

HOUSE BILL 1073

C3, C4

0lr1520
CF SB 704

By: Delegates Pena-Melnyk and Vallario, Vallario, Benson, Bromwell, Costa, Donoghue, Elliott, Hammen, Hubbard, Jenkins, Kach, Kipke, Krebs, Kullen, McDonough, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pendergrass, Reznik, Riley, Tarrant, and V. Turner

Introduced and read first time: February 17, 2010

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2010

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Coordination of Benefits – Health Insurance and Personal Injury**
3 **Protection**

4 FOR the purpose of ~~providing that~~ prohibiting certain health maintenance
5 organization contracts, health insurance policies, and policies of nonprofit
6 health service plans ~~are subject to certain provisions of law relating to~~
7 ~~coordination of benefits with personal injury protection coverage under motor~~
8 ~~vehicle liability insurance policies; prohibiting the contracts and policies from~~
9 containing a provision that requires certain personal injury protection benefits
10 to be paid before benefits under the contracts and policies; ~~defining the term~~
11 ~~“insured” or “named insured” for purposes of certain provisions of law relating~~
12 ~~to personal injury protection coverage to include an individual entitled to~~
13 ~~hospital, medical, or surgical benefits under certain health insurance policies or~~
14 ~~contracts;~~ providing for the application of this Act; and generally relating to
15 coordination of health insurance and personal injury protection benefits.

16 BY repealing and reenacting, without amendments,
17 Article – Health – General
18 Section 19-713.1(d)
19 Annotated Code of Maryland
20 (2009 Replacement Volume)

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 BY repealing and reenacting, with amendments,
 2 Article – Health – General
 3 Section 19–713.1(e)
 4 Annotated Code of Maryland
 5 (2009 Replacement Volume)

6 BY repealing and reenacting, without amendments,
 7 Article – Insurance
 8 Section 15–104(b)
 9 Annotated Code of Maryland
 10 (2006 Replacement Volume and 2009 Supplement)

11 BY adding to
 12 Article – Insurance
 13 Section 15–104(d)
 14 Annotated Code of Maryland
 15 (2006 Replacement Volume and 2009 Supplement)

16 ~~BY repealing and reenacting, with amendments,~~
 17 ~~Article – Insurance~~
 18 ~~Section 19–507~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2006 Replacement Volume and 2009 Supplement)~~

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

23 **Article – Health – General**

24 19–713.1.

25 (d) Notwithstanding § 19–701(g)(3) of this subtitle, a contract between a
 26 health maintenance organization and its subscribers or a group of subscribers may
 27 contain a provision allowing the health maintenance organization to be subrogated to
 28 a cause of action that a subscriber has against another person:

29 (1) To the extent that any actual payments made by the health
 30 maintenance organization result from the occurrence that gave rise to the cause of
 31 action; or

32 (2) For a nonprofit health maintenance organization that exclusively
 33 contracts with a group of physicians to provide or to arrange for the provision of health
 34 care services for its enrollees, for any service provided by the health maintenance
 35 organization as a result of the occurrence that gave rise to the cause of action, per the
 36 fee schedule established by the nonprofit health maintenance organization.

1 (e) (1) Subsection (d) of this section does not allow a contract between a
 2 health maintenance organization and its subscribers or a group of subscribers to
 3 contain a provision allowing the health maintenance organization to recover any
 4 payments made to a subscriber under [a personal injury protection] **THE PERSONAL**
 5 **INJURY PROTECTION COVERAGE OF A MOTOR VEHICLE LIABILITY INSURANCE**
 6 policy.

7 (2) **A CONTRACT BETWEEN A HEALTH MAINTENANCE**
 8 **ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS:**

9 ~~(1) IS SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THE~~
 10 ~~INSURANCE ARTICLE; AND~~

11 ~~(1) MAY MAY NOT CONTAIN A PROVISION THAT REQUIRES~~
 12 ~~PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY~~
 13 ~~INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.~~

14 Article – Insurance

15 15–104.

16 (b) In accordance with regulations that the Commissioner adopts, the
 17 Commissioner shall allow health insurance policies and policies of nonprofit health
 18 service plans to contain nonduplication provisions or provisions to coordinate coverage
 19 with:

20 (1) other health insurance policies, including commercial individual,
 21 group, and blanket policies and policies of nonprofit health service plans;

22 (2) subscriber contracts that are issued by health maintenance
 23 organizations; and

24 (3) other established programs under which the insured may make a
 25 claim.

26 (D) **HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT**
 27 **HEALTH SERVICE PLANS:**

28 ~~(1) ARE SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THIS~~
 29 ~~ARTICLE; AND~~

30 ~~(2) MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL~~
 31 ~~INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY~~
 32 ~~INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICIES.~~

33 ~~19-507.~~

1 ~~(A) IN THIS SECTION, "INSURED" OR "NAMED INSURED" INCLUDES AN~~
 2 ~~INDIVIDUAL ENTITLED TO HOSPITAL, MEDICAL, OR SURGICAL BENEFITS UNDER~~
 3 ~~A HEALTH INSURANCE POLICY OR CONTRACT ISSUED BY:~~

4 ~~(1) AN INSURER;~~

5 ~~(2) A NONPROFIT HEALTH SERVICE PLAN; OR~~

6 ~~(3) A HEALTH MAINTENANCE ORGANIZATION.~~

7 ~~[(a)] (B) The benefits described in § 19-505 of this subtitle shall be payable~~
 8 ~~without regard to:~~

9 ~~(1) the fault or nonfault of the named insured or the recipient of~~
 10 ~~benefits in causing or contributing to the motor vehicle accident; and~~

11 ~~(2) any collateral source of medical, hospital, or wage continuation~~
 12 ~~benefits.~~

13 ~~[(b)] (C) (1) Subject to paragraph (2) of this subsection, if the insured~~
 14 ~~has both coverage for the benefits described in § 19-505 of this subtitle and a~~
 15 ~~collateral source of medical, hospital, or wage continuation benefits, the insurer or~~
 16 ~~insurers may coordinate the policies to provide for nonduplication of benefits, subject~~
 17 ~~to appropriate reductions in premiums for one or both of the policies approved by the~~
 18 ~~Commissioner.~~

19 ~~(2) The named insured may:~~

20 ~~(i) elect to coordinate the policies by indicating in writing which~~
 21 ~~policy is to be the primary policy; or~~

22 ~~(ii) reject the coordination of policies and nonduplication of~~
 23 ~~benefits.~~

24 ~~[(c)] (D) An insurer that issues a policy that contains the coverage~~
 25 ~~described in § 19-505 of this subtitle may not impose a surcharge or retire the policy~~
 26 ~~for a claim or payment made under that coverage and, at the time the policy is issued,~~
 27 ~~shall notify the policyholder in writing that a surcharge may not be imposed and the~~
 28 ~~policy may not be retired for a claim or payment made under that coverage.~~

29 ~~[(d)] (E) An insurer that provides the benefits described in § 19-505 of this~~
 30 ~~subtitle does not have a right of subrogation and does not have a claim against any~~
 31 ~~other person or insurer to recover any benefits paid because of the alleged fault of the~~
 32 ~~other person in causing or contributing to a motor vehicle accident.~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
2 policies, contracts, and health benefit plans issued, delivered, or renewed in the State
3 on or after October 1, 2010.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.