

SENATE BILL 1074

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0lr3468
CF HB 1468

By: **Senator Klausmeier**

Introduced and read first time: March 3, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Nonparticipating Providers – Disclosure of Status**
3 **and Charges**

4 FOR the purpose of requiring nonparticipating health care providers to disclose to
5 enrollees covered by health insurance carriers with which the nonparticipating
6 health care providers do not have a contractual relationship certain information
7 in a certain manner under certain circumstances; requiring the disclosure to be
8 provided to an enrollee at a certain time in a certain manner, to be signed in a
9 certain manner, and to be maintained in a certain manner; requiring certain
10 health care facilities that contract with nonparticipating health care providers
11 to display in a certain manner a notice with certain information; requiring
12 health insurance carriers to disclose certain information about nonparticipating
13 health care providers in a certain manner on their Internet websites and to
14 provide links to a certain directory; requiring a health care provider to provide a
15 copy of a certain disclosure statement under certain circumstances; prohibiting
16 a health care provider from seeking or recovering in any proceeding certain
17 amounts for payment except under certain circumstances; requiring health care
18 providers to establish a process for resolving certain complaints or inquiries by
19 enrollees; requiring carriers to establish a process for resolving certain
20 complaints or inquiries by enrollees; requiring the Maryland Insurance
21 Commissioner to develop certain forms; defining certain terms; providing for the
22 application of this Act; and generally relating to disclosure of information about
23 nonparticipating health care providers and charges for their services.

24 BY adding to
25 Article – Health – General
26 Section 19–706(cccc)
27 Annotated Code of Maryland
28 (2009 Replacement Volume)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Insurance
2 Section 15–1801 through 15–1807 to under the new subtitle “Subtitle 18.
3 Nonparticipating Health Care Providers”
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2009 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 19–706.

10 **(CCCC) THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE**
11 **INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

12 **Article – Insurance**

13 **SUBTITLE 18. NONPARTICIPATING HEALTH CARE PROVIDERS.**

14 **15–1801.**

15 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
16 **INDICATED.**

17 **(B) “BALANCE” MEANS THE AMOUNT BY WHICH A BILLED CHARGE**
18 **EXCEEDS THE AMOUNT PAID BY AN ENROLLEE’S CARRIER AND ANY COPAYMENT,**
19 **COINSURANCE, OR DEDUCTIBLE THAT THE ENROLLEE MAY BE REQUIRED TO**
20 **PAY UNDER THE ENROLLEE’S POLICY OR CONTRACT OF HEALTH INSURANCE.**

21 **(C) “BILLED CHARGE” MEANS THE AMOUNT THAT A HEALTH CARE**
22 **PROVIDER CHARGES FOR AN INPATIENT ADMISSION, OUTPATIENT SURGICAL**
23 **PROCEDURE, HEALTH CARE SERVICE, OR SUPPLY.**

24 **(D) “CARRIER” MEANS:**

25 **(1) AN INSURER;**

26 **(2) A NONPROFIT HEALTH SERVICE PLAN;**

27 **(3) A HEALTH MAINTENANCE ORGANIZATION;**

28 **(4) A DENTAL PLAN ORGANIZATION;**

1 **(5) A PERSON OR AN ENTITY ACTING AS A THIRD PARTY**
2 **ADMINISTRATOR; OR**

3 **(6) EXCEPT FOR A MANAGED CARE ORGANIZATION AS DEFINED IN**
4 **TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE, ANY OTHER**
5 **PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY**
6 **THE STATE.**

7 **(E) “ENROLLEE” MEANS A PERSON OR SUBSCRIBER ENTITLED TO**
8 **HEALTH CARE BENEFITS FROM A CARRIER.**

9 **(F) “FACILITY–BASED PRACTITIONER” MEANS A HEALTH CARE**
10 **PRACTITIONER WHO:**

11 **(1) PROVIDES HEALTH CARE SERVICES AT A HEALTH CARE**
12 **FACILITY UNDER A CONTRACT WITH THE HEALTH CARE FACILITY; AND**

