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CHAPTER 323

1 AN ACT concerning

2 **Health Insurance - ~~Managed Behavioral Health Care Organizations~~ Services**
3 **- ~~Expense and Loss Ratios~~ and Reports**

4 FOR the purpose of requiring certain carriers to include certain information on
5 behavioral health care providers in a certain list of providers on the carrier's
6 provider panel; requiring a carrier that contracts with a managed behavioral
7 health care organization to require the managed behavioral health care
8 organization to provide a certain report that the carrier is required to make
9 publicly available; repealing a requirement that certain carriers file certain
10 information with the Maryland Insurance Commissioner; requiring certain
11 carriers to complete and maintain copies of certain forms required developed by
12 the Commissioner that include certain information; requiring the Commission
13 to develop a certain form; requiring certain carriers to make certain forms
14 available to certain individuals upon request; authorizing a carrier that makes
15 certain forms available to certain individuals to make certain charges;
16 authorizing the Commissioner to adopt certain regulations; altering a certain
17 scope provision; defining a certain term; altering and repealing certain
18 definitions; making a certain conforming change to a certain definition; and
19 generally relating to certain carriers and managed behavioral health care
20 organizations.

21 BY repealing and reenacting, with amendments,
22 Article - Insurance
23 Section 15-127

1 Annotated Code of Maryland
2 (2002 Replacement Volume and 2002 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Insurance**

6 15-127.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) (I) "BEHAVIORAL HEALTH CARE ADMINISTRATIVE EXPENSES"
9 MEANS ANY EXPENSES THAT ARE ~~NOT INCURRED FOR DIRECT CARE EXPENSES~~
10 ~~INCLUDING THE FOLLOWING EXPENSES~~ FOR ADMINISTRATIVE FUNCTIONS
11 INCLUDING:

12 ~~(I)~~ 1. BILLING AND COLLECTION EXPENSES;

13 ~~(II)~~ 2. ACCOUNTING AND FINANCIAL REPORTING EXPENSES;

14 ~~(III)~~ 3. QUALITY ASSURANCE AND UTILIZATION MANAGEMENT
15 PROGRAM OR ACTIVITY EXPENSES;

16 ~~(IV)~~ 4. PROMOTION AND MARKETING EXPENSES;

17 ~~(V)~~ 5. TAXES, FEES, AND ASSESSMENTS;

18 ~~(VI)~~ 6. LEGAL EXPENSES;

19 ~~(VII)~~ 7. SALARY EXPENSES FOR EMPLOYEES THAT ARE NOT
20 RELATED TO THE DELIVERY OF ~~DIRECT CARE EXPENSES~~ BEHAVIORAL HEALTH CARE
21 SERVICES TO PATIENTS;

22 ~~(VIII)~~ 8. COMPUTER EXPENSES;

23 ~~(IX)~~ 9. PROVIDER CREDENTIALING;

24 ~~(X)~~ 10. COLLECTION AND ADMINISTRATIVE REVIEW OF
25 TREATMENT PLANS;

26 ~~(XI)~~ 11. AUDITING THE FINANCIAL REPORT SUBMITTED TO THE
27 COMMISSIONER UNDER THIS SECTION;

28 ~~(XII)~~ ~~QUALITY ASSURANCE, STANDARDS OF CARE, OR UTILIZATION~~
29 ~~MANAGEMENT PROGRAM OR ACTIVITY EXPENSES;~~

30 ~~(XIII)~~ 12. DEBT PAYMENT AND DEBT SERVICE; AND

31 ~~(XIV)~~ 13. OTHER GENERAL AND ADMINISTRATIVE EXPENSES.

1 (II) "BEHAVIORAL HEALTH CARE ADMINISTRATIVE EXPENSES"
 2 DOES NOT INCLUDE EXPENSES INCURRED FOR BEHAVIORAL HEALTH CARE
 3 SERVICES.

4 (3) (I) "Behavioral health care services" means procedures or services
 5 rendered by a health care provider for the treatment of mental illness, emotional
 6 disorders, drug abuse, or alcohol abuse.

7 (II) "BEHAVIORAL HEALTH CARE SERVICES" INCLUDES ANY
 8 QUALITY ASSURANCE OR UTILIZATION MANAGEMENT ACTIVITIES OR TREATMENT
 9 PLAN REVIEWS THAT ARE CLINICAL IN NATURE.

