Maryland General Assembly
Department of Legislative Services

Proposed Regulations
Department of Health and Mental Hygiene

(DLS Control No. 14-037)

Overview and Legal and Fiscal Impact

The regulations implement the calendar year 2014 Managed Care Organization HealthChoice reimbursement rates under the Maryland Medicaid Managed Care Program. In addition, the regulations repeal in their entirety the regulations relating to the Primary Adult Care Program because the program terminated on December 31, 2013.

The regulations present no legal issue of concern.

Medicaid expenditures increase by a total of $179.5 million to implement calendar 2014 Medicaid managed care organization rates. Half of the expenditures, $89.8 million (50% general funds, 50% federal funds) will occur in fiscal 2014 (for rates paid in January through June 2014), while the remainder will occur in fiscal 2015 (for rates paid in July through December 2014). Federal fund matching revenues increase correspondingly.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Medical Care Programs: Maryland Medicaid Managed Care Program: Managed Care Organizations: COMAR 10.09.65.19
Primary Adult Care Program: COMAR 10.09.76.01-.18

Legal Analysis

Background

HealthChoice is the Maryland mandatory managed care program that provides health care services to Medicaid recipients in the State. A managed care organization (MCO) is a health care organization that contracts with a network of providers to provide covered services to their enrollees. An MCO is required to provide or arrange for a full range of health care services to recipients.

Summary of Regulations

The regulations implement the calendar year 2014 MCO's Health Choice reimbursement rates under the Maryland Medicaid Managed Care Program. Payment to an MCO for each enrollee is required to be at a fixed capitation rate as specified in the regulations. In addition, the proposed regulations repeal in their entirety the regulations relating to the Primary Adult Care Program because the program terminated on December 31, 2013.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 2-104, 15-101, 15-102.3 and 15-103 of the Health – General Article and §§ 15-112, 15-605, and 15-1008 of the Insurance Article as legal authority for the regulations.

Section 2-104 of the Health – General Article authorizes the Secretary of Health and Mental Hygiene to adopt regulations to carry out the provisions of law that are within the jurisdiction of the Secretary. Section 15-101 defines terms relating to the Maryland Medical Assistance Program. Section 15-102.3 applies specified provisions of the Insurance Article to managed care organizations and health maintenance organizations in the same manner they apply to health insurance carriers. Section 15-103 requires the Secretary to administer the Maryland Medical Assistance Program and requires the department to adopt regulations relating to enrollment, disenrollment, and enrollee appeals.

Section 15-112 of the Insurance Article defines a "carrier" to mean an insurer, a nonprofit health service plan, a health maintenance organization, a dental plan organization, or any other person that provides health benefit plans subject to regulation by the State. A carrier that uses a provider panel is required to: (1) if the carrier is an insurer, nonprofit health service plan, or dental plan organization, maintain standards in accordance with regulations adopted by the commissioner for availability of health care providers to meet the health care needs of enrollees; (2) if the carrier is a health maintenance organization, adhere to the standards for accessibility of covered services in accordance with specified regulations; and (3) if the carrier is an insurer or nonprofit health service plan that offers a preferred provider insurance policy that conditions the payment of benefits on the use of preferred providers, adhere to the standards for accessibility for covered services in accordance with specified regulations. On or before March 1 of each year, § 15-605 requires an annual report to be submitted to the Insurance Commissioner by (1) each authorized insurer that provides health insurance in the State; (2) each nonprofit health insurance plan that is authorized by the Commissioner to operate in the State; (3) each health maintenance organization that is authorized by the Commissioner to operate in the State; and (4) in accordance with regulations adopted by the Commissioner, each managed care organization that is authorized to receive Medicaid prepaid capitation payments.

In addition, § 15-605 of the Insurance Article requires the Commissioner, in consultation with the Secretary, to establish and adopt by regulation a methodology to be used in each annual report that ensures a clear separation of all medical and administrative expenses. If a carrier retroactively denies reimbursement to a health care provider, § 15-1008 provides that the carrier (1) may only retroactively deny reimbursement for service subject to coordination of benefits with another carrier, the Maryland Medical Assistance Program, or the Medicare Program during the 18-month period after the date that the carrier paid the health care provider; and (2) except as provided above, may only retroactively deny reimbursement during the 6-month period after the date that the carrier paid the health care provider.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

Medicaid expenditures increase by a total of $179.5 million to implement calendar 2014 Medicaid MCO rates. Half of the expenditures, $89.8 million (50% general funds, 50% federal funds) will occur in fiscal 2014 (for rates paid in January through June 2014), while the remainder will occur in fiscal 2015 (for rates paid in July through December 2014). Federal fund matching revenues increase correspondingly.

Agency Estimate of Projected Fiscal Impact

The regulations repeal language regarding the Primary Adult Care program (which ended December 31, 2013) and implement the calendar 2014 Medicaid MCO rates. The department indicates that the net economic impact of the rates for calendar 2014 is an increase in Medicaid expenditures of $179.5 million. This figure includes the federally funded rate increase for primary care physicians and a 2.0% premium tax required under the federal Patient Protection and Affordable Care Act.

Impact on Budget

Medicaid expenditures increase by a total of $179.5 million (50% general funds, 50% federal funds) – $89.8 million in fiscal 2014 and $89.8 million in fiscal 2015 to implement calendar 2014 Medicaid MCO rates. Federal fund matching revenues increase correspondingly. These funds are included in the fiscal 2014 and 2015 budgets.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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