

SENATE BILL 704

C3, C4

0lr1521
CF HB 1073

By: ~~Senators Garagiola and Frosh~~, **Frosh, Exum, Kelley, Middleton, and Pugh**

Introduced and read first time: February 10, 2010

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 25, 2010

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Coordination of Benefits – Health Insurance and Personal Injury**
3 **Protection**

4 FOR the purpose of ~~providing that certain health maintenance organization contracts,~~
5 ~~health insurance policies, and policies of nonprofit health service plans are~~
6 ~~subject to certain provisions of law relating to coordination of benefits with~~
7 ~~personal injury protection coverage under motor vehicle liability insurance~~
8 ~~policies; prohibiting the contracts and policies from containing~~ authorizing
9 certain health maintenance organization contracts, health insurance policies or
10 contracts, and policies or contracts of nonprofit health service plans to contain a
11 provision that requires certain personal injury protection benefits to be paid
12 before benefits under the contracts and policies under certain circumstances;
13 prohibiting a motor vehicle liability insurer from making a payment to a health
14 maintenance organization, an insurer, or a nonprofit health service plan unless
15 a certain authorization is provided to the motor vehicle liability insurer;
16 defining the term “insured” or “named insured” for purposes of certain
17 provisions of law relating to personal injury protection coverage to include an
18 individual entitled to hospital, medical, or surgical benefits under certain health
19 insurance policies or contracts; providing for the application of this Act; and
20 generally relating to coordination of health insurance and personal injury
21 protection benefits.

22 BY repealing and reenacting, without amendments,
23 Article – Health – General
24 Section 19–713.1(d)

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 Annotated Code of Maryland
2 (2009 Replacement Volume)

3 BY repealing and reenacting, with amendments,
4 Article – Health – General
5 Section 19–713.1(e)
6 Annotated Code of Maryland
7 (2009 Replacement Volume)

8 BY repealing and reenacting, without amendments,
9 Article – Insurance
10 Section 15–104(b)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2009 Supplement)

13 BY adding to
14 Article – Insurance
15 Section 15–104(d)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2009 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Insurance
20 Section 19–507
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2009 Supplement)

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

25 **Article – Health – General**

26 19–713.1.

27 (d) Notwithstanding § 19–701(g)(3) of this subtitle, a contract between a
28 health maintenance organization and its subscribers or a group of subscribers may
29 contain a provision allowing the health maintenance organization to be subrogated to
30 a cause of action that a subscriber has against another person:

31 (1) To the extent that any actual payments made by the health
32 maintenance organization result from the occurrence that gave rise to the cause of
33 action; or

34 (2) For a nonprofit health maintenance organization that exclusively
35 contracts with a group of physicians to provide or to arrange for the provision of health
36 care services for its enrollees, for any service provided by the health maintenance

1 organization as a result of the occurrence that gave rise to the cause of action, per the
2 fee schedule established by the nonprofit health maintenance organization.

3 (e) (1) Subsection (d) of this section does not allow a contract between a
4 health maintenance organization and its subscribers or a group of subscribers to
5 contain a provision allowing the health maintenance organization to recover any
6 payments made to a subscriber under [a personal injury protection] **THE PERSONAL**
7 **INJURY PROTECTION COVERAGE OF A MOTOR VEHICLE LIABILITY INSURANCE**
8 policy.

9 ~~(2) A CONTRACT BETWEEN A HEALTH MAINTENANCE~~
10 ~~ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS;~~

11 ~~(I) IS SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THE~~
12 ~~INSURANCE ARTICLE; AND~~

13 ~~(II) MAY NOT CONTAIN A PROVISION THAT REQUIRES~~
14 ~~PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY~~
15 ~~INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.~~

16 (2) SUBJECT TO § 19-507(C)(3) OF THE INSURANCE ARTICLE, A
17 CONTRACT BETWEEN A HEALTH MAINTENANCE ORGANIZATION AND ITS
18 SUBSCRIBERS OR A GROUP OF SUBSCRIBERS MAY CONTAIN A PROVISION THAT
19 REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR
20 VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER
21 THE CONTRACT.

22 Article – Insurance

23 15–104.

