

SENATE BILL 638

C3, J1

EMERGENCY BILL
ENROLLED BILL

(11r2551)

— Finance/Health and Government Operations —

Introduced by ~~Senator Augustine~~ **Senators Augustine, Beidle, Benson, Feldman, Hayes, Hershey, Jennings, Kelley, Klausmeier, Kramer, and Ready**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Insurance Commissioner – Specialty Mental Health Services and**
3 **Payment of Claims – Enforcement**

4 FOR the purpose of requiring the Maryland Insurance Commissioner to enforce a certain
5 provision of law providing that certain provisions of the Insurance Article apply to a
6 certain delivery system for specialty mental health services and administered by an
7 administrative services organization; prohibiting a certain administrative services
8 organization from using certain funds or otherwise passing certain expenses onto the
9 State; requiring a certain administrative services organization to pay certain interest
10 to certain persons under certain circumstances; establishing that a certain
11 administrative services organization is subject to certain penalties for a violation of
12 certain provisions of this Act; establishing that a certain administrative services
13 organization is subject to certain provisions of law in connection with certain
14 investigations or examinations; prohibiting the Commissioner from requiring the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 payment of certain interest or imposing certain fines if a certain determination is
 2 made; requiring the Commissioner to turn over certain findings to the Maryland
 3 Department of Health; requiring the Commissioner to submit certain reports to
 4 certain committees of the General Assembly; providing for the termination of this Act;
 5 making this Act an emergency measure; and generally relating to enforcement duties
 6 of the Maryland Insurance Commissioner.

7 BY repealing and reenacting, without amendments,
 8 Article – Health – General
 9 Section 15–103(b)(21)(i) and (vi)
 10 Annotated Code of Maryland
 11 (2019 Replacement Volume and 2020 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article – Insurance
 14 Section 2–108, 2–208, and 15–1005(g) and (h)
 15 Annotated Code of Maryland
 16 (2017 Replacement Volume and 2020 Supplement)

17 BY adding to
 18 Article – Insurance
 19 Section 15–1005(j)
 20 Annotated Code of Maryland
 21 (2017 Replacement Volume and 2020 Supplement)

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

24 **Article – Health – General**

25 15–103.

26 (b) (21) (i) The Department shall establish a delivery system for specialty
 27 mental health services for enrollees of managed care organizations.

28 (vi) The provisions of § 15–1005 of the Insurance Article apply to the
 29 delivery system for specialty mental health services established under this paragraph and
 30 administered by an administrative services organization.

31 **Article – Insurance**

32 2–108.

33 In addition to any powers and duties set forth elsewhere by the laws of the State, the
 34 Commissioner:

1 (1) has the powers and authority expressly conferred on the Commissioner
2 by or reasonably implied from this article;

3 (2) shall enforce this article;

4 (3) shall perform the duties imposed on the Commissioner by this article;
5 [and]

6 (4) in addition to examinations and investigations expressly authorized,
7 may conduct examinations and investigations of insurance matters as necessary to fulfill
8 the purposes of this article; AND

9 (5) **SHALL ENFORCE § 15-103(B)(21)(VI) OF THE HEALTH – GENERAL**
10 **ARTICLE.**

11 2-208.

12 (A) [The] SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE expense
13 incurred in an examination made under § 2-205 of this subtitle, § 2-206 of this subtitle for
14 surplus lines brokers and insurance holding corporations, § 23-207 of this article for
15 premium finance companies, § 15-10B-19 of this article for private review agents, §
16 15-10B-20 of this article, or § 14-610 of this article for discount medical plan organizations
17 and discount drug plan organizations shall be paid by the person examined in the following
18 manner:

19 (1) the person examined shall pay to the Commissioner the travel expenses,
20 a living expense allowance, and a per diem as compensation for examiners, actuaries, and
21 typists:

22 (i) to the extent incurred for the examination; and

23 (ii) at reasonable rates set by the Commissioner;

24 (2) the Commissioner may present a detailed account of expenses incurred
25 to the person examined periodically during the examination or at the end of the examination,
26 as the Commissioner considers proper; and

27 (3) a person may not pay and an examiner may not accept any compensation
28 for an examination in addition to the compensation under paragraph (1) of this section.

29 (B) IF THE COMMISSIONER CONDUCTS AN EXAMINATION OF AN
30 ADMINISTRATIVE SERVICES ORGANIZATION THAT ADMINISTERS THE DELIVERY
31 SYSTEM FOR SPECIALTY MENTAL HEALTH SERVICES ESTABLISHED UNDER §
32 15-103(B)(21) OF THE HEALTH – GENERAL ARTICLE, THE ADMINISTRATIVE
33 SERVICES ORGANIZATION MAY NOT USE STATE FUNDS OR OTHERWISE PASS ONTO
34 THE STATE THE EXPENSES DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

1 15-1005.

