

**SB0272-FAV-MedChi.pdf**

Uploaded by: Kauffman, Danna

Position: FAV

# MedChi

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TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
Maryland Insurance Administration

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer  
J. Steven Wise

DATE: January 19, 2021

RE: **SUPPORT** – Senate Bill 272 – *Insurance – Claim Payment – Clarification*

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The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports** Senate Bill 272. Senate Bill 272 is a departmental bill by the Maryland Insurance Administration that authorizes the Insurance Commissioner to require an insurer to fulfill the holder's contractual obligations or pay a certain claim instead of, or in addition to, suspending or revoking the certificate. The bill also authorizes the Insurance Commissioner, on a finding of a violation of provisions of law, to require a health care insurer to make a payment that has been improperly denied.

Similar authority is already granted to the Insurance Commissioner relating to actions against carriers regarding adverse decisions, grievance decisions, coverage decisions, and appeal decisions. This bill simply ensures that this authority is provided to the Insurance Commissioner to rectify situations and make claimants whole when a claim has been improperly denied by a health care insurer. We urge a favorable vote.

**For more information call:**

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410-244-7000

# **SB 272 Testimony - MIA - FAV.pdf**

Uploaded by: Paddy, Michael

Position: FAV

LARRY HOGAN  
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# Maryland

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**TESTIMONY OF  
THE  
MARYLAND INSURANCE ADMINISTRATION  
BEFORE THE  
SENATE FINANCE COMMITTEE**

**JANUARY 19, 2021**

**SENATE BILL 272 – INSURANCE - CLAIM PAYMENT - CLARIFICATION**

**POSITION: SUPPORT**

Thank you for the opportunity to provide written comments regarding Senate Bill 272. Senate Bill 272 amends §§ 4-113 and 27-305 of the Insurance Article and clarifies that if the Maryland Insurance Administration (MIA) finds that an insurance company has violated Maryland law by failing to pay a claim or otherwise fulfilling its contractual obligations, the remedies available to the MIA include the authority to require that company to pay the claim or fulfill the contractual obligation.

Currently, these laws specify that the MIA may require a carrier to “make restitution” to a claimant who has suffered “financial injury” because of the violation. In the context of its investigation of unlawful claim denials, the MIA has encountered the argument that the payment of a claim is not “restitution” unless the policyholder advanced the claim payment out of pocket. Under this reading of “restitution,” a carrier need only pay the claimant who had the means to pay any shortfall due to the carrier’s improper denial of all or part of the claim and who can provide proof of the payment. 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 in violation of the law. This allows a carrier to benefit from its unlawful underpayment or denial of claims.

Recently, the MIA completed a market conduct investigation that revealed reimbursement for certain mental health service claims were improperly and unlawfully reduced by 30%. These claims spanned several years and involved some cases where payments were made to the policyholder while in other cases, payments were made directly to the provider. The insurance carrier wanted to require proof from the policyholder that their provider had required them to pay the amount of the charge including the 30% above the carrier’s payment, in order to

agree to reprocess the policyholder's claim. Due to the length of time that had passed since the claims were paid, many policyholders no longer had receipts of payment. Regardless of whether the policyholder paid the extra 30%, the policyholder's contract and Maryland law required the carrier to pay the 30%, so the amount was owed to the claimant.

Currently, §§15-10A-04, and 15-10D-03 of the Insurance Article specifically state that if a violation is related to an adverse decision or coverage decision the MIA has authority to require that a carrier fulfill its contractual obligations; provide health care services or payments that have been denied improperly; or take appropriate measures to restore its ability to provide health care services or payments that are provided under a contract. Senate Bill 272 seeks to make similar changes to the language in §§ 4-113 and 27-305 to have the same intended effect as the current language in §§15-10A-04, 15-10D-03.

Senate Bill 272 does not address or alter what constitutes a violation of the Insurance Article or the standard of review. It simply clarifies that when a breach occurs that is a violation of the Insurance Article, the remedies available to the Commissioner include requiring the carrier to fulfill its obligations

The Maryland Insurance Administration supports Senate Bill 272 and urges the Committee to give Senate Bill 272 a favorable report as an important consumer protection.

**SB 272 APCIA Oppose 011921 FINAL .pdf**

Uploaded by: Egan, Nancy

Position: UNF

Testimony of American Property Casualty Insurance Association (APCIA)

Senate Finance Committee

Senate Bill 272 -

Insurance - Claim Payment - Clarification

January 19, 2021

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) represents more than 1200 insurers and reinsurers that provide critically important insurance protection throughout the U.S. and world. In combination, our members write 60% of the U.S. property casualty market. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe. In Maryland, our members write 66.6% of all written premium. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 272.