13 **(2) BILLS FOR HEALTH CARE SERVICES SEPARATELY FROM ANY**
14 **CHARGES MADE BY THE HEALTH CARE FACILITY.**

15 **(G) “HEALTH CARE FACILITY” MEANS:**

16 **(1) A HOSPITAL;**

17 **(2) AN EMERGENCY CLINIC;**

18 **(3) AN OUTPATIENT CLINIC;**

19 **(4) A BIRTHING CENTER;**

20 **(5) AN AMBULATORY SURGICAL CENTER; OR**

21 **(6) ANY OTHER FACILITY PROVIDING HEALTH CARE SERVICES.**

22 **(H) “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO IS**
23 **LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH**
24 **OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE**
25 **ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.**

26 **(I) “HEALTH CARE PROVIDER” INCLUDES:**

27 **(1) A FACILITY–BASED PRACTITIONER;**

1 **(2) A HEALTH CARE FACILITY; AND**

2 **(3) A HEALTH CARE PRACTITIONER.**

3 **(J) “NONPARTICIPATING HEALTH CARE PROVIDER” MEANS A HEALTH**
4 **CARE PROVIDER THAT IS NOT UNDER CONTRACT WITH AN ENROLLEE’S**
5 **CARRIER.**

6 **(K) “PARTICIPATING HEALTH CARE PROVIDER” MEANS A HEALTH CARE**
7 **PROVIDER THAT HAS A CONTRACTUAL RELATIONSHIP WITH AN ENROLLEE’S**
8 **CARRIER UNDER WHICH THE HEALTH CARE PROVIDER:**

9 **(1) AGREES TO ACCEPT AS PAYMENT IN FULL THE AMOUNT FOR**
10 **SERVICES PAID BY THE CARRIER PLUS ANY COPAYMENT, COINSURANCE, OR**
11 **DEDUCTIBLE THAT THE ENROLLEE MAY BE REQUIRED TO PAY UNDER THE**
12 **ENROLLEE’S POLICY OR CONTRACT OF HEALTH INSURANCE; AND**

13 **(2) AGREES NOT TO BILL THE ENROLLEE FOR ANY BALANCE.**

14 **15-1802.**

15 **(A) (1) THIS SUBSECTION DOES NOT APPLY TO HEALTH CARE**
16 **SERVICES PROVIDED IN THE EMERGENCY DEPARTMENT OF A HEALTH CARE**
17 **FACILITY OR AS A RESULT OF AN EMERGENCY DIRECT ADMISSION TO A HEALTH**
18 **CARE FACILITY.**

19 **(2) EACH NONPARTICIPATING HEALTH CARE PROVIDER SHALL**
20 **DISCLOSE IN WRITING TO EACH ENROLLEE COVERED BY A CARRIER WITH**
21 **WHICH THE NONPARTICIPATING HEALTH CARE PROVIDER DOES NOT HAVE A**
22 **CONTRACTUAL RELATIONSHIP, THE FOLLOWING INFORMATION:**

23 **(I) THAT THE NONPARTICIPATING HEALTH CARE**
24 **PROVIDER DOES NOT PARTICIPATE WITH THE ENROLLEE’S CARRIER;**

25 **(II) THAT THE ENROLLEE WILL BE RESPONSIBLE FOR**
26 **PAYMENTS IN EXCESS OF WHAT THE ENROLLEE’S CARRIER WILL PAY FOR THE**
27 **SERVICES RENDERED;**

28 **(III) A GOOD FAITH ESTIMATE OF THE AMOUNT OF THE**
29 **BILLED CHARGE FOR WHICH THE ENROLLEE WILL BE RESPONSIBLE;**

30 **(IV) ANY TERMS OF PAYMENT THAT MAY APPLY; AND**

1 **(V) WHETHER INTEREST WILL APPLY AND, IF SO, THE**
2 **AMOUNT OF INTEREST CHARGED BY THE NONPARTICIPATING HEALTH CARE**
3 **PROVIDER.**

4 **(3) THE DISCLOSURE REQUIRED BY PARAGRAPH (2) OF THIS**
5 **SUBSECTION SHALL BE:**

6 **(I) PROVIDED TO THE ENROLLEE IN ADVANCE OF ANY**
7 **HEALTH CARE SERVICES BEING PERFORMED;**

8 **(II) PROVIDED IN A WRITTEN FORM AND MANNER REQUIRED**
9 **BY THE COMMISSIONER;**

10 **(III) SIGNED BY THE ENROLLEE OR THE ENROLLEE'S**
11 **PARENT OR GUARDIAN IN THE CASE OF AN ENROLLEE WHO IS A MINOR; AND**

