

HOUSE BILL 1468

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0lr3415
CF 0lr3468

By: **Delegates Tarrant, Bromwell, Elliott, Hubbard, Krebs, Kullen, Reznik,
and V. Turner**

Introduced and read first time: February 26, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Nonparticipating Providers – Disclosure of Status**
3 **and Charges**

4 FOR the purpose of requiring nonparticipating health care providers to disclose to
5 enrollees covered by health insurance carriers with which the nonparticipating
6 health care providers do not have a contractual relationship certain information
7 in a certain manner under certain circumstances; requiring the disclosure to be
8 provided to an enrollee at a certain time in a certain manner, to be signed in a
9 certain manner, and to be maintained in a certain manner; requiring certain
10 health care facilities that contract with nonparticipating health care providers
11 to display in a certain manner a notice with certain information; requiring
12 health insurance carriers to disclose certain information about nonparticipating
13 health care providers in a certain manner on their Internet websites and to
14 provide links to a certain directory; requiring a health care provider to provide a
15 copy of a certain disclosure statement under certain circumstances; prohibiting
16 a health care provider from seeking or recovering in any proceeding certain
17 amounts for payment except under certain circumstances; requiring health care
18 providers to establish a process for resolving certain complaints or inquiries by
19 enrollees; requiring carriers to establish a process for resolving certain
20 complaints or inquiries by enrollees; requiring the Maryland Insurance
21 Commissioner to develop certain forms; defining certain terms; providing for the
22 application of this Act; and generally relating to disclosure of information about
23 nonparticipating health care providers and charges for their services.

24 BY adding to
25 Article – Health – General
26 Section 19–706(cccc)
27 Annotated Code of Maryland
28 (2009 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Insurance
3 Section 15–1801 through 15–1807 to under the new subtitle “Subtitle 18.
4 Nonparticipating Health Care Providers”
5 Annotated Code of Maryland
6 (2006 Replacement Volume and 2009 Supplement)

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

9 **Article – Health – General**

10 19–706.

11 **(CCCC) THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE**
12 **INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

13 **Article – Insurance**

14 **SUBTITLE 18. NONPARTICIPATING HEALTH CARE PROVIDERS.**

15 **15–1801.**

16 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
17 **INDICATED.**

18 **(B) “BALANCE” MEANS THE AMOUNT BY WHICH A BILLED CHARGE**
19 **EXCEEDS THE AMOUNT PAID BY AN ENROLLEE’S CARRIER AND ANY COPAYMENT,**
20 **COINSURANCE, OR DEDUCTIBLE THAT THE ENROLLEE MAY BE REQUIRED TO**
21 **PAY UNDER THE ENROLLEE’S POLICY OR CONTRACT OF HEALTH INSURANCE.**

22 **(C) “BILLED CHARGE” MEANS THE AMOUNT THAT A HEALTH CARE**
23 **PROVIDER CHARGES FOR AN INPATIENT ADMISSION, OUTPATIENT SURGICAL**
24 **PROCEDURE, HEALTH CARE SERVICE, OR SUPPLY.**

25 **(D) “CARRIER” MEANS:**

26 **(1) AN INSURER;**

27 **(2) A NONPROFIT HEALTH SERVICE PLAN;**

28 **(3) A HEALTH MAINTENANCE ORGANIZATION;**

29 **(4) A DENTAL PLAN ORGANIZATION;**

1 **(5) A PERSON OR AN ENTITY ACTING AS A THIRD PARTY**
2 **ADMINISTRATOR; OR**

3 **(6) EXCEPT FOR A MANAGED CARE ORGANIZATION AS DEFINED IN**
4 **TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE, ANY OTHER**
5 **PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY**
6 **THE STATE.**

7 **(E) “ENROLLEE” MEANS A PERSON OR SUBSCRIBER ENTITLED TO**
8 **HEALTH CARE BENEFITS FROM A CARRIER.**

9 **(F) “FACILITY–BASED PRACTITIONER” MEANS A HEALTH CARE**
10 **PRACTITIONER WHO:**

11 **(1) PROVIDES HEALTH CARE SERVICES AT A HEALTH CARE**
12 **FACILITY UNDER A CONTRACT WITH THE HEALTH CARE FACILITY; AND**

