



General Assembly

February Session, 2004

Raised Bill No. 134

LCO No. 990

00990_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING CLAIMS BY PATIENTS AND HEALTH CARE PROVIDERS AGAINST MANAGED CARE ORGANIZATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) A managed care
2 organization shall exercise ordinary care when making health care
3 treatment or coverage decisions.

4 (b) An enrollee may bring a civil cause of action to recover damages
5 for any personal injury or wrongful death proximately caused by the
6 failure of a managed care organization to exercise ordinary care.

7 (c) The standard set forth in subsection (a) of this section shall not
8 create an obligation on the part of the managed care organization to
9 provide treatment that is not covered by the managed care plan of an
10 enrollee.

11 (d) Nothing in any provision of the general statutes prohibiting a
12 managed care organization from practicing medicine or being licensed
13 to practice medicine may be asserted as a defense by a managed care
14 organization in any action brought against it pursuant to this section or

15 any other provision of the general statutes.

16 (e) Nothing in this section shall be construed to prohibit an enrollee
17 from pursuing other appropriate civil actions or remedies including
18 injunctive relief, a declaratory judgment or other relief available under
19 law.

20 (f) The provisions of this section shall apply only to a cause of action
21 that accrues on or after the effective date of this section. A cause of
22 action that accrues prior to the effective date of this section shall be
23 governed by the law applicable to the action immediately prior to the
24 effective date of this section, and that law shall continue in effect for
25 that purpose.

26 Sec. 2. (NEW) (*Effective October 1, 2004*) In any action against a
27 provider for medical malpractice in which a managed care
28 organization is or may be liable to the plaintiff for all or part of the
29 plaintiff's damages, the provider may implead the managed care
30 organization for purposes of apportionment of liability pursuant to
31 section 52-102b of the general statutes.

32 Sec. 3. Section 38a-478 of the general statutes, as amended by section
33 10 of public act 03-169, is repealed and the following is substituted in
34 lieu thereof (*Effective October 1, 2004*):

35 As used in sections 38a-478 to 38a-478o, inclusive, as amended,
36 [and] subsection (a) of section 38a-478s and sections 1 and 2 of this act:

37 (1) "Commissioner" means the Insurance Commissioner.

38 (2) "Managed care organization" means an insurer, health care
39 center, hospital or medical service corporation or other organization
40 delivering, issuing for delivery, renewing or amending any individual
41 or group health managed care plan in this state.

42 (3) "Managed care plan" means a product offered by a managed care
43 organization that provides for the financing or delivery of health care

44 services to persons enrolled in the plan through: (A) Arrangements
45 with selected providers to furnish health care services; (B) explicit
46 standards for the selection of participating providers; (C) financial
47 incentives for enrollees to use the participating providers and
48 procedures provided for by the plan; or (D) arrangements that share
49 risks with providers, provided the organization offering a plan
50 described under subparagraph (A), (B), (C) or (D) of this subdivision is
51 licensed by the Insurance Department pursuant to chapter 698, 698a or
52 700 and that the plan includes utilization review pursuant to sections
53 38a-226 to 38a-226d, inclusive.

54 (4) "Provider" means a person licensed to provide health care
55 services under chapters 370 to 373, inclusive, 375 to 383b, inclusive,
56 384a to 384c, inclusive, or chapter 400j.

57 (5) "Enrollee" means a person who has contracted for or who
58 participates in a managed care plan for himself or herself or his or her
59 eligible dependents.

60 (6) "Preferred provider network" means a preferred provider
61 network, as defined in section 38a-479aa, as amended.

62 (7) "Utilization review" means utilization review, as defined in
63 section 38a-226.

64 (8) "Utilization review company" means a utilization review
65 company, as defined in section 38a-226.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

Statement of Purpose:

To provide that a managed care organization may be held liable for damages when an enrollee suffers personal injury or wrongful death

that is proximately caused by the failure of such organization to exercise ordinary care.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]