

HOUSE BILL 1070

C3

8lr1832

By: **Delegates Platt, Saab, and Sample-Hughes**

Introduced and read first time: February 7, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Retroactive Denial of Reimbursement to Health Care**
3 **Providers**

4 FOR the purpose of requiring a certain carrier that retroactively denies reimbursement to
5 a certain health care provider under certain provisions of law to provide the health
6 care provider certain notice of the retroactive denial, a certain minimum period of
7 time to respond to the notice, and a certain option to pay the amount of the denied
8 reimbursement in lieu of retention by the carrier of certain funds; providing for the
9 application of this Act; and generally relating to health insurance and the retroactive
10 denial of reimbursement to health care providers by carriers.

11 BY repealing and reenacting, with amendments,
12 Article – Insurance
13 Section 15–1008
14 Annotated Code of Maryland
15 (2017 Replacement Volume)

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

18 **Article – Insurance**

19 15–1008.

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

21 (2) “Carrier” means:

22 (i) an insurer;

23 (ii) a nonprofit health service plan;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) a health maintenance organization;

2 (iv) a dental plan organization;

3 (v) a managed care organization, as defined in § 15–101 of the
4 Health – General Article; or

5 (vi) any other person that provides health benefit plans subject to
6 regulation by the State.

7 (3) “Code” means:

8 (i) the applicable current procedural terminology (CPT) code, as
9 adopted by the American Medical Association;

10 (ii) if for a dental service, the applicable code adopted by the
11 American Dental Association; or

12 (iii) another applicable code under an appropriate uniform coding
13 scheme used by a carrier in accordance with this section.

14 (4) “Coding guidelines” means those standards or procedures used or
15 applied by a payor to determine the most accurate and appropriate code or codes for
16 payment by the payor for a service or services.

17 (5) “Health care provider” means a person or entity licensed, certified or
18 otherwise authorized under the Health Occupations Article or the Health – General Article
19 to provide health care services.

20 (6) “Reimbursement” means payments made to a health care provider by a
21 carrier on either a fee–for–service, capitated, or premium basis.

22 (b) This section does not apply to an adjustment to reimbursement made as part
23 of an annual contracted reconciliation of a risk sharing arrangement under an
24 administrative service provider contract.

25 (c) (1) If a carrier retroactively denies reimbursement to a health care
26 provider, the carrier:

27 (i) may only retroactively deny reimbursement for services subject
28 to coordination of benefits with another carrier, the Maryland Medical Assistance Program,
29 or the Medicare Program during the 18–month period after the date that the carrier paid
30 the health care provider; and

31 (ii) except as provided in item (i) of this paragraph, may only
32 retroactively deny reimbursement during the 6–month period after the date that the carrier

1 paid the health care provider.

2 (2) (i) A carrier that retroactively denies reimbursement to a health
3 care provider under paragraph (1) of this subsection shall provide the health care provider
4 [with]:

5 1. NOTICE OF THE RETROACTIVE DENIAL, INCLUDING a
6 written statement specifying the basis for the retroactive denial;

7 2. AT LEAST 30 DAYS TO RESPOND TO THE NOTICE
8 PROVIDED UNDER ITEM 1 OF THIS SUBPARAGRAPH; AND

9 3. THE OPTION TO PAY THE AMOUNT OF THE DENIED
10 REIMBURSEMENT IN LIEU OF RETENTION BY THE CARRIER OF AN EQUIVALENT
11 AMOUNT OF FUNDS FROM ANOTHER CLAIM FOR REIMBURSEMENT SUBMITTED BY
12 THE HEALTH CARE PROVIDER.

13 (ii) If the retroactive denial of reimbursement results from
14 coordination of benefits, the written statement shall provide the name and address of the
15 entity acknowledging responsibility for payment of the denied claim.

16 (d) Except as provided in subsection (e) of this section, a carrier that does not
17 comply with the provisions of subsection (c) of this section may not retroactively deny
18 reimbursement or attempt in any manner to retroactively collect reimbursement already
19 paid to a health care provider.

20 (e) (1) The provisions of subsection (c)(1) of this section do not apply if a carrier
21 retroactively denies reimbursement to a health care provider because:

22 (i) the information submitted to the carrier was fraudulent;

23 (ii) the information submitted to the carrier was improperly coded
24 and the carrier has provided to the health care provider sufficient information regarding
25 the coding guidelines used by the carrier at least 30 days prior to the date the services
26 subject to the retroactive denial were rendered;

27 (iii) the claim submitted to the carrier was a duplicate claim; or

28 (iv) for a claim submitted to a managed care organization, the claim
29 was for services provided to a Maryland Medical Assistance Program recipient during a
30 time period for which the Program has permanently retracted the capitation payment for
31 the Program recipient from the managed care organization.

32 (2) Information submitted to the carrier may be considered to be
33 improperly coded under paragraph (1) of this subsection if the information submitted to the
34 carrier by the health care provider:

1 (i) uses codes that do not conform with the coding guidelines used
2 by the carrier applicable as of the date the service or services were rendered; or

3 (ii) does not otherwise conform with the contractual obligations of
4 the health care provider to the carrier applicable as of the date the service or services were
5 rendered.

6 (f) If a carrier retroactively denies reimbursement for services as a result of
7 coordination of benefits under provisions of subsection (c)(1)(i) of this section, the health
8 care provider shall have 6 months from the date of denial, unless a carrier permits a longer
9 time period, to submit a claim for reimbursement for the service to the carrier, Maryland
10 Medical Assistance Program, or Medicare Program responsible for payment.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
12 retroactive denials of reimbursement made by a carrier on or after October 1, 2018.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2018.