

Assembly Joint Resolution No. 15—Committee on

Health and Human Services

FILE NUMBER.....

ASSEMBLY JOINT RESOLUTION—Urging Congress to rectify inequities that occur between federal and state regulatory agencies regarding the Employee Retirement Income Security Act of 1974 as it relates to appeals processes.

WHEREAS, On May 19, 1998, testimony was presented to members of the United States Senate Committee on Labor and Human Resources by the Honorable Marilyn R. Goldwater, Deputy Majority Whip in the Maryland House of Delegates, urging members of Congress to strengthen requirements for the appeals processes for plans covered by the Employee Retirement Income Security Act of 1974 (ERISA); and

WHEREAS, In her presentation, Ms. Goldwater noted that it is important to have strong, effective and responsive internal grievance and appeal mechanisms in place; and

WHEREAS, Every state requires managed care entities to have an internal appeals process in place; and

WHEREAS, If it is determined that a federal external appeals process is appropriate, it should be administered by the Federal Government according to rules established by federal law, with states managing those plans under their regulatory authority; and

WHEREAS, Several states have enacted legislation to revise and refine both the internal and external appeals processes; and

WHEREAS, In Maryland, legislation was enacted to strengthen the state's internal grievance and appeals processes, establish an external appeal mechanism and provide additional regulatory authority to the state's insurance commissioner over medical directors in health maintenance organizations; and

WHEREAS, In Florida, the nation's first external review process was created in 1985, and Florida continues to fine tune its process by utilizing a panel of six state employees for the external review process, with explicit time frames from "extreme emergency" cases to "nonurgent" cases; and

WHEREAS, New Jersey enacted legislation in 1997 that requires health maintenance organizations to establish an external appeal process and now operates a consumer hot line for consumer questions and complaints; and

WHEREAS, Texas enacted landmark legislation in 1998 that permits managed care enrollees to sue their health plans for malpractice in cases where they have been harmed by a plan's decision to delay or deny treatment; and

WHEREAS, According to *The Best From the States II: The Text of Key State HMO Consumer Protection Provisions* by Families USA Foundation (October 1998), key consumer protection provisions include the establishment of explicit time frames for appeal of decisions, implementation of methods for expediting the review of emergency and urgent care situations, acceptance of oral appeals and adoption of laws that require reviewers to be health care providers with expertise in the clinical

area being reviewed and that prohibits reviewers from participating in the review of cases in which they were involved in the original decisions; and

WHEREAS, On February 9, 1999, in a letter to the editor of the *Las Vegas Sun*, Marie Soldo, immediate past Chairman of the Nevada Association of Health Plans, wrote that, because the state has limited jurisdiction regarding the regulation of health insurance plans, more than two-thirds of Nevadans, including state and federal employees, Medicare and Medicaid enrollees and others whose employers are self-insured, are not affected by state legislative action such as mandated benefits, improved grievance and appeals processes and the proposed ombudsman office; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby urges Congress to take steps to ensure that those plans which are exempt from state regulation provide adequate protection provisions for persons covered by such health plans; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.

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