13 **(2) BILLS FOR HEALTH CARE SERVICES SEPARATELY FROM ANY**
14 **CHARGES MADE BY THE HEALTH CARE FACILITY.**

15 **(G) “HEALTH CARE FACILITY” MEANS:**

16 **(1) A HOSPITAL;**

17 **(2) AN EMERGENCY CLINIC;**

18 **(3) AN OUTPATIENT CLINIC;**

19 **(4) A BIRTHING CENTER;**

20 **(5) AN AMBULATORY SURGICAL CENTER; OR**

21 **(6) ANY OTHER FACILITY PROVIDING HEALTH CARE SERVICES.**

22 **(H) “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO IS**
23 **LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH**
24 **OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE**
25 **ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.**

26 **(I) “HEALTH CARE PROVIDER” INCLUDES:**

27 **(1) A FACILITY–BASED PRACTITIONER;**

28 **(2) A HEALTH CARE FACILITY; AND**

1 **(3) A HEALTH CARE PRACTITIONER.**

2 **(J) “NONPARTICIPATING HEALTH CARE PROVIDER” MEANS A HEALTH**
3 **CARE PROVIDER THAT IS NOT UNDER CONTRACT WITH AN ENROLLEE’S**
4 **CARRIER.**

5 **(K) “PARTICIPATING HEALTH CARE PROVIDER” MEANS A HEALTH CARE**
6 **PROVIDER THAT HAS A CONTRACTUAL RELATIONSHIP WITH AN ENROLLEE’S**
7 **CARRIER UNDER WHICH THE HEALTH CARE PROVIDER:**

8 **(1) AGREES TO ACCEPT AS PAYMENT IN FULL THE AMOUNT FOR**
9 **SERVICES PAID BY THE CARRIER PLUS ANY COPAYMENT, COINSURANCE, OR**
10 **DEDUCTIBLE THAT THE ENROLLEE MAY BE REQUIRED TO PAY UNDER THE**
11 **ENROLLEE’S POLICY OR CONTRACT OF HEALTH INSURANCE; AND**

12 **(2) AGREES NOT TO BILL THE ENROLLEE FOR ANY BALANCE.**

13 **15-1802.**

14 **(A) (1) THIS SUBSECTION DOES NOT APPLY TO HEALTH CARE**
15 **SERVICES PROVIDED IN THE EMERGENCY DEPARTMENT OF A HEALTH CARE**
16 **FACILITY OR AS A RESULT OF AN EMERGENT DIRECT ADMISSION TO A HEALTH**
17 **CARE FACILITY.**

18 **(2) EACH NONPARTICIPATING HEALTH CARE PROVIDER SHALL**
19 **DISCLOSE IN WRITING TO EACH ENROLLEE COVERED BY A CARRIER WITH**
20 **WHICH THE NONPARTICIPATING HEALTH CARE PROVIDER DOES NOT HAVE A**
21 **CONTRACTUAL RELATIONSHIP, THE FOLLOWING INFORMATION:**

22 **(I) THAT THE NONPARTICIPATING HEALTH CARE**
23 **PROVIDER DOES NOT PARTICIPATE WITH THE ENROLLEE’S CARRIER;**

24 **(II) THAT THE ENROLLEE WILL BE RESPONSIBLE FOR**
25 **PAYMENTS IN EXCESS OF WHAT THE ENROLLEE’S CARRIER WILL PAY FOR THE**
26 **SERVICES RENDERED;**

27 **(III) A GOOD FAITH ESTIMATE OF THE AMOUNT OF THE**
28 **BILLED CHARGE FOR WHICH THE ENROLLEE WILL BE RESPONSIBLE;**

29 **(IV) ANY TERMS OF PAYMENT THAT MAY APPLY; AND**

1 (V) WHETHER INTEREST WILL APPLY AND, IF SO, THE
2 AMOUNT OF INTEREST CHARGED BY THE NONPARTICIPATING HEALTH CARE
3 PROVIDER.

4 (3) THE DISCLOSURE REQUIRED BY PARAGRAPH (2) OF THIS
5 SUBSECTION SHALL BE:

6 (I) PROVIDED TO THE ENROLLEE IN ADVANCE OF ANY
7 HEALTH CARE SERVICES BEING PERFORMED;

8 (II) PROVIDED IN A WRITTEN FORM AND MANNER REQUIRED
9 BY THE COMMISSIONER;

10 (III) SIGNED BY THE ENROLLEE OR THE ENROLLEE'S
11 PARENT OR GUARDIAN IN THE CASE OF AN ENROLLEE WHO IS A MINOR; AND

12 (IV) MAINTAINED BY THE NONPARTICIPATING HEALTH CARE
13 PROVIDER AS PART OF THE ENROLLEE'S MEDICAL RECORDS.

