

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-088)**

Overview and Legal and Fiscal Impact

The regulations clarify and update behavioral health services that Medicaid managed care organizations (MCOs) are no longer required to reimburse as a result of the transition to behavioral health services being provided through an administrative services organization. The proposed regulations also clarify that an MCO may not be required to provide outpatient surgery fees for certain dental services provided by the Department of Health and Mental Hygiene.

The proposed regulations present no potential legal issues 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: Specialty Mental Health System: COMAR 10.09.70.02 and .03

Legal Analysis

Summary of Regulations

The proposed changes amend COMAR 10.09.70.02 and .03. Regulation .02 is amended to clarify the behavioral health services that an MCO is not responsible for reimbursing. A stylistic change is also made throughout Regulation .02, changing “may not be responsible” to “is not responsible.”

The proposed change to Regulation .03 clarifies that an MCO may not be required to provide dental *outpatient* surgery fees for the facility and general anesthesia for pregnant women and enrollees younger than 21 years old; these services are reimbursed directly by the Department of Health and Mental Hygiene.

Legal Issue

The proposed regulations present no potential legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-104(b), 15-103, and 15-105 of the Health – General Article as legal authority for the regulations. Section 2-104(b) gives the Secretary of Health and Mental Hygiene authority to adopt rules and regulations to carry out the provisions of law with the jurisdiction of the Secretary. Section 15-103 establishes the Maryland Medical Assistance Program and requires the Secretary to administer the program, including adopting regulations. The department is required to establish a delivery system for specialty mental health services for enrollees of MCOs under §15-103(b)(21). Section 15-105(b) requires the department to adopt rules and regulations for the reimbursement of providers for services under the Medicaid program.

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

Technical Corrections

The existing COMAR 10.09.70.02F is redesignated as section I. The proposed changes erroneously indicate the existing section E is being redesignated. Also, two sections under .02 were numbered as section J. The second will be redesignated as section K.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations clarify and update behavioral health services that Medicaid managed care organizations (MCOs) are no longer required to reimburse as a result of the transition to a behavioral health carve-out. The regulations also clarify that an MCO may not be required to cover certain *outpatient* surgery fees for dental services that are reimbursed directly by the department. The department advises that the regulations have no fiscal 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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