

Speaker of the House of Delegates
State House
Annapolis, Maryland 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 615.

The bill requires a Health Maintenance Organization (HMO) to reimburse a health care provider, such as an emergency room physician or hospital, for any service provided to an enrollee or subscriber of the HMO in a hospital emergency facility. In addition, a health care provider is not required to obtain prior authorization from the HMO for any service rendered in the emergency room in order to be eligible for payment, although the provider must attempt to notify the HMO as soon as practicable after services are provided.

The decision to veto this bill was a most difficult one because the bill is an attempt to balance the interests, sometimes competing, of the major elements in our health care delivery system—hospitals, emergency room health care providers, health maintenance organizations, and most importantly, patients. However, the bill is sufficiently burdened with legal and substantive flaws that fairness requires that it be vetoed.

First, the bill in its final form differs substantially from its original form, and as it passed both the House and the Senate. As introduced and passed by the House, the bill compelled HMOs to reimburse health care providers for "emergency" services provided in a hospital emergency room in a specified manner that varied depending on whether the provider was a hospital, and on whether the provider was under contract with the HMO. The bill also prohibited HMOs from requiring preauthorization for emergency services as a condition of payment to the provider. Finally, the bill amended existing law to allow HMOs, rather than hospitals, the ability to recover for services in an emergency room that were not emergency services, except where the HMO referred the patient to the emergency room. These latter provisions, which were in fact the only provisions that related to payment for nonemergency services in the bill, were struck in the House and not reinserted in the Senate. The Senate made some changes to the bill, but did not change the scope of the bill as it related to reimbursement for emergency services. Both the House and Senate Floor Reports describe the bill as requiring reimbursement for "emergency" services.

The difficulty arises with the amendment by the Conference Committee of the House and Senate which expanded the scope of the bill to cover any service rendered in an emergency room setting. This significant and fundamental change alters the bill from one that details the manner of reimbursement for services which should already be covered under existing law, since emergency services are covered services under current law, to one that imposes a requirement for reimbursement for services never before subject to reimbursement by an HMO. The change also resulted in an expansion of the bill's original prohibition on preauthorization for emergency services. In its final form the bill prohibits preauthorization as a condition for payment for any services, whether or not emergency services.