10 ~~(H)~~ (III) "BEHAVIORAL HEALTH CARE SERVICES" DOES NOT
 11 INCLUDE THE BEHAVIORAL HEALTH CARE ADMINISTRATIVE EXPENSES.
 12 ADMINISTRATIVE FUNCTIONS.

13 [(3)] (4) "Carrier" means:

14 (i) a health insurer;

15 (ii) a nonprofit health service plan;

16 (iii) a health maintenance organization;

17 (iv) a preferred provider organization;

18 (v) a third party administrator; or

19 (vi) except for a managed care organization as defined in Title 15,
 20 Subtitle 1 of the Health - General Article, any other person that provides health
 21 benefit plans subject to regulation by the State.

22 [(4)] (5) "Direct BEHAVIORAL HEALTH care expenses" means [the] ANY
 23 payment to a health care provider by a managed behavioral health care organization
 24 for the provision of behavioral health care services to a member.

25 [(5)] (6) "Direct payments" means the money that a carrier disburses to
 26 a managed behavioral health care organization for the provision of behavioral health
 27 care services to a member.

28 [(6)] (7) "Managed behavioral health care organization" means a
 29 company, organization, PRIVATE REVIEW AGENT, or subsidiary that:

30 (i) contracts with a carrier to provide, undertake to arrange, or
 31 administer behavioral health care services to members; or

32 (ii) otherwise makes behavioral health care services available to
 33 members through contracts with health care providers.

1 [(7)] (8) (i) "Member" means an individual entitled to behavioral
2 health care services from a carrier or a managed behavioral health care organization
3 under a policy or plan issued or delivered in the State.

4 (ii) "Member" includes a subscriber.

5 [(8) "Mental health expense ratio" means the ratio of the total incurred
6 direct care expenses for behavioral health care services in relation to the total direct
7 payments for behavioral health care services.]

8 (9) "Provider" means a person licensed, certified, or otherwise authorized
9 under the Health Occupations Article or the Health - General Article to provide
10 health care services.

11 (b) THIS SECTION DOES NOT APPLY TO A PERSON THAT:

12 (1) FOR AN ADMINISTRATIVE FEE ONLY, SOLELY ARRANGES A PROVIDER
13 PANEL FOR A CARRIER FOR THE PROVISION OF BEHAVIORAL HEALTH CARE
14 SERVICES ON A DISCOUNTED FEE-FOR-SERVICE BASIS; ~~AND~~

15 (2) ~~DOES NOT ASSUME ANY RISK FOR PROVIDING BEHAVIORAL HEALTH~~
16 ~~CARE SERVICES TO MEMBERS.~~

17 (C) (1) A carrier that owns or contracts with a managed behavioral health
18 care organization shall distribute to its members at the time of enrollment an
19 explanation of:

20 [(1)] (I) the specific behavioral health care services covered and the
21 specific exclusions under the member's contract;

22 [(2)] (II) the member's responsibilities for obtaining behavioral health
23 care services;

24 [(3)] (III) the reimbursement methodology that the carrier and managed
25 behavioral health care organization use to reimburse providers for behavioral health
26 care services; and

27 [(4)] (IV) the procedure that a member must utilize when attempting to
28 obtain behavioral health care services outside the network of providers used by the
29 carrier or managed behavioral health care organization.

30 [(c)] (2) The explanation that a carrier is required to distribute under
31 [subsection (b)(3) of this section] PARAGRAPH (1)(III) OF THIS SUBSECTION shall be
32 consistent with § 15-121(c) of this subtitle.

33 (3) A CARRIER THAT OWNS OR CONTRACTS WITH A MANAGED
34 BEHAVIORAL HEALTH CARE ORGANIZATION SHALL:

1 (I) INCLUDE INFORMATION ON BEHAVIORAL HEALTH CARE
 2 PROVIDERS IN THE LIST OF PROVIDERS ON THE CARRIER'S PROVIDER PANEL
 3 REQUIRED UNDER § 15-112(J) OF THIS SUBTITLE; AND

4 (II) PROVIDE THE SAME INFORMATION ON BEHAVIORAL HEALTH
 5 CARE PROVIDERS THAT IS REQUIRED FOR OTHER PROVIDERS UNDER § 15-112(J) OF
 6 THIS SUBTITLE.

