

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 15-070)**

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**Overview and Legal and Fiscal Impact**

The proposal makes numerous, mainly non-substantive changes to Maryland Medicaid Managed Care Program regulations.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Department of Health and Mental Hygiene:**

Medical Care Programs: Maryland Medicaid Managed Care Program: Managed Care Organizations: COMAR 10.09.65.03

Maryland Medicaid Managed Care Program: Benefits: COMAR 10.09.67.04, .07, and .27

Maryland Medicaid Managed Care Program: Rare and Expensive Case Management: COMAR 10.09.69.17

Maryland Medicaid Managed Care Program: Departmental Dispute Resolution Procedures: COMAR 10.09.72.06

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**Legal Analysis**

**Background**

The Maryland Medicaid Managed Care Program (Program) was established in 1997 under a federal § 1115 waiver to better manage the care of Medicaid enrollees. Under the Program, most Medicaid enrollees receive their health care through a participating Medicaid managed care organization (MCO). Certain Medicaid enrollees with rare and expensive health conditions receive their health care through the Rare and Expensive Case Management (REM) program, instead of an MCO.

**Summary of Regulations**

The proposal makes numerous, mainly non-substantive changes to Program regulations, as follows:

- strikes requirements for MCOs to comply with access and quality standards relating to substance abuse treatment, a service which is no longer part of the MCO benefit;
- strikes obsolete core performance measures for MCOs;
- clarifies that only over-the-counter emergency contraceptives are covered without a prescription;
- moves coverage of transportation between hospitals from a benefit limitation exception to an inpatient hospital benefit;
- updates the REM diagnosis codes to ICD10; and
- allows an MCO to appeal an adverse medical necessity decision by an independent review organization to the Office of Administrative Hearings.

### **Legal Issue**

The regulations present no legal issue of concern.

### **Statutory Authority and Legislative Intent**

The Department of Health and Mental Hygiene cites §§ 15-112, 15-605, and 15-1008 of the Insurance Article and § 2-104 and Title 15, Subtitle 1 of the Health – General Article as authority for the regulations. Section 15-112 of the Insurance Article establishes requirements for insurance carriers, including MCOs that use provider panels. Section 15-605 requires each MCO to submit an annual report and a report showing the financial condition of the MCO to the Maryland Insurance Commissioner. Section 15-1008 establishes requirements for retroactive denial of reimbursement to a health care provider. These sections of the Insurance Article are relevant to certain existing Medicaid Managed Care Program regulations, but not to the proposed regulations.

Section 2-104 of the Health-General Article authorizes the Secretary of Health and Mental Hygiene to adopt rules and regulations to carry out the provisions of law that are within the jurisdiction of the Secretary. Title 15, Subtitle 1 is the statutory authority for the Maryland Medical Assistance Program. The most relevant section of the subtitle is § 15-103, which authorizes the Secretary to establish a managed care program for enrollees of the Maryland Medical Assistance Program. Section 15-103(b)(4)(i) authorizes the Secretary to exclude specific populations or services from the managed care program, and the regulations cite this authority for the REM program.

This statutory authority is correct and complete. The regulations comply with legislative intent.

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The regulations make several (largely nonsubstantive) changes to the Medicaid program, including striking obsolete access and quality standards and core performance measures for MCOs, clarifying coverage of emergency contraceptives, specifying that transportation between hospitals is an inpatient benefit rather than a benefit limitation exception, updating REM program diagnosis codes, and authorizing an MCO to appeal an adverse medical necessity decision by an independent review organization. The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **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.

## **Contact Information**

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