

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-181)**

Overview and Legal and Fiscal Impact

The regulations alter provisions relating to the disenrollment of enrollees in managed care organizations (MCOs) in the Medicaid program, MCO applications and underserved counties, notice requirements that apply when an MCO and provider terminate their contract, and the designation of primary care providers (PCPs) in the Medicaid program.

The regulations present no 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: Eligibility and Enrollment: COMAR 10.09.63.06

Maryland Medicaid Managed Care Program: MCO Application: COMAR 10.09.64.05

Maryland Medicaid Managed Care Program: Managed Care Organizations: COMAR 10.09.65.17

Maryland Medicaid Managed Care Program: Access: COMAR 10.09.66.05

Legal Analysis

Background and Summary of Regulations

The regulations alter provisions relating to the disenrollment of an enrollee in an MCO, add language that limits MCO applicants from applying to participate in Medicaid if there are no underserved areas in the State, alter certain notice requirements that apply when an MCO and provider terminate their contract, authorize an MCO to designate a physician assistant as the PCP for an enrollee, and update an incorrect cross-reference. The regulations are summarized in more detail below.

Notice of Disenrollment: Under current regulations, an enrollee may disenroll from an MCO into another MCO if the enrollee requests a change of MCO within 90 days after the termination of the enrollee's PCP's contract if the PCP's contract with the enrollee's MCO, MCO's medical management group, or its subcontractors is terminating for specified reasons. The proposed regulations require an MCO to make a good faith effort to give written notice to the Department of Health and Mental Hygiene when enrollees have the right to change MCOs under the circumstance above 90 days before the effective date of the termination.

Under current regulations, the department must notify enrollees who may change MCOs under specified circumstances. The proposed regulations provide that an MCO, at the department's discretion, may be required to reimburse the department for the costs associated with the mailing of notifications under such circumstances.

MCO Applications and Underserved Counties: Current regulations require an MCO applicant to include in its application a map showing the counties in which the applicant proposes to provide health care services. Current regulations then specify that the service area must include at least two underserved counties, defined to mean counties in which less than three current MCOs are participating and accepting new enrollments. The proposed regulations specify that if there are no underserved counties, applications will not be accepted.

Notice of Contract Termination: Under current regulations, when an MCO and provider terminate their contract, the MCO must provide the department with a written notice regarding the termination of care or services if more than 50 enrollees are affected. The proposed regulations alter this requirement so that notice must be provided regardless of the number of enrollees affected. If the MCO is terminating the contract, the notice must be provided 90 days before the effective date of the termination. If the provider is terminating the contract, the notice must be provided within 10 days after the MCO receives the notice from the terminating provider.

Current regulations specify what the notice must contain, depending on the number of enrollees affected. The proposed regulations provide that in determining the number of enrollees affected, the MCO must consider, for PCPs, the number of enrollees assigned to the PCP and, for all other providers, the number of enrollees who are in active treatment or who have had an encounter with the provider in the previous 12 months.

Access Standards and Physician Assistants: Under current regulations, an MCO must assign each enrollee to a PCP who is chosen by the enrollee from the MCO's panel of qualified providers or chosen by the MCO from its panel of qualified providers if the enrollee has failed to choose a PCP. The proposed regulations authorize an MCO to designate a physician assistant as the PCP for an enrollee.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-104, 15-102, 15-102.1, 15-102.3, and 15-103 of the Health – General Article and §§ 15-112, 15-605, and 15-1008 of the Insurance Article as 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 15-102 requires the department to provide preventive and home care services to indigent and medically indigent individuals. Section 15-102.1, among other things, requires the department to provide a comprehensive system of quality health care services with an emphasis on prevention, education, individualized care, and appropriate case management. Section 15-102.3 provides that certain provisions of the Insurance Article apply to

MCOs in the same manner they apply to carriers. Section 15-103 gives the Secretary broad authority to regulate Medicaid, including contracting with MCOs, establishing benefits an MCO must provide to enrollees, and adopting regulations relating to enrollment and disenrollment.

In addition, § 15-112 of the Insurance Article establishes standards that govern carriers and provider panels. Section 15-605, among other things, requires MCOs to submit an annual report and business plan to the Maryland Insurance Commissioner. Section 15-1008 establishes standards that govern the retroactive denial of reimbursement by carriers, including managed care organizations.

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

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations alter provisions relating to the disenrollment of enrollees in MCOs in the Medicaid program, MCO applications and underserved counties, notice requirements that apply when an MCO and provider terminate their contract, and the designation of PCPs in the Medicaid program. The department advises that, as the regulations clarify existing processes, there is 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.

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