14 (B) (1) THIS SUBSECTION APPLIES TO HEALTH CARE SERVICES
15 PROVIDED IN THE EMERGENCY DEPARTMENT OF A HEALTH CARE FACILITY OR
16 AS A RESULT OF AN EMERGENT DIRECT ADMISSION TO A HEALTH CARE
17 FACILITY.

18 (2) IF AN ENROLLEE HAS BEEN STABILIZED IN ACCORDANCE
19 WITH THE FEDERAL EMERGENCY MEDICAL TREATMENT AND LABOR ACT, A
20 NONPARTICIPATING HEALTH CARE PROVIDER SHALL PROVIDE THE WRITTEN
21 DISCLOSURE REQUIRED BY SUBSECTION (A) OF THIS SECTION BEFORE
22 DISCHARGING THE ENROLLEE FROM THE EMERGENCY DEPARTMENT OR
23 HEALTH CARE FACILITY.

24 15-1803.

25 EACH HEALTH CARE FACILITY THAT CONTRACTS WITH
26 NONPARTICIPATING HEALTH CARE PROVIDERS SHALL PROMINENTLY DISPLAY A
27 NOTICE IN EACH WAITING ROOM WITHIN THE HEALTH CARE FACILITY THAT:

28 (1) INDICATES THAT SOME OR ALL OF THE HEALTH CARE
29 PRACTITIONERS THAT MAY TREAT AN ENROLLEE WHILE IN THE HEALTH CARE
30 FACILITY MAY BE NONPARTICIPATING HEALTH CARE PROVIDERS;

31 (2) ADVISES THAT SOME OR ALL OF THOSE NONPARTICIPATING
32 HEALTH CARE PROVIDERS MAY EXPECT REIMBURSEMENT IN ADDITION TO ANY
33 PAYMENTS MADE BY THE ENROLLEE'S CARRIER; AND

1 **(3) PROVIDES SUFFICIENT CONTACT INFORMATION FOR EACH OF**
2 **THE NONPARTICIPATING HEALTH CARE PROVIDERS WITH WHICH THE HEALTH**
3 **CARE FACILITY HAS ENTERED INTO A CONTRACT TO ENABLE THE ENROLLEE TO**
4 **OBTAIN THE DISCLOSURE REQUIRED BY § 15-1802 UNDER THIS SUBTITLE FROM**
5 **THE NONPARTICIPATING HEALTH CARE PROVIDER.**

6 **15-1804.**

7 **(A) EACH CARRIER SHALL DISCLOSE PROMINENTLY ON ITS INTERNET**
8 **WEBSITE:**

9 **(1) THAT SOME HEALTH CARE PROVIDERS ARE**
10 **NONPARTICIPATING HEALTH CARE PROVIDERS;**

11 **(2) THAT SOME HEALTH CARE FACILITIES THAT PARTICIPATE**
12 **WITH THE CARRIER MAY UTILIZE NONPARTICIPATING HEALTH CARE**
13 **PROVIDERS; AND**

14 **(3) A GENERAL DESCRIPTION OF THE FINANCIAL IMPACT ON AN**
15 **ENROLLEE WHEN THE ENROLLEE SEEKS CARE FROM A NONPARTICIPATING**
16 **HEALTH CARE PROVIDER OR FROM A HEALTH CARE FACILITY THAT UTILIZES**
17 **NONPARTICIPATING HEALTH CARE PROVIDERS, INCLUDING INFORMATION**
18 **THAT:**

19 **(I) THE ENROLLEE WILL BE PAID DIRECTLY BY THE**
20 **CARRIER;**

21 **(II) THE AMOUNT PAID BY THE CARRIER MAY BE**
22 **SIGNIFICANTLY LESS THAN THE BILLED CHARGE; AND**

23 **(III) AS A RESULT, THE ENROLLEE COULD BE**
24 **SUBSTANTIALLY LIABLE FOR THE BALANCE OF THE BILLED CHARGE.**

25 **(B) EACH CARRIER SHALL PROVIDE APPROPRIATE INTERNET LINKS TO**
26 **A DIRECTORY OF PARTICIPATING HEALTH CARE PROVIDERS.**

