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## Recent Developments: Maryland's Chapter 163 Effects a Compromise between Health Benefit Carriers' Rights to Deny Benefits and Claimants' Rights to Settle Their Claims

Anne Bodnar

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**MARYLAND'S CHAPTER 163 EFFECTS A COMPROMISE BETWEEN  
HEALTH BENEFIT CARRIERS' RIGHTS TO DENY BENEFITS  
AND CLAIMANTS' RIGHTS TO SETTLE THEIR CLAIMS**

83 Opinions of the Attorney General \_\_\_\_ (1998)

1998 WL 334118 (Md. A.G.) (May 28, 1998)

By Anne Bodnar

In 1998, the Attorney General's office determined that Chapter 163 of the Laws of Maryland 1997 (the "Statute") restricted the powers of health benefit carriers to retroactively deny claims to a six month period following payment. Specifically, the opinion provided that the Statute "applies to retroactive denials of claims that occur on or after October 1, 1997, regardless of the date that the claim was originally paid." 1998 WL 334118, at \*1.

In determining the effect of the Statute, the Attorney General addressed its general construction, language, and the legislature's intent. First, the Attorney General applied the general rule of construction that enacted statutes are presumed to apply prospectively, unless stated otherwise. *Id.* at \*2. The Attorney General concluded that the Statute does apply prospectively with respect to the denial of the claim. *Id.* at \*3. However, the Attorney General noted that even if the Statute was to be interpreted as applying retrospectively in regard to the payment of the claim, as had been suggested by the Insurance Commissioner for the Maryland Insurance Administration, such application would be permissible, because the statute only "affects procedures or remedies." *Id.*

The Attorney General next examined the legislature's purpose for enacting the Statute. Prior to its adoption, health benefit carriers had unlimited discretion in deciding when to retroactively deny claims. The result allowed some providers to recoup claims years after they had already been paid. *Id.* at \*2 (addressing Letter from Dr. Patricia Savadel, President of the Maryland Society for Internal Medicine, to Senator Thomas L. Bromwell (Feb. 14, 1997)). As a result of the new law, health benefit carriers cannot retroactively deny claims paid within six months, unless the denial was based on fraud, whereby the time limit is extended indefinitely.

In conclusion, the Statute limits the health provider's right to retroactively deny benefits by setting a specific time limit in which the claimant can take action. *Id.* at \*4. Nevertheless, carriers are still afforded the opportunity to pursue traditional means of recovering lost money, such as litigation. *Id.* at \*2. By adopting Chapter 163, the Maryland legislature has considered the interests of both the claimant and the carrier in effecting a reasonable compromise between all parties.