Senate Bill 272 authorizes the Maryland Insurance Administration (MIA) Commissioner, instead of or in addition to suspending or revoking a certificate of authority, to require the certificate holder to (1) fulfill the holder's contractual obligations or (2) pay a claim that was denied, in whole or in part, in violation of a provision of the Insurance Article. The bill also authorizes the Commissioner, on finding a violation of unfair claim settlement practices, to require an insurer to make a payment that has been denied improperly. From our discussions with the MIA, the bill's intent was to address certain issues with health carriers denying claims based on extra-contractual agreements not found in the policy contract. Unfortunately, the bill as written, does not only address health carriers but affects all insurers, raising the concern of property and casualty carriers as well.

As noted in the fiscal note, the intent is to provide stronger enforcement in regard to claims under Sections 15-10A and 15-10D-03 of the Insurance Article dealing with certain health care claim adverse decisions. There has not been any indication by the MIA, that there has been a systemic issue with the processing of property and casualty claims. That being the case, the department already has market conduct tools and procedures in place for the protection of all parties involved. APCIA member concerns are that the MIA could force a claim to be paid when there are liability disputes and reverse a carrier's decision and impose penalties. There is concern that the department would be substituting its judgement on coverage interpretation or liability for the insurers. As drafted, it could be interpreted as inserting the regulator into standard claims adjudication process, or as the threat of intervention if this authority is codified. Is the MIA ordered payment binding for all parties, or could a plaintiff attorney that does not like the ordered amount still sue an insurer? To be clear this is both a compliance and claims issue, but it's significantly more concerning (damaging) from a claim's handling standpoint.

For these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bill 272.

# **SB 272\_Opposed\_Insurance agents and brokers.pdf**

Uploaded by: Popham, Bryson

Position: UNF



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January 15, 2021

The Honorable Delores G. Kelley  
3 East, Miller Senate Office Building  
Annapolis, MD 21401

RE: Senate Bill 272 - Insurance - Claim Payment – Clarification - Opposed

Dear Chair Kelley and Members of the Senate Finance Committee

My client, the Insurance Agents and Brokers of Maryland (IA&B), wishes to register its opposition to this legislation and it respectfully requests an unfavorable report. We would note that an amendment limited the application of the bill to health insurance claims only will address IA&B's concerns and allow it to remove its opposition.

Thank you for your consideration.

Very truly yours,



Bryson F. Popham

cc: Members of the Senate Finance Committee

**SB 272\_Opposed\_MAMIC.pdf**

Uploaded by: Popham, Bryson

Position: UNF

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January 15, 2021

The Honorable Delores G. Kelley  
3 East, Miller Senate Office Building  
Annapolis, MD 21401

RE: Senate Bill 272 - Insurance - Claim Payment – Clarification - Opposed

Dear Chair Kelley and Members of the Senate Finance Committee

I am writing on behalf of the Maryland Association of Mutual Insurance Companies (MAMIC) in opposition to SB 272 - Insurance - Claim Payment – Clarification.

MAMIC is comprised of 12 mutual insurance companies that are headquartered in Maryland and neighboring states. MAMIC companies provide property and casualty insurance to their insureds. Together, MAMIC members offer a wide variety of homeowners and other insurance products, both personal and commercial, for thousands of Maryland citizens.

While MAMIC opposes SB 272 as drafted, we have examined the bill carefully and discussed its background with the Maryland Insurance Administration (MIA). We believe that the legislative intent of the bill, as we understand it, could be addressed with amendments limiting the new enforcement authority to apply only to the specific practices of certain insurers, as we understand those practices.

We are advised that the genesis of SB 272 arose from the actions of insurers with respect to the reimbursement of health care providers under health insurance policies. These actions are generally described in the Fiscal and Policy Note to SB 272, which refers to Insurance Article provisions dealing with health insurance claims. Significantly, the Fiscal Note also states that “the bill is intended to *clarify* the regulatory authority of the Commissioner to require that insurers *reprocess improperly denied claims* in accordance with their insureds’ contracts and applicable law (emphasis added).”

As drafted, SB 272 applies broadly to all lines of insurance, including property and casualty. The adjudication process for property and casualty claims is completely different than for health claims, and in many ways more complex. These claims are typically a matter of contract interpretation, negotiation and enforcement between the parties to the insurance contract: insurer and insured. This process is quite different from the reimbursement of health care providers, who are not parties to the insurance contract. Historically, the MIA has resisted opportunities to inject itself into property and casualty claims adjudication. SB 272 would grant broad authority to the MIA to do so.

MAMIC appreciates the role of the MIA in protecting Maryland insurance consumers, and it believes that the factual situation underlying SB 272 can be properly addressed with a narrowly drawn clarification in the bill, as described in the Fiscal Note, that will prevent a recurrence of the conduct that the MIA seeks to prohibit.

Very truly yours,



Bryson F. Popham

cc: Members of the Senate Finance Committee