CHAPTER 372

(House Bill 142)

AN ACT concerning

Insurance – Antifraud Plans

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

~~BY adding to~~
~~Article – Health – General~~
~~Section 19–706(ttt)~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2008 Supplement)~~

BY adding to
Article – Insurance
Section 8–321.1
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–803
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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.~~

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

Article – Insurance

8–321.1.

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

27–803.

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

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

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

(1) prevent insurance fraud, including:

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

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

(iii) claims fraud;

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

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

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

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

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

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

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

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

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

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

(G) (1) AS PART OF AN ANTIFRAUD PLAN, AN AUTHORIZED INSURER MAY REQUIRE IN WRITING THAT AN ~~INSURED~~ INDIVIDUAL WHO IS RECEIVING BENEFITS UNDER A ~~WORKERS' COMPENSATION INSURANCE POLICY OR A~~ DISABILITY INSURANCE POLICY ~~TO~~ *MUST* AFFIRM ON A PERIODIC BASIS THAT THE ~~INSURED~~ INDIVIDUAL:

(I) REMAINS ENTITLED TO THE BENEFITS; AND

(II) HAS HAD NO CHANGE IN THE CONDITION ENTITLING THE ~~INSURED~~ INDIVIDUAL TO THE BENEFITS.

(2) AN AUTHORIZED INSURER THAT REQUIRES THE AFFIRMATION PERMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL DISCLOSE TO THE ~~INSURED~~ INDIVIDUAL WHO IS RECEIVING BENEFITS THAT ~~ANY PERSON THAT~~ IF THE INDIVIDUAL KNOWINGLY AND WILLFULLY PROVIDES FALSE INFORMATION OR KNOWINGLY AND WILLFULLY FAILS TO PROVIDE MATERIAL INFORMATION IN CONNECTION WITH THE ~~INSURED'S~~ INDIVIDUAL'S ELIGIBILITY OR CONTINUED ELIGIBILITY FOR BENEFITS UNDER ~~A WORKERS' COMPENSATION INSURANCE POLICY OR~~ A DISABILITY INSURANCE POLICY, THE INDIVIDUAL IS GUILTY OF A CRIME AND MAY BE SUBJECT TO A FINE AND IMPRISONMENT.

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

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

(1) file an antifraud plan;

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

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

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

Approved by the Governor, May 7, 2009.