

Chapter 151

(House Bill 919)

AN ACT concerning

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

FOR the purpose of requiring the Maryland Insurance Commissioner to enforce a certain provision of law providing that certain provisions of the Insurance Article apply to a certain delivery system for specialty mental health services and administered by an administrative services organization; prohibiting a certain administrative services organization from using certain funds or otherwise passing certain expenses onto the State; requiring a certain administrative services organization to pay certain interest to certain persons under certain circumstances; establishing that a certain administrative services organization is subject to certain penalties for a violation of certain provisions of this Act; establishing that a certain administrative services organization is subject to certain provisions of law in connection with certain investigations or examinations; prohibiting the Commissioner from requiring the payment of certain interest or imposing certain fines if a certain determination is made; requiring the Commissioner to turn over certain findings to the Maryland Department of Health; requiring the Commissioner to submit certain reports to certain committees of the General Assembly; providing for the termination of this Act; making this Act an emergency measure; and generally relating to enforcement duties of the Maryland Insurance Commissioner.

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

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

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

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

Article – Health – General

15–103.

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

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

Article – Insurance

2–108.

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

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

(2) shall enforce this article;

(3) shall perform the duties imposed on the Commissioner by this article;

[and]

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

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

2–208.

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

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

- (i) to the extent incurred for the examination; and
- (ii) at reasonable rates set by the Commissioner;

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

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

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

15-1005.

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

- (i) 1.5% from the 31st day through the 60th day;
- (ii) 2% from the 61st day through the 120th day; and
- (iii) 2.5% after the 120th day.

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) When determining whether or not to require the payment of interest or impose a fine or other monetary penalty on an administrative services organization that administers the delivery system for specialty mental health services established under § 15-103(b)(21) of the Health – General Article in accordance with the authorization provided in § 15-1005(j) of the Insurance Article, as enacted by Section 1 of this Act, the Maryland Insurance Commissioner:

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

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

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

(c) If the Maryland Insurance Commissioner conducts an examination of an administrative services organization that administers the delivery system for specialty mental health services established under § 15-103(b)(21) of the Health – General Article in accordance with the authorization provided under § 15-1005(j) of the Insurance Article,

as enacted by Section 1 of this Act, the Commissioner shall submit the examination report to the Senate Finance Committee, the Senate Budget and Taxation Committee, the House Health and Government Operations Committee, and the House Appropriations Committee, in accordance with § 2-1257 of the State Government Article.

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

Approved by the Governor, May 18, 2021.