

Email Address

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: June 27, 2016 and June 28, 2016.

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 General Provisions Article, §3-302(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 July 8, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Van T. Mitchell

Title

Secretary

Telephone No.

410-767-6500

Date

July 19, 2016

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
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
Subtitle 09 MEDICAL CARE PROGRAMS
10.09.67 Maryland Medicaid Managed Care Program: Benefits
Authority: See proposal.

Notice of Proposed Action

□

The Secretary of Health and Mental Hygiene proposes to amend:

- (1) Regulations .02, .03, and .23 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations;
- (2) Regulation .01 under COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access; and
- (3) Regulation .15 under COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits.

Statement of Purpose

The purpose of this action is to :

- (1) Include sexual orientation and gender as basis for non-discrimination;
- (2) Add section 1157 of the Affordable Care Act to the list of provisions that MCOs must comply with;
- (3) Remove the requirement that a full SPR review must be conducted annually;
- (4) Replace the current asthma HEDIS measure with asthma medication ratio effective January 1, 2017;
- (5) Include texts and emails as prohibited cold call marketing activities; and
- (6) Clarify that medically necessary podiatry services are covered for all members.

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 3, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2017
- 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:
Changes are to clarify current policy.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
These regulations affect 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

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Health-General Article, §§2-104, and 15-103 Annotated Code of Maryland

10.09.65.02 (6/27/16)

.02 Conditions for Participation.

- A.—F. (text unchanged)
- G. An MCO:
- (1) (text unchanged)
 - (2) May not discriminate against an enrollee on any basis, including, but not limited to, age, sex, race, creed, color, marital status, *sexual orientation*, *gender identity*, national origin, physical or mental handicap, health status, or need for health care services;
 - (3)—(4) (text unchanged)
- H.—I. (text unchanged)
- J. MCO Local Access Area Participation.
- (1)—(3) (text unchanged)
 - (4) *Unless the Department approves a shorter time frame, an MCO that exits the Program during the calendar year shall submit their exit transition plan to the Department 120 days prior to the effective date of the exit.*
- [(4)] (5)—[(7)] (8) (text unchanged)
- K.—W. (text unchanged)
- X. An MCO shall meet all other requirements of applicable State and federal law including but not limited to:
- (1)—(5) (text unchanged)
 - (6) Any laws that pertain to enrollee rights;[and]
 - (7) 45 CFR Part 74, as amended, including particular attention to requirements at 45 CFR §§74.42, 74.43, 74.44, 74.48, and 74. 53(a) and (b), and Appendix A; *and*
 - (8) *Section 1557 of the Affordable Care Act.*
- Y.—EE. (text unchanged)

10.09.65.03 (6/27/16)

.03 Quality Assessment and Improvement.

- A. (text unchanged)
- B. An MCO shall participate in all quality assessment activities required by the Department in order to determine if the MCO is providing medically necessary enrollee health care. These activities include, but are not limited to:
- (1) [An annual] A Systems Performance Review (SPR) performed by an external quality review organization hired by the Department to assess an MCO's structure and operations in order to determine its ability to provide health care to its enrollees as follows:
 - (a)—(d) (text unchanged)
 - (2) (text unchanged)
 - (3) The annual collection and evaluation of a set of performance measures with targets as determined by the Department as follows:
 - (a)—(d) (text unchanged)
 - (e) *Effective January 1, 2017, the core performance measures are:*
 - (i) *Adolescent well care visits;*
 - (ii) *Adult Body Mass Index (BMI) assessment;*
 - (iii) *Ambulatory care for Supplemental Security Income (SSI) adults;*
 - (iv) *Ambulatory care for Supplemental Security Income (SSI) children;*
 - (v) *Breast cancer screening;*
 - (vi) *Childhood immunizations—Combo 3;*
 - (vii) *Comprehensive diabetes care—HbA1c testing;*
 - (viii) *Controlling high blood pressure;*
 - (ix) *Immunization for adolescents;*
 - (x) *Lead screening for children 12—23 months old;*
 - (xi) *Asthma medication ratio;*
 - (xii) *Postpartum care; and*
 - (xiii) *Well child visits, 3—6 years old.*
- [(e)] (f)—[(g)] (h) (text unchanged)
- (4)—(6) (text unchanged)
- C. (text unchanged)

10.09.65.23 (6/28/16)

.23 Marketing.

A.—B. (text unchanged)

C. An MCO may not engage in any cold call marketing, including activities using or involving any of the following mechanisms:

(1)—(3) (text unchanged)

(4) *Email*;

(5) *Texting*;

[(4)] (6)—[(5)] (7) (text unchanged)

D. (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

10.09.66.01 (6/27/16)

.01 Access Standards: Addressing Enrollees' Individualized Needs.

A. An MCO shall provide access to health care services and information in a manner that addresses the individualized needs of its enrollees, *regardless of gender, sexual orientation or gender identity*, including, but not limited to, the delivery of services and information to enrollees:

(1)—(4) (text unchanged)

B. (text unchanged)

10.09.67 Maryland Medicaid Managed Care Program: Benefits

Authority: Health-General Article, Title 15, Subtitle 1, Annotated Code of Maryland

10.09.67.15 (6/27/16)

.15 Benefits — Podiatry Services.

A. An MCO shall provide for its enrollees medically necessary podiatry services. [as follows:

A. Medically necessary services for enrollees younger than 21 years old;]

[B.] A.—[C.] B. (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene