Retroactive Denials of Insurance Claims in Maryland

- The retroactive denial of health care provider reimbursement by an insurance carrier in Maryland is governed by § 15-1008 of the Insurance Article. § 15-1008 enumerates the certain circumstances under which a carrier may retroactively deny reimbursement to a health care provider.
- Under § 15-1008, generally, a carrier may only retroactively deny health care provider reimbursement for six months following the date that the carrier paid reimbursement to the health care provider. However, following an audit of the payment, a carrier may retroactively deny reimbursement beyond the initial six-month window if:
    - Information submitted to the carrier was fraudulent;
    - Information submitted to the carrier was improperly coded;
    - Payment was made for a duplicate claim; or
    - In the case of a claim submitted to a managed care organization, the claim was for services provided to a Maryland Medical Assistance Program recipient during a time period for which the Program has permanently retracted the capitation payment for the Program recipient from the managed care organization.
- Under § 15-1008, an insurance claim may be considered improperly coded if:
    - The provider used a code that does not conform with the coding guidelines used by the carrier applicable as of the date the service or services were rendered; or
    - The provider used a code that did not otherwise conform with the contractual obligations of the health care provider to the carrier applicable as of the date the service or services were rendered.
- In addition to the four above circumstances under which a carrier may retroactively deny reimbursement following the initial six-month window, § 15-1008 provides that a carrier may retroactively deny reimbursement for services subject to the coordination of benefits with another carrier, the Maryland Medical Assistance Program, or the Medicare Program during the eighteen-month period after the date that the carrier paid the health care provider.
- If a carrier retroactively denies reimbursement to a health care provider for any of the above reasons, the carrier must provide the health care provider with a written statement specifying the basis for the retroactive denial.
    - If the retroactive denial of reimbursement results from the coordination of benefits, the required written statement must also provide the name and address of the entity acknowledging responsibility for payment of the denied claim.
- Note:
    - ERISA, the Employee Retirement Income Security Act of 1974, preempts certain state laws that “mandate employee benefit structures or their administration.” Please consult an ERISA attorney if you feel this has impacted your retroactive denial.
- Additional resources
    - https://law.justia.com/codes/maryland/2017/insurance/title-15/subtitle-10/section-15-1008/
    - https://insurance.maryland.gov/Insurer/Documents/bulletins/bulletinlh08-30-cob15-1008final.pdf
    - https://insurance.maryland.gov/Providers/Pages/default.aspx
    - https://www.gfrlaw.com/what-we-do/insights/retroactive-denials