2 (g) (1) If an insurer, nonprofit health service plan, [or] health maintenance
 3 organization, OR ADMINISTRATIVE SERVICES ORGANIZATION THAT ADMINISTERS
 4 THE DELIVERY SYSTEM FOR SPECIALTY MENTAL HEALTH SERVICES ESTABLISHED
 5 UNDER § 15-103(B)(21) OF THE HEALTH – GENERAL ARTICLE fails to pay a clean
 6 claim for reimbursement or otherwise violates any provision of this section, the insurer,
 7 nonprofit health service plan, [or] health maintenance organization, OR ADMINISTRATIVE
 8 SERVICES ORGANIZATION shall pay interest on the amount of the claim that remains
 9 unpaid 30 days after receipt of the initial clean claim for reimbursement at the monthly
 10 rate of:

11 (i) 1.5% from the 31st day through the 60th day;

12 (ii) 2% from the 61st day through the 120th day; and

13 (iii) 2.5% after the 120th day.

14 (2) The interest paid under this subsection shall be included in any late
 15 reimbursement without the necessity for the person that filed the original claim to make
 16 an additional claim for that interest.

17 (h) An insurer, nonprofit health service plan, [or] health maintenance
 18 organization, OR ADMINISTRATIVE SERVICES ORGANIZATION THAT ADMINISTERS
 19 THE DELIVERY SYSTEM FOR SPECIALTY MENTAL HEALTH SERVICES ESTABLISHED
 20 UNDER § 15-103(B)(21) OF THE HEALTH – GENERAL ARTICLE that violates a
 21 provision of this section is subject to:

22 (1) a fine not exceeding \$500 for each violation that is arbitrary and
 23 capricious, based on all available information; and

24 (2) the penalties prescribed under § 4-113(d) of this article for violations
 25 committed with a frequency that indicates a general business practice.

26 (J) AN ADMINISTRATIVE SERVICES ORGANIZATION THAT ADMINISTERS THE
 27 DELIVERY SYSTEM FOR SPECIALTY MENTAL HEALTH SERVICES ESTABLISHED
 28 UNDER § 15-103(B)(21) OF THE HEALTH – GENERAL ARTICLE IS SUBJECT TO THE
 29 PROVISIONS OF TITLE 2, SUBTITLE 2 OF THIS ARTICLE IN CONNECTION WITH ANY
 30 INVESTIGATION OR EXAMINATION OF POTENTIAL VIOLATIONS OF THIS SECTION.

31 SECTION 2. AND BE IT FURTHER ENACTED, That:

32 (a) When determining whether or not to require the payment of interest or impose
 33 a fine or other monetary penalty on an administrative services organization that administers

1 the delivery system for specialty mental health services established under § 15-103(b)(21) of
2 the Health – General Article in accordance with the authorization provided in § 15-1005(j)
3 of the Insurance Article, as enacted by Section 1 of this Act, the Maryland Insurance
4 Commissioner:

5 (1) shall consider whether the administrative services organization will use
6 State funds or otherwise pass on the cost of the penalty to the State; and

7 (2) may not require the payment of interest or impose a fine or other
8 monetary penalty if the Commissioner determines that the administrative services
9 organization will use State funds or otherwise pass on the cost of the interest or penalty to
10 the State.

11 (b) If the Maryland Insurance Commissioner investigates a complaint that an
12 administrative services organization that administers the delivery system for specialty
13 mental health services established under § 15-103(b)(21) of the Health – General Article
14 violated § 15-103(b)(21)(vi) of the Health – General Article, the Commissioner shall turn
15 over any findings of the investigation to the Maryland Department of Health.

16 (c) If the Maryland Insurance Commissioner conducts an examination of an
17 administrative services organization that administers the delivery system for specialty
18 mental health services established under § 15-103(b)(21) of the Health – General Article in
19 accordance with the authorization provided under § 15-1005(j) of the Insurance Article, as
20 enacted by Section 1 of this Act, the Commissioner shall submit the examination report to
21 the Senate Finance Committee, the Senate Budget and Taxation Committee, the House
22 Health and Government Operations Committee, and the House Appropriations Committee,
23 in accordance with § 2-1257 of the State Government Article.

24 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
25 measure, is necessary for the immediate preservation of the public health or safety, has
26 been passed by a yea and nay vote supported by three-fifths of all the members elected to
27 each of the two Houses of the General Assembly, and shall take effect from the date it is
28 enacted. It shall remain effective for a period of 2 years from the date it is enacted and, at
29 the end of the 2-year period, this Act, with no further action required by the General
30 Assembly, shall be abrogated and of no further force and effect.