

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/08/2017	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/13/2017

2. COMAR Codification

Title Subtitle Chapter Regulation

31 10 45 01-.06

3. Name of Promulgating Authority

Maryland Insurance Administration

4. Name of Regulations Coordinator

Lisa M Larson

**Telephone
Number**

410-468-
2007

Mailing Address

200 St. Paul Pl., Ste. 2700

City State Zip Code
Baltimore MD 21202

Email

lisa.larson@maryland.gov

5. Name of Person to Call About this Document

Lisa Larson

Telephone No.

410-468-2007

Email Address

lisa.larson@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

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 Lisa Hall, Assistant Attorney General, (telephone #410-468-2030) on 09/08/2017. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Alfred W. Redmer, Jr.

Title

Insurance Commission

Telephone No.

410-468-2090

Date

09/08/2017

Title 31
MARYLAND INSURANCE ADMINISTRATION