27 **15-1805.**

28 **(A) IF A HEALTH CARE PROVIDER ATTEMPTS TO COLLECT A BALANCE**
29 **FROM AN ENROLLEE, THE HEALTH CARE PROVIDER SHALL PROVIDE A COPY OF**
30 **THE EXECUTED DISCLOSURE STATEMENT REQUIRED BY § 15-1802 OF THIS**
31 **SUBTITLE ON REQUEST OF THE ENROLLEE, THE ENROLLEE'S LEGAL**
32 **REPRESENTATIVE, OR THE ADMINISTRATION.**

1 **(B) A HEALTH CARE PROVIDER MAY NOT SEEK, AND MAY NOT RECOVER**
2 **IN ANY PROCEEDING, ANY AMOUNT FOR PAYMENT IN EXCESS OF THE AMOUNT**
3 **PAID BY THE CARRIER PLUS ANY COPAYMENT, COINSURANCE, OR DEDUCTIBLE**
4 **THAT THE ENROLLEE MAY BE REQUIRED TO PAY UNDER THE ENROLLEE'S**
5 **POLICY OR CONTRACT OF HEALTH INSURANCE UNLESS THE HEALTH CARE**
6 **PROVIDER:**

7 **(1) IS A NONPARTICIPATING HEALTH CARE PROVIDER; AND**

8 **(2) HAS MAINTAINED, AS PART OF THE MEDICAL RECORD OF THE**
9 **ENROLLEE, THE EXECUTED DISCLOSURE STATEMENT REQUIRED BY § 15-1802**
10 **OF THIS SUBTITLE.**

11 **(C) A HEALTH CARE PROVIDER MAY NOT SEEK, AND MAY NOT RECOVER**
12 **IN ANY PROCEEDING, ANY AMOUNT IN EXCESS OF THE GOOD FAITH ESTIMATE**
13 **OF CHARGES PROVIDED TO THE ENROLLEE, UNLESS THE HEALTH CARE**
14 **PROVIDER CAN DEMONSTRATE:**

15 **(1) GOOD CAUSE WHY THE ESTIMATED AMOUNT WAS INADEQUATE**
16 **TO COVER THE ACTUAL SERVICES RENDERED; AND**

17 **(2) A REASONABLE BASIS FOR NOT INCLUDING THE ADDITIONAL**
18 **AMOUNT IN THE GOOD FAITH ESTIMATE.**

19 **15-1806.**

20 **(A) EACH HEALTH CARE PROVIDER SHALL ESTABLISH A PROCESS FOR**
21 **RESOLVING COMPLAINTS OR INQUIRIES BY ENROLLEES ARISING FROM OR**
22 **RELATED TO BILLS OR CHARGES FOR THE BALANCE AS DESCRIBED IN THIS**
23 **SUBTITLE.**

24 **(B) EACH CARRIER SHALL ESTABLISH A PROCESS FOR RESOLVING**
25 **COMPLAINTS OR INQUIRIES BY ENROLLEES ARISING FROM OR RELATED TO**
26 **VIOLATIONS OF THIS SUBTITLE BY A CARRIER.**

27 **(C) THE PROCEDURES ESTABLISHED UNDER THIS SECTION FOR**
28 **HANDLING ENROLLEE COMPLAINTS OR INQUIRIES SHALL INCLUDE A GOOD**
29 **FAITH EFFORT TO RESOLVE THE COMPLAINT OR INQUIRY IN AN INFORMAL**
30 **MANNER.**

31 **15-1807.**

1 **THE COMMISSIONER SHALL DEVELOP FORMS TO IMPLEMENT THE**
2 **DISCLOSURE REQUIREMENTS OF §§ 15-1802, 15-1803, AND 15-1804 OF THIS**
3 **SUBTITLE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
5 health insurance policies and contracts issued, delivered, or renewed in the State on or
6 after October 1, 2010, by an insurer, nonprofit health service plan, health maintenance
7 organization, health care provider, participating health care provider,
8 nonparticipating health care provider, facility-based practitioner, or health care
9 facility subject to this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2010.