7 (4) (I) A CARRIER THAT CONTRACTS WITH A MANAGED BEHAVIORAL
 8 HEALTH CARE ORGANIZATION SHALL REQUIRE THE MANAGED BEHAVIORAL HEALTH
 9 CARE ORGANIZATION TO PROVIDE TO THE CARRIER ON AN ANNUAL BASIS A REPORT
 10 ON THE DIRECT BEHAVIORAL HEALTH CARE EXPENSES OF THE MANAGED
 11 BEHAVIORAL HEALTH CARE ORGANIZATION.

12 (II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
 13 PARAGRAPH SHALL BE MADE PUBLICLY AVAILABLE BY THE CARRIER.

14 [(d) The Commissioner shall adopt regulations to carry out the provisions of
 15 this section.]

16 [(e) (D) (1) ~~Except as provided under paragraph (2) of this subsection, [on~~
 17 ~~or before March 1 of each year,] each EACH carrier that provides behavioral health~~
 18 ~~care services through a company owned wholly or in part by the carrier or through a~~
 19 ~~contract with a managed behavioral health care organization shall [file with the~~
 20 ~~Commissioner, on] COMPLETE AND MAINTAIN COPIES OF the A form required~~
 21 ~~DEVELOPED by the [Commissioner, the mental health expense ratio for the provision~~
 22 ~~of behavioral health care services to members] COMMISSIONER THAT SHALL~~
 23 ~~INCLUDE INCLUDES THE FOLLOWING INFORMATION:~~

24 (I) THE CARRIER'S DIRECT PAYMENTS FOR THE PRECEDING
 25 CALENDAR YEAR; AND

26 (II) THE INFORMATION REQUIRED TO BE COLLECTED BY A
 27 CARRIER UNDER SUBSECTION (C)(4) OF THIS SECTION; AND

28 (III) REPORTED SEPARATELY FROM THE INFORMATION REQUIRED
 29 UNDER ITEM (II) OF THIS PARAGRAPH, THE CARRIER'S TOTAL EXPENSES FOR
 30 QUALITY ASSURANCE AND UTILIZATION MANAGEMENT ACTIVITIES AND
 31 TREATMENT PLAN REVIEWS THAT ARE CLINICAL IN NATURE.

32 (2) THE COMMISSIONER SHALL DEVELOP A FORM TO IMPLEMENT THE
 33 REQUIREMENTS OF THIS SUBSECTION.

34 (2) ~~The requirements of paragraph (1) of this subsection do not apply~~
 35 ~~when a company, for an administrative fee only, solely arranges a provider panel for a~~
 36 ~~carrier for the provision of behavioral health care services on a discounted~~
 37 ~~fee for service basis.~~

38 (E) (1) EACH CARRIER REQUIRED UNDER SUBSECTION (D) OF THIS SECTION
 39 TO COMPLETE AND MAINTAIN COPIES OF THE FORMS FORM REQUIRED BY THE

1 ~~COMMISSIONER UNDER SUBSECTION (D) OF THIS SECTION DEVELOPED BY THE~~
2 ~~COMMISSIONER SHALL MAKE COPIES OF THE FORM PUBLICLY AVAILABLE TO AN~~
3 ~~INDIVIDUAL, ENROLLEE, OR MEMBER, UPON REQUEST, COPIES OF THE FORM~~
4 ~~REQUIRED TO BE MAINTAINED UNDER SUBSECTION (D) OF THIS SECTION.~~

5 (2) A CARRIER THAT IS REQUIRED TO MAKE A FORM PUBLICLY
6 AVAILABLE TO AN INDIVIDUAL, ENROLLEE, OR MEMBER UNDER PARAGRAPH (1) OF
7 THIS SUBSECTION MAY CHARGE:

8 (I) A REASONABLE PREPARATION FEE NOT TO EXCEED \$15 FOR
9 EACH FORM REQUESTED; AND

10 (II) THE ACTUAL COST FOR ANY POSTAGE AND HANDLING
11 REQUIRED TO PROVIDE COPIES OF THE REQUESTED FORMS.

12 (F) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE
13 PROVISIONS OF THIS SECTION.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2003.