

# HOUSE BILL 800

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By: **Chair, Health and Government Operations Committee (By Request –  
Departmental – Maryland Insurance Administration)**

Introduced and read first time: February 8, 2016

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Payments to Noncontracting Specialists and Noncontracting**  
3 **Nonphysician Specialists**

4 FOR the purpose of requiring, under certain circumstances, certain insurers, nonprofit  
5 health service plans, health maintenance organizations, and dental plan  
6 organizations to pay a certain amount for certain services provided to a member by  
7 noncontracting specialists or noncontracting nonphysician specialists when a  
8 referral is granted to the member; and generally relating to payments to  
9 noncontracting health care providers.

10 BY repealing and reenacting, with amendments,  
11 Article – Insurance  
12 Section 15–830  
13 Annotated Code of Maryland  
14 (2011 Replacement Volume and 2015 Supplement)

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

17 **Article – Insurance**

18 15–830.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Carrier” means:

21 (i) an insurer that offers health insurance other than long–term  
22 care insurance or disability insurance;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) a nonprofit health service plan;

2 (iii) a health maintenance organization;

3 (iv) a dental plan organization; or

4 (v) except for a managed care organization as defined in Title 15,  
5 Subtitle 1 of the Health – General Article, any other person that provides health benefit  
6 plans subject to State regulation.

7 (3) (i) “Member” means an individual entitled to health care benefits  
8 under a policy or plan issued or delivered in the State by a carrier.

9 (ii) “Member” includes a subscriber.

10 (4) “Nonphysician specialist” means a health care provider who:

11 (i) is not a physician;

12 (ii) is licensed or certified under the Health Occupations Article; and

13 (iii) is certified or trained to treat or provide health care services for  
14 a specified condition or disease in a manner that is within the scope of the license or  
15 certification of the health care provider.

16 (5) “Provider panel” has the meaning stated in § 15–112(a) of this title.

17 (6) “Specialist” means a physician who is certified or trained to practice in  
18 a specified field of medicine and who is not designated as a primary care provider by the  
19 carrier.

20 (b) (1) Each carrier that does not allow direct access to specialists shall  
21 establish and implement a procedure by which a member may receive a standing referral  
22 to a specialist in accordance with this subsection.

23 (2) The procedure shall provide for a standing referral to a specialist if:

24 (i) the primary care physician of the member determines, in  
25 consultation with the specialist, that the member needs continuing care from the specialist;

26 (ii) the member has a condition or disease that:

27 1. is life threatening, degenerative, chronic, or disabling; and

28 2. requires specialized medical care; and

1 (iii) the specialist:

2 1. has expertise in treating the life-threatening,  
3 degenerative, chronic, or disabling disease or condition; and

4 2. is part of the carrier's provider panel.

5 (3) Except as provided in subsection (c) of this section, a standing referral  
6 shall be made in accordance with a written treatment plan for a covered service developed  
7 by:

8 (i) the primary care physician;

9 (ii) the specialist; and

10 (iii) the member.

11 (4) A treatment plan may:

12 (i) limit the number of visits to the specialist;

13 (ii) limit the period of time in which visits to the specialist are  
14 authorized; and

15 (iii) require the specialist to communicate regularly with the primary  
16 care physician regarding the treatment and health status of the member.

17 (5) The procedure by which a member may receive a standing referral to a  
18 specialist may not include a requirement that a member see a provider in addition to the  
19 primary care physician before the standing referral is granted.

20 (c) (1) Notwithstanding any other provision of this section, a member who is  
21 pregnant shall receive a standing referral to an obstetrician in accordance with this  
22 subsection.

23 (2) After the member who is pregnant receives a standing referral to an  
24 obstetrician, the obstetrician is responsible for the primary management of the member's  
25 pregnancy, including the issuance of referrals in accordance with the carrier's policies and  
26 procedures, through the postpartum period.

27 (3) A written treatment plan may not be required when a standing referral  
28 is to an obstetrician under this subsection.

29 (d) (1) Each carrier shall establish and implement a procedure by which a  
30 member may request a referral to a specialist or nonphysician specialist who is not part of  
31 the carrier's provider panel in accordance with this subsection.

1 (2) The procedure shall provide for a referral to a specialist or nonphysician  
2 specialist who is not part of the carrier's provider panel if:

3 (i) the member is diagnosed with a condition or disease that  
4 requires specialized health care services or medical care; and

5 (ii) 1. the carrier does not have in its provider panel a specialist  
6 or nonphysician specialist with the professional training and expertise to treat or provide  
7 health care services for the condition or disease; or

8 2. the carrier cannot provide reasonable access to a specialist  
9 or nonphysician specialist with the professional training and expertise to treat or provide  
10 health care services for the condition or disease without unreasonable delay or travel.

11 **(E) IF A MEMBER RECEIVES COVERED SERVICES FROM A SPECIALIST OR**  
12 **NONPHYSICIAN SPECIALIST WHO IS NOT PART OF THE CARRIER'S PROVIDER PANEL**  
13 **IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION:**

14 **(1) A CARRIER THAT IS AN INSURER, A NONPROFIT HEALTH SERVICE**  
15 **PLAN, OR A DENTAL PLAN ORGANIZATION SHALL PAY BENEFITS FOR COVERED**  
16 **SERVICES PROVIDED BY THE SPECIALIST OR NONPHYSICIAN SPECIALIST BASED ON**  
17 **AN ALLOWED AMOUNT THAT IS AT LEAST EQUAL TO 140% OF THE RATE PAID BY THE**  
18 **MEDICARE PROGRAM, AS PUBLISHED BY CENTERS FOR MEDICARE AND MEDICAID**  
19 **SERVICES, FOR THE SAME COVERED SERVICE PROVIDED BY A SIMILARLY LICENSED**  
20 **PROVIDER IN THE SAME GEOGRAPHIC AREA; AND**

21 **(2) A CARRIER THAT IS A HEALTH MAINTENANCE ORGANIZATION**  
22 **SHALL PAY BENEFITS FOR COVERED SERVICES PROVIDED BY THE SPECIALIST OR**  
23 **NONPHYSICIAN SPECIALIST BASED ON AN ALLOWED AMOUNT THAT IS THE GREATER**  
24 **OF:**

25 **(I) THE AMOUNT REQUIRED TO BE PAID UNDER § 19-710.1 OF**  
26 **THE HEALTH – GENERAL ARTICLE; OR**

27 **(II) AN AMOUNT AT LEAST EQUAL TO 140% OF THE RATE PAID**  
28 **BY THE MEDICARE PROGRAM, AS PUBLISHED BY CENTERS FOR MEDICARE AND**  
29 **MEDICAID SERVICES, FOR THE SAME SERVICE PROVIDED BY A SIMILARLY LICENSED**  
30 **PROVIDER IN THE SAME GEOGRAPHIC AREA.**

31 **[(e)] (F)** For purposes of calculating any deductible, copayment amount, or  
32 coinsurance payable by the member, a carrier shall treat services received in accordance  
33 with subsection (d) of this section as if the service was provided by a provider on the  
34 carrier's provider panel.

1            **[(f)] (G)**        A decision by a carrier not to provide access to or coverage of treatment  
2 or health care services by a specialist or nonphysician specialist in accordance with this  
3 section constitutes an adverse decision as defined under Subtitle 10A of this title if the  
4 decision is based on a finding that the proposed service is not medically necessary,  
5 appropriate, or efficient.

6            **[(g)] (H)**        Each carrier shall file with the Commissioner a copy of each of the  
7 procedures required under this section.

8            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
9 1, 2016.