

HOUSE BILL 919

C3, J1

EMERGENCY BILL

11r2936
CF SB 638

By: **Delegate Bagnall**

Introduced and read first time: February 2, 2021

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2021

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
10 interest 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
15 payment of certain interest or imposing certain fines if a certain determination is
16 made; requiring the Commissioner to turn over certain findings to the Maryland
17 Department of Health; requiring the Commissioner to submit certain reports to
18 certain committees of the General Assembly; providing for the termination of this
19 Act; making this Act an emergency measure; and generally relating to enforcement
20 duties of the Maryland Insurance Commissioner.

21 BY repealing and reenacting, without amendments,
22 Article – Health – General
23 Section 15–103(b)(21)(i) and (vi)
24 Annotated Code of Maryland

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.



1 (2019 Replacement Volume and 2020 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – Insurance
 4 Section 2–108, 2–208, and 15–1005(g) and (h)
 5 Annotated Code of Maryland
 6 (2017 Replacement Volume and 2020 Supplement)

7 BY adding to
 8 Article – Insurance
 9 Section 15–1005(j)
 10 Annotated Code of Maryland
 11 (2017 Replacement Volume and 2020 Supplement)

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

14 **Article – Health – General**

15 15–103.

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

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

21 **Article – Insurance**

22 2–108.

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

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

27 (2) shall enforce this article;

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

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

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

3 2-208.

4 (A) [The] SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE expense
5 incurred in an examination made under § 2-205 of this subtitle, § 2-206 of this subtitle for
6 surplus lines brokers and insurance holding corporations, § 23-207 of this article for
7 premium finance companies, § 15-10B-19 of this article for private review agents, §
8 15-10B-20 of this article, or § 14-610 of this article for discount medical plan organizations
9 and discount drug plan organizations shall be paid by the person examined in the following
10 manner:

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

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

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

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

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

22 (B) IF THE COMMISSIONER CONDUCTS AN EXAMINATION OF AN
23 ADMINISTRATIVE SERVICES ORGANIZATION THAT ADMINISTERS THE DELIVERY
24 SYSTEM FOR SPECIALTY MENTAL HEALTH SERVICES ESTABLISHED UNDER §
25 15-103(B)(21) OF THE HEALTH – GENERAL ARTICLE, THE ADMINISTRATIVE
26 SERVICES ORGANIZATION MAY NOT USE STATE FUNDS OR OTHERWISE PASS ONTO
27 THE STATE THE EXPENSES DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

28 15-1005.

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

1 unpaid 30 days after receipt of the initial clean claim for reimbursement at the monthly
2 rate of:

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

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

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

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

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

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

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

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

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

24 (a) When determining whether or not to require the payment of interest or impose
25 a fine or other monetary penalty on an administrative services organization that
26 administers the delivery system for specialty mental health services established under §
27 15-103(b)(21) of the Health – General Article in accordance with the authorization provided
28 in § 15-1005(j) of the Insurance Article, as enacted by Section 1 of this Act, the Maryland
29 Insurance Commissioner:

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

32 (2) may not require the payment of interest or impose a fine or other
33 monetary penalty if the Commissioner determines that the administrative services

1 organization will use State funds or otherwise pass on the cost of the interest or penalty to
 2 the State.

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.