12 **(IV) MAINTAINED BY THE NONPARTICIPATING HEALTH CARE**
13 **PROVIDER AS PART OF THE ENROLLEE'S MEDICAL RECORDS.**

14 **(B) (1) THIS SUBSECTION APPLIES TO HEALTH CARE SERVICES**
15 **PROVIDED IN THE EMERGENCY DEPARTMENT OF A HEALTH CARE FACILITY OR**
16 **AS A RESULT OF AN EMERGENT DIRECT ADMISSION TO A HEALTH CARE**
17 **FACILITY.**

18 **(2) IF AN ENROLLEE HAS BEEN STABILIZED IN ACCORDANCE**
19 **WITH THE FEDERAL EMERGENCY MEDICAL TREATMENT AND LABOR ACT, A**
20 **NONPARTICIPATING HEALTH CARE PROVIDER SHALL PROVIDE THE WRITTEN**
21 **DISCLOSURE REQUIRED BY SUBSECTION (A) OF THIS SECTION BEFORE**
22 **DISCHARGING THE ENROLLEE FROM THE EMERGENCY DEPARTMENT OR**
23 **HEALTH CARE FACILITY.**

24 **15-1803.**

25 **EACH HEALTH CARE FACILITY THAT CONTRACTS WITH**
26 **NONPARTICIPATING HEALTH CARE PROVIDERS SHALL PROMINENTLY DISPLAY A**
27 **NOTICE IN EACH WAITING ROOM WITHIN THE HEALTH CARE FACILITY THAT:**

28 **(1) INDICATES THAT SOME OR ALL OF THE HEALTH CARE**
29 **PRACTITIONERS THAT MAY TREAT AN ENROLLEE WHILE IN THE HEALTH CARE**
30 **FACILITY MAY BE NONPARTICIPATING HEALTH CARE PROVIDERS;**

1 **(2) ADVISES THAT SOME OR ALL OF THOSE NONPARTICIPATING**
2 **HEALTH CARE PROVIDERS MAY EXPECT REIMBURSEMENT IN ADDITION TO ANY**
3 **PAYMENTS MADE BY THE ENROLLEE’S CARRIER; AND**

4 **(3) PROVIDES SUFFICIENT CONTACT INFORMATION FOR EACH OF**
5 **THE NONPARTICIPATING HEALTH CARE PROVIDERS WITH WHICH THE HEALTH**
6 **CARE FACILITY HAS ENTERED INTO A CONTRACT TO ENABLE THE ENROLLEE TO**
7 **OBTAIN THE DISCLOSURE REQUIRED BY § 15–1802 UNDER THIS SUBTITLE FROM**
8 **THE NONPARTICIPATING HEALTH CARE PROVIDER.**

9 **15–1804.**

10 **(A) EACH CARRIER SHALL DISCLOSE PROMINENTLY ON ITS INTERNET**
11 **WEBSITE:**

12 **(1) THAT SOME HEALTH CARE PROVIDERS ARE**
13 **NONPARTICIPATING HEALTH CARE PROVIDERS;**

14 **(2) THAT SOME HEALTH CARE FACILITIES THAT PARTICIPATE**
15 **WITH THE CARRIER MAY UTILIZE NONPARTICIPATING HEALTH CARE**
16 **PROVIDERS; AND**

17 **(3) A GENERAL DESCRIPTION OF THE FINANCIAL IMPACT ON AN**
18 **ENROLLEE WHEN THE ENROLLEE SEEKS CARE FROM A NONPARTICIPATING**
19 **HEALTH CARE PROVIDER OR FROM A HEALTH CARE FACILITY THAT UTILIZES**
20 **NONPARTICIPATING HEALTH CARE PROVIDERS, INCLUDING INFORMATION**
21 **THAT:**

22 **(I) THE ENROLLEE WILL BE PAID DIRECTLY BY THE**
23 **CARRIER;**

24 **(II) THE AMOUNT PAID BY THE CARRIER MAY BE**
25 **SIGNIFICANTLY LESS THAN THE BILLED CHARGE; AND**

26 **(III) AS A RESULT, THE ENROLLEE COULD BE**
27 **SUBSTANTIALLY LIABLE FOR THE BALANCE OF THE BILLED CHARGE.**

28 **(B) EACH CARRIER SHALL PROVIDE APPROPRIATE INTERNET LINKS TO**
29 **A DIRECTORY OF PARTICIPATING HEALTH CARE PROVIDERS.**

