

MARYLAND REGISTER

Proposed Action on Regulations

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| Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations | Date Filed with AELR Committee | TO BE COMPLETED BY DSD |
| | 08/13/2015 | Date Filed with Division of State Documents |
| | | Document Number |
| | | Date of Publication in MD Register |
| | | |

1. Desired date of publication in Maryland Register: 9/18/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

| | | | |
|----|----|----|----|
| 10 | 09 | 63 | 06 |
| 10 | 09 | 64 | 05 |
| 10 | 09 | 65 | 17 |
| 10 | 09 | 66 | 05 |

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: June 3, 2015.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by David Lapp, Assistant Attorney General, (telephone #410-767-5292) on August 3, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Van T. Mitchell

Title

Telephone No.

Secretary

410-767-6500

Date

August 13, 2015

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.64 Maryland Medicaid Managed Care Program: MCO Application

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.66 Maryland Medicaid Managed Care Program: Access

Authority: See proposal.

Notice of Proposed Action

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The Secretary of Health and Mental Hygiene proposes to :

- (1) Amend Regulation .06 under COMAR 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment;
- (2) Amend Regulation .05 under COMAR 10.09.64 Maryland Medicaid Managed Care Program: MCO Application;
- (3) Amend Regulation .17 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations; and
- (4) Amend Regulation .05 under COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access.

Statement of Purpose

The purpose of this action is to :

- (1) Require MCOs to notify the Department 90 days prior to the effective date of a provider termination;

- (2) At the Department's discretion, require MCOs to reimburse the Department for the costs of notifying enrollees of their right to change MCOs due to a primary care provider contract termination;
- (3) Update an incorrect cross reference;
- (4) Add language that would limit MCO applicants from applying to participate in the Program, if there are no underserved areas in the State;
- (5) Clarify that MCO provider termination surveys are required for all provider types; and
- (6) Include physician assistants as allowable PCPs.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through October 19, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2016
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

These changes are to clarify existing regulations.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

This proposal affects HealthChoice MCOs, which are not small businesses.

G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment

Authority: Health-General Article, §15-103(b)(3) and (23), Annotated Code of Maryland

10.09.63.06 (6/3/15)

.06 Disenrollment.

A.—F. (text unchanged)

G. An MCO shall make a good faith effort to give written notice to the Department when enrollees have the right to change MCOs under §A(1)(e) of this regulation [30] 90 days before the effective date of the termination.

(1) (text unchanged)

(2) If applicable, the termination survey required under COMAR [10.09.17B(4)] 10.09.65.17B(4).

H. (text unchanged)

I. At the Department's discretion, an MCO may be required to reimburse the Department for the costs associated with the mailing of the notifications in §H of this regulation.

10.09.64 Maryland Medicaid Managed Care Program: MCO Application

Authority: Health-General Article, §§15-102 and 15-103, Annotated Code of Maryland

10.09.64.05 (8/7/15)

.05 Access and Capacity.

A. An MCO applicant shall include in its application the following information or descriptions:

[A.] (1) (text unchanged)

[B.] The service area shall include at least two underserved counties as defined in §C of this regulation.

C. An underserved county is a county in which less than three current MCOs are participating and accepting new enrollments.

D. The requirement under §B of this regulation does not apply if there are no underserved counties at the time of application.]

[E.] (2)—[H.] (5) (text unchanged)

[I.] (6) The following information, grouped by medical specialty and county, regarding each individual practitioner, including primary care providers and specialists, who will act as a health care provider for the applicant:

[(1)] (a)—[(5)] (e) (text unchanged)

[(a)] (i)—[(d)] (iv) (text unchanged)

[(6)] (f) (text unchanged)

[J.] (7) (text unchanged)

[K.] (8) Documentation that enrollees will have access to primary care services, including pharmacy, obstetrics/gynecology and diagnostic laboratory services, within a reasonable distance of their places of residence, demonstrated by showing the availability of these services in:

[(1)] (a)—[(3)] (c) (text unchanged)

[L.] (9) Documentation of any reasons for which they are unable to meet the access requirements of [§K] §A(8) of this regulation;

[M.] (10) For each primary care practice location, a specification of:

[(1)] (a)—[(2)] (b) (text unchanged)

[(a)] (i)—[(f)] (vi) (text unchanged)

[N.] (11) (text unchanged)

B. The service area in §A(1) of this regulation shall include at least two underserved counties as defined in §C of this regulation.

C. An underserved county is a county in which less than three current MCOs are participating and accepting new enrollments.

D. If there are no underserved counties, applications will not be accepted.

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Insurance Article, §15-112, 15-605, and 15-1008; Health-General Article, §2-104, 15-102.3, and 15-103; Annotated Code of Maryland

10.09.65.17 (6/3/15)

.17 Subcontractual Relationships.

A. (text unchanged)

B. Subcontractual Relations Reporting Requirements.

(1)—(3) (text unchanged)

(4) Termination.

(a) When an MCO and provider terminate their contract the MCO shall provide the Department with a written notice regarding the termination [of care or services if more than 50 enrollees are affected, as specified in §B(4)(b) or (c) of this regulation, within the following time frames:

(i) Within a minimum of 30 days before the effective date of termination; or

(ii) If less than 30 days, within 5 days after receipt of notice from the terminating provider or subcontractor].

(b) If the MCO is terminating the contract, the notice required in §B(4)(a) of this regulation shall be provided 90 days before the effective date of the termination.

(c) If the provider is terminating the contract, the notice required in §B(4)(a) of this regulation shall be provided within 10 days after the MCO receives the notice from the terminating provider.

[(b)] (d)—[(c)] (e) (text unchanged)

(f) In determining the number of enrollees affected, under §B(4)(d) and (e) of this regulation, the MCO shall consider:

(i) For PCPs, the number of enrollees assigned to the PCP; and

(ii) 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.

C.—E. (text unchanged)

10.09.66 Maryland Medicaid Managed Care Program: Access

Authority: Health-General Article, §15-102.1(b)(10) and 15-103(b), Annotated Code of Maryland

10.09.66.05 (6/3/15)

.05 Access Standards: PCPs and MCO's Provider Network.

A. Primary Care Provider (PCP).

(1)—(4) (text unchanged)

(5) An MCO may include, as appropriate, any of the following practitioners to serve as the primary care provider for an enrollee:

(a)—(e) (text unchanged)

(f) Physician assistant;

[(f)] (g)—[(h)] (i) (text unchanged)

(6)—(7) (text unchanged)

B. (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene