

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Health and Mental Hygiene  
(DLS Control No. 15-339)**

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## **Overview and Legal and Fiscal Impact**

The regulations alter provisions that govern the Maryland Medical Assistance Program (Medicaid) by, among other changes, adding a condition for participation in Medicaid for hospital service providers, altering eligibility criteria for enrollment in a managed care organization (MCO), and adding a network access requirement for certain MCOs.

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: Hospital Services: COMAR 10.09.06.01 and .03

Maryland Medicaid Managed Care Program: Definitions: COMAR 10.09.62.01

Maryland Medicaid Managed Care Program: Eligibility and Enrollment:  
COMAR 10.09.63.01

Maryland Medicaid Managed Care Program: Managed Care Organizations:  
COMAR 10.09.65.02

Maryland Medicaid Managed Care Program: Access: COMAR 10.09.66.09

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## **Legal Analysis**

### **Background and Summary of Regulations**

The regulations modify provisions that govern Medicaid. Among other changes, the regulations add a condition for participation in Medicaid for hospital services providers, alter eligibility criteria for enrollment in the Medicaid Managed Care Program, and add a network access requirement for certain MCOs.

- **Conditions for Participation:** To participate in Medicaid, a hospital services provider must contract with any willing HealthChoice managed care organization if the hospital is the sole hospital in a county designated as a Medically Underserved Area. Under the regulations, a “Medically Underserved Area” is defined as an area designated by the Health Resources and Services Administration as having shortages of primary care, dental care, or mental health providers. According to the Department of Health and Mental Hygiene,

the intention of this condition is to improve access to care, especially in a county where the sole hospital in the county is also an MCO owner.

- **Eligibility and Enrollment Criteria:** Under existing regulations, a Medicaid recipient, with some exceptions, must be enrolled in the Maryland Managed Care Program if the recipient is eligible for receipt of Medicaid benefits by qualifying as categorically needy or medically needy, unless the recipient is at least 65 years old or older. The regulations modify this criteria by excluding recipients from enrollment in the Maryland Managed Care Program who are at least 64 and one-half years old or older. As background for this modification, the department notes that once an individual is eligible for Medicare at age 65, the individual is no longer eligible for enrollment in an MCO. According to the department, the current short enrollment cycle is confusing for new Medicaid recipients who are at least 64 and one-half years old or older and is administratively burdensome for the department and the MCOs. Medicaid recipients in this age category will be able to receive services on a fee-for-service basis.
- **Network Access:** If an MCO's service area includes a county that is designated as a Medically Underserved Area and there is only one hospital in the county, the MCO must include the hospital in its network. As with the condition for participation for hospital services providers, the department indicates that the intention of this requirement is to improve access to care, especially in a county where the sole hospital in the county is also an MCO owner.

The regulations also update a reference to statutory authority under which the Maryland Health Commission's Patient Centered Medical Home Program operates.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The department cites §§ 2-104, 15-101, 15-102, 15-102.1(b)(10), 15-102.3, 15-103, and 15-105 of the Health – General Article and §§ 15-112, 15-605, and 15-1008 of the Insurance Article as statutory 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 provisions of law that are within the jurisdiction of the Secretary. Section 15-101 defines terms used in provisions of law that govern Medicaid. Section 15-102 requires the department to provide preventive and home care services to indigent and medically indigent individuals. Section 15-102.1(b)(10) requires the department to encourage Medicaid and Maryland's health care regulatory system to work to cooperatively promote the development of an appropriate mix of health care providers, limit cost increases for the delivery of quality health care to program recipients, and insure the delivery of quality health care to Medicaid recipients. Section 15-102.3 provides that certain provisions of the Insurance Article apply to MCOs in the same manner they apply to health insurance carriers. Section 15-103 gives

the Secretary broad authority to regulate Medicaid, including contracting with MCOs, establishing benefits an MCO must provide to enrollees, enrolling Medicaid recipients into MCOs, 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 apply 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 existing Medicaid HealthChoice regulations, including requiring hospitals that are the sole hospital in a county that is medically underserved to contract with any willing Medicaid managed care organization (MCO) and requiring MCOs whose service area includes medically underserved counties where there is only one hospital to include the hospital in its network. 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.

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