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TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
HOUSE ECONOMIC MATTERS COMMITTEE

MARCH 24, 2022

SENATE BILL 167 – MARYLAND INSURANCE ADMINISTRATION - ENFORCEMENT AUTHORITY -
PAYMENT OF CLAIMS

POSITION: SUPPORT

Thank you for the opportunity to provide written comments regarding Senate Bill 167, which was passed unanimously by the Senate.

SB 167 amends §§4-113 and 27-305 of the Insurance Article to clarify that if the Maryland Insurance Administration (MIA) finds that an insurance company, a nonprofit health service plan, or a health maintenance organization (collectively known as carriers) has violated state law by failing to pay a claim or otherwise fulfill its contractual obligations, the remedies available to the MIA include the authority to require that company to pay the claim or fulfill its contractual obligation to the insured. The bill also authorizes the MIA, on finding a violation of unfair claim settlement practices, to require a carrier to provide a payment that has been denied improperly.

The current statutory law states that the MIA may require a carrier to “make restitution” to a claimant who has suffered “financial injury” because of the violation. Certain carriers have taken the position that the payment of a claim is not “restitution,” unless the policyholder advanced the claim payment out of pocket. Under this reading of “restitution,” only a consumer who had the financial ability to pay for the amount denied and can provide proof of that payment is entitled to relief. If the claimant did not make a payment, or has lost the receipt, carriers have argued that they are not obligated to make the payment that was denied. This reading of the law would allow a carrier to benefit from its unlawful underpayment or denial of claims.

SB 167 clarifies the Commissioner's existing authority, eliminating carrier arguments to the contrary and allowing claims to be resolved more promptly without unnecessary delays over negotiations with carriers or the need to wait for the dispute to be settled at a hearing or in the Courts.

It is important to note that SB 167 does not address or alter what constitutes a violation of the Insurance Article and does not address or alter the standard of review. It simply clarifies that when a claim is not paid or a contractual obligation is not met and that failure is already a violation of the Insurance Article, the remedies available to the Commissioner include requiring the carrier to fulfill its obligations in accordance with the insureds' contracts and applicable law. SB 167 was amended in the Senate to emphasize this, including the addition of uncodified language that affirms the clarifying nature of the legislation.

The MIA thanks the Committee for its consideration of SB 167, and urges the Committee to give a favorable report to this important consumer protection measure.