

HOUSE BILL 736

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CF SB 722

By: **Delegates Tarrant, Bromwell, Costa, Cullison, Elliott, Frank, Kach, A. Kelly, Krebs, Morhaim, Murphy, Nathan-Pulliam, Pena-Melnyk, Ready, Reznik, and V. Turner**

Introduced and read first time: February 10, 2011

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Electronic Health Records – Incentives for Health Care Providers –**
3 **Regulations**

4 FOR the purpose of exempting a certain group model health maintenance organization
5 from the definition of “carrier” for purposes of certain regulations relating to
6 electronic health records; requiring certain regulations relating to electronic
7 health records to require incentives for the adoption and use of electronic health
8 records for each of certain types of health care providers; requiring certain
9 regulations to permit certain health care providers to specify to a
10 State-regulated payor the form of incentive the health care provider will
11 receive; requiring certain regulations to include an option for the health care
12 provider to specify that the incentive shall be limited to a certain monetary
13 payment; and generally relating to electronic health records.

14 BY repealing and reenacting, without amendments,
15 Article – Health – General
16 Section 19–142(a), (c), (d), (e), and (h)
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Health – General
21 Section 19–142(b) and 19–143(d)
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2010 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

19–142.

(a) In this Part IV of this subtitle the following words have the meanings indicated.

(b) “Carrier” means:

(1) An insurer;

(2) A nonprofit health service plan;

(3) A health maintenance organization, **OTHER THAN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19–713.6 OF THIS TITLE**; or

(4) Any other person that provides health benefit plans subject to regulation by the State.

(c) “Electronic health record” means an electronic record of health–related information on an individual that:

(1) Includes patient demographic and clinical health information; and

(2) Has the capacity to:

(i) Provide clinical decision support;

(ii) Support physician order entry;

(iii) Capture and query information relevant to health care quality; and

(iv) Exchange electronic health information with and integrate the information from other sources.

(d) (1) “Health benefit plan” means a hospital or medical policy, contract, or certificate issued by a carrier.

(2) “Health benefit plan” does not include:

(i) Coverage for accident or disability income insurance;

(ii) Coverage issued as a supplement to liability insurance;

- 1 (iii) Liability insurance, including general liability insurance and
2 automobile liability insurance;
- 3 (iv) Workers' compensation or similar insurance;
- 4 (v) Automobile or property medical payment insurance;
- 5 (vi) Credit-only insurance;
- 6 (vii) Coverage for on-site medical clinics;
- 7 (viii) Dental or vision insurance;
- 8 (ix) Long-term care insurance or benefits for nursing home care,
9 home health care, community-based care, or any combination of these;
- 10 (x) Coverage only for a specified disease or illness;
- 11 (xi) Hospital indemnity or other fixed indemnity insurance; or
- 12 (xii) The following benefits if offered as a separate insurance
13 policy:
- 14 1. Medicare supplemental health insurance, as defined
15 in § 1882(g)(1) of the Social Security Act;
- 16 2. Coverage supplemental to the coverage provided
17 under Chapter 55 of Title 10, U.S.C.; or
- 18 3. Similar supplemental coverage provided to coverage
19 under an employer-sponsored plan.
- 20 (e) (1) "Health care provider" means:
- 21 (i) A person who is licensed, certified, or otherwise authorized
22 under the Health Occupations Article to provide health care in the ordinary course of
23 business or practice of a profession or in an approved education or training program;
24 or
- 25 (ii) A facility where health care is provided to patients or
26 recipients, including:
- 27 1. A facility, as defined in § 10-101(e) of this article;
- 28 2. A hospital, as defined in § 19-301 of this title;
- 29 3. A related institution, as defined in § 19-301 of this
30 title;

1 2. Any grants or loans that are available to health care
2 providers from the federal government; and

3 (v) May include:

4 1. Increased reimbursement for specific services;

5 2. Lump sum payments;

6 3. Gain-sharing arrangements;

7 4. Rewards for quality and efficiency;

8 5. In-kind payments; and

9 6. Other items or services to which a specific monetary
10 value can be assigned.

11 (3) The regulations [need not] **SHALL:**

12 **(I)** require incentives for the adoption and meaningful use of
13 electronic health records, for each type of health care provider listed in § 19-142(e) of
14 this subtitle;

15 **(II)** **PERMIT THE HEALTH CARE PROVIDER TO SPECIFY TO A**
16 **STATE-REGULATED PAYOR THE FORM OF INCENTIVE THE HEALTH CARE**
17 **PROVIDER WILL RECEIVE; AND**

18 **(III)** **INCLUDE AN OPTION FOR THE HEALTH CARE PROVIDER**
19 **TO SPECIFY THAT THE INCENTIVE SHALL BE LIMITED SOLELY TO A DIRECT**
20 **MONETARY PAYMENT.**

21 (4) If federal law is amended to allow the State to regulate payments
22 made by entities that self-insure their health benefit plans, regulations adopted under
23 this section shall apply to those entities to the same extent to which they apply to
24 State-regulated payors.

25 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
26 **July 1, 2011.**