

## Chapter 340

(Senate Bill 704)

AN ACT concerning

### Insurance – Coordination of Benefits – Health Insurance and Personal Injury Protection

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

BY repealing and reenacting, without amendments,

Article – Health – General  
Section 19–713.1(d)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General  
Section 19–713.1(e)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Insurance  
Section 15–104(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY adding to

Article – Insurance

Section 15–104(d)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Insurance~~

~~Section 19–507~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2009 Supplement)~~

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

### Article – Health – General

19–713.1.

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

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

(2) For a nonprofit health maintenance organization that exclusively contracts with a group of physicians to provide or to arrange for the provision of health care services for its enrollees, for any service provided by the health maintenance organization as a result of the occurrence that gave rise to the cause of action, per the fee schedule established by the nonprofit health maintenance organization.

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

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

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

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

(2) SUBJECT TO § 19 507(C)(3) OF THE INSURANCE ARTICLE, A CONTRACT BETWEEN A HEALTH MAINTENANCE ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.

Article – Insurance

15–104.

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

- (1) other health insurance policies, including commercial individual, group, and blanket policies and policies of nonprofit health service plans;
- (2) subscriber contracts that are issued by health maintenance organizations; and
- (3) other established programs under which the insured may make a claim.

~~(D) HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT HEALTH SERVICE PLANS:~~

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

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

(D) SUBJECT TO § 19 507(C)(3) OF THIS ARTICLE, A POLICY OR CONTRACT BETWEEN AN INSURER OR A NONPROFIT HEALTH SERVICE PLAN AND ITS INSURERS INSURED OR SUBSCRIBERS OR A GROUP OF INSURED INSURED

~~OR SUBSCRIBERS MAY~~ HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT HEALTH SERVICE PLANS MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICY OR CONTRACT POLICIES.

~~19-507.~~

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

- ~~(1) AN INSURER;~~
- ~~(2) A NONPROFIT HEALTH SERVICE PLAN; OR~~
- ~~(3) A HEALTH MAINTENANCE ORGANIZATION.~~

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

- ~~(1) the fault or nonfault of the named insured or the recipient of benefits in causing or contributing to the motor vehicle accident; and~~
- ~~(2) any collateral source of medical, hospital, or wage continuation benefits.~~

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

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

~~(3) THE MOTOR VEHICLE LIABILITY INSURER MAY NOT MAKE A PAYMENT TO A HEALTH MAINTENANCE ORGANIZATION, AN INSURER, OR A NONPROFIT HEALTH SERVICE PLAN UNLESS THE HEALTH MAINTENANCE~~

~~ORGANIZATION, INSURER, OR NONPROFIT HEALTH SERVICE PLAN PROVIDES  
THE MOTOR VEHICLE LIABILITY INSURER WRITTEN AUTHORIZATION FOR THE  
PAYMENT FROM THE INSURED.~~

~~[(c)] (D) An insurer that issues a policy that contains the coverage described in § 19-505 of this subtitle may not impose a surcharge or retire the policy for a claim or payment made under that coverage and, at the time the policy is issued, shall notify the policyholder in writing that a surcharge may not be imposed and the policy may not be retired for a claim or payment made under that coverage.~~

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

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

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

**Approved by the Governor, May 4, 2010.**