24 (b) In accordance with regulations that the Commissioner adopts, the
25 Commissioner shall allow health insurance policies and policies of nonprofit health
26 service plans to contain nonduplication provisions or provisions to coordinate coverage
27 with:

28 (1) other health insurance policies, including commercial individual,
29 group, and blanket policies and policies of nonprofit health service plans;

30 (2) subscriber contracts that are issued by health maintenance
31 organizations; and

32 (3) other established programs under which the insured may make a
33 claim.

1 ~~(D) HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT~~
 2 ~~HEALTH SERVICE PLANS;~~

3 ~~(1) ARE SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THIS~~
 4 ~~ARTICLE; AND~~

5 ~~(2) MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL~~
 6 ~~INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY~~
 7 ~~INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICIES.~~

8 (D) SUBJECT TO § 19-507(C)(3) OF THIS ARTICLE, A POLICY OR
 9 CONTRACT BETWEEN AN INSURER OR A NONPROFIT HEALTH SERVICE PLAN AND
 10 ITS ~~INSURERS~~ INSURED OR SUBSCRIBERS OR A GROUP OF ~~INSURED~~ INSURED
 11 OR SUBSCRIBERS MAY CONTAIN A PROVISION THAT REQUIRES PERSONAL
 12 INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY
 13 INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICY OR
 14 CONTRACT.

15 19-507.

16 (A) IN THIS SECTION, "INSURED" OR "NAMED INSURED" INCLUDES AN
 17 INDIVIDUAL ENTITLED TO HOSPITAL, MEDICAL, OR SURGICAL BENEFITS UNDER
 18 A HEALTH INSURANCE POLICY OR CONTRACT ISSUED BY:

19 (1) AN INSURER;

20 (2) A NONPROFIT HEALTH SERVICE PLAN; OR

21 (3) A HEALTH MAINTENANCE ORGANIZATION.

22 [(a)] (B) The benefits described in § 19-505 of this subtitle shall be payable
 23 without regard to:

24 (1) the fault or nonfault of the named insured or the recipient of
 25 benefits in causing or contributing to the motor vehicle accident; and

26 (2) any collateral source of medical, hospital, or wage continuation
 27 benefits.

28 [(b)] (C) (1) Subject to ~~paragraph~~ PARAGRAPHS (2) AND (3) of this
 29 subsection, if the insured has both coverage for the benefits described in § 19-505 of
 30 this subtitle and a collateral source of medical, hospital, or wage continuation benefits,
 31 the insurer or insurers may coordinate the policies to provide for nonduplication of
 32 benefits, subject to appropriate reductions in premiums for one or both of the policies
 33 approved by the Commissioner.

- 1 (2) The named insured may:
- 2 (i) elect to coordinate the policies by indicating in writing which
- 3 policy is to be the primary policy; or
- 4 (ii) reject the coordination of policies and nonduplication of
- 5 benefits.

6 **(3) THE MOTOR VEHICLE LIABILITY INSURER MAY NOT MAKE A**
7 **PAYMENT TO A HEALTH MAINTENANCE ORGANIZATION, AN INSURER, OR A**
8 **NONPROFIT HEALTH SERVICE PLAN UNLESS THE HEALTH MAINTENANCE**
9 **ORGANIZATION, INSURER, OR NONPROFIT HEALTH SERVICE PLAN PROVIDES**
10 **THE MOTOR VEHICLE LIABILITY INSURER WRITTEN AUTHORIZATION FOR THE**
11 **PAYMENT FROM THE INSURED.**

12 **[(c)] (D)** An insurer that issues a policy that contains the coverage
13 described in § 19–505 of this subtitle may not impose a surcharge or retier the policy
14 for a claim or payment made under that coverage and, at the time the policy is issued,
15 shall notify the policyholder in writing that a surcharge may not be imposed and the
16 policy may not be retiered for a claim or payment made under that coverage.

17 **[(d)] (E)** An insurer that provides the benefits described in § 19–505 of this
18 subtitle does not have a right of subrogation and does not have a claim against any
19 other person or insurer to recover any benefits paid because of the alleged fault of the
20 other person in causing or contributing to a motor vehicle accident.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
22 policies, contracts, and health benefit plans issued, delivered, or renewed in the State
23 on or after October 1, 2010.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.