30 **15–1805.**

1 **(A) IF A HEALTH CARE PROVIDER ATTEMPTS TO COLLECT A BALANCE**
2 **FROM AN ENROLLEE, THE HEALTH CARE PROVIDER SHALL PROVIDE A COPY OF**
3 **THE EXECUTED DISCLOSURE STATEMENT REQUIRED BY § 15-1802 OF THIS**
4 **SUBTITLE ON REQUEST OF THE ENROLLEE, THE ENROLLEE'S LEGAL**
5 **REPRESENTATIVE, OR THE ADMINISTRATION.**

6 **(B) A HEALTH CARE PROVIDER MAY NOT SEEK, AND MAY NOT RECOVER**
7 **IN ANY PROCEEDING, ANY AMOUNT FOR PAYMENT IN EXCESS OF THE AMOUNT**
8 **PAID BY THE CARRIER PLUS ANY COPAYMENT, COINSURANCE, OR DEDUCTIBLE**
9 **THAT THE ENROLLEE MAY BE REQUIRED TO PAY UNDER THE ENROLLEE'S**
10 **POLICY OR CONTRACT OF HEALTH INSURANCE UNLESS THE HEALTH CARE**
11 **PROVIDER:**

12 **(1) IS A NONPARTICIPATING HEALTH CARE PROVIDER; AND**

13 **(2) HAS MAINTAINED, AS PART OF THE MEDICAL RECORD OF THE**
14 **ENROLLEE, THE EXECUTED DISCLOSURE STATEMENT REQUIRED BY § 15-1802**
15 **OF THIS SUBTITLE.**

16 **(C) A HEALTH CARE PROVIDER MAY NOT SEEK, AND MAY NOT RECOVER**
17 **IN ANY PROCEEDING, ANY AMOUNT IN EXCESS OF THE GOOD FAITH ESTIMATE**
18 **OF CHARGES PROVIDED TO THE ENROLLEE, UNLESS THE HEALTH CARE**
19 **PROVIDER CAN DEMONSTRATE:**

20 **(1) GOOD CAUSE WHY THE ESTIMATED AMOUNT WAS INADEQUATE**
21 **TO COVER THE ACTUAL SERVICES RENDERED; AND**

22 **(2) A REASONABLE BASIS FOR NOT INCLUDING THE ADDITIONAL**
23 **AMOUNT IN THE GOOD FAITH ESTIMATE.**

24 **15-1806.**

25 **(A) EACH HEALTH CARE PROVIDER SHALL ESTABLISH A PROCESS FOR**
26 **RESOLVING COMPLAINTS OR INQUIRIES BY ENROLLEES ARISING FROM OR**
27 **RELATED TO BILLS OR CHARGES FOR THE BALANCE AS DESCRIBED IN THIS**
28 **SUBTITLE.**

29 **(B) EACH CARRIER SHALL ESTABLISH A PROCESS FOR RESOLVING**
30 **COMPLAINTS OR INQUIRIES BY ENROLLEES ARISING FROM OR RELATED TO**
31 **VIOLATIONS OF THIS SUBTITLE BY A CARRIER.**

32 **(C) THE PROCEDURES ESTABLISHED UNDER THIS SECTION FOR**
33 **HANDLING ENROLLEE COMPLAINTS OR INQUIRIES SHALL INCLUDE A GOOD**

1 FAITH EFFORT TO RESOLVE THE COMPLAINT OR INQUIRY IN AN INFORMAL
2 MANNER.

3 15-1807.

4 THE COMMISSIONER SHALL DEVELOP FORMS TO IMPLEMENT THE
5 DISCLOSURE REQUIREMENTS OF §§ 15-1802, 15-1803, AND 15-1804 OF THIS
6 SUBTITLE.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
8 health insurance policies and contracts issued, delivered, or renewed in the State on or
9 after October 1, 2010, by an insurer, nonprofit health service plan, health maintenance
10 organization, health care provider, participating health care provider,
11 nonparticipating health care provider, facility-based practitioner, or health care
12 facility subject to this Act.

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