the claims:

22 (1) were incurred after the implementation of the foregoing State Plan
23 Amendment and are consistent with the Amendment;

24 (2) reflect either the recipient's prior payment to or continuing
25 obligation to reimburse a provider who has complied with § 15-105(b)(1) of the Health
26 – General Article; and

27 (3) have been preserved by the recipient in accordance with §
28 15-105(b)(2) of the Health – General Article, as enacted by Section 1 of this Act; and

29 (b) the recipient's failure to file a timely appeal of the denial of the claims in
30 accordance with § 15-105 of the Health – General Article, as enacted by Section 1 of
31 this Act, constitutes a waiver and precludes further consideration of the charges,
32 expenses, or deductions.

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be given
34 retroactive effect.

35 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 June 1, 2009.