

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland Insurance Administration
(DLS Control No. 16-056)**

Overview and Legal and Fiscal Impact

The regulation repeals a requirement that a private review agent submit to the Maryland Insurance Commissioner any revisions or modifications to existing criteria or standards used by the private review agent in conducting utilization review at least 10 days before the criteria or standards are used.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Maryland Insurance Administration:

Health Insurance – General: Private Review Agents: COMAR 31.10.21.03

Legal Analysis

Background

Section 15-10B-03(a) of the Insurance Article prohibits a private review agent from conducting utilization review in the State unless the Commissioner has granted the private review agent a certificate. As part of the application process for a certificate, § 15-10B-05(a)(1)(i) of the Insurance Article requires a private review agent to submit to the Commissioner a utilization plan that includes the specific criteria and standards to be used in conducting utilization review of proposed or delivered health care services. Section 15-10B-05(b) further requires that any new or revisions or modifications to existing criteria or standards must be submitted to the Commissioner by the private review agent at least 10 days before the criteria or standards are used.

Chapter 121 of 2016 repealed the reporting requirement under § 15-10B-05(b) effective June 1, 2016. Consequently, Regulation 31.10.21.03A, which implemented the former reporting requirement for revisions or modifications of specific criteria and standards, is repealed and the remaining sections in the regulation are renumbered. According to the Maryland Insurance Administration, there are no qualified medical staff to review the filings, and no requests for review have been received.

Summary of Regulation

The regulation repeals a requirement that a private review agent submit to the Maryland Insurance Commissioner any revisions or modifications to existing criteria or standards used by the private review agent in conducting utilization review at least 10 days before the criteria or standards are used.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The administration cites §§ 2-109(a)(1) and 15-10B-03(h) of the Insurance Article as statutory authority for the regulation. Although not cited by the administration, Chapter 121 of 2016 also provides authority for the regulation.

Section 2-109(a)(1) establishes the general authority of the Commissioner to adopt regulations to carry out the Insurance Article. Section 15-10B-03(h) requires the Commissioner, after consultations with payors, to adopt regulations to implement the provisions of Title 15, Subtitle 10B of the Insurance Article. Since, as noted in the *Background* above, the repeal of § 15-10B-05(b) of the Insurance Article does not take effect until June 1, 2016, Chapter 121 also should be cited as authority for the regulation.

With the addition of Chapter 121, this authority is correct and complete. The regulation complies 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 regulation repeals the requirement that a private review agent submit any revisions or modifications of specific criteria and standards to the Insurance Commissioner at least 10 days before using the modified specific criteria and standards while conducting utilization review of proposed or delivered services. This statutory requirement was repealed under Chapter 121 of 2016 (House Bill 798). Thus, the change is conforming. The Maryland Insurance Administration advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs and advises that the fiscal and policy note for House Bill 798 indicated there was no material impact on State finances from repeal of this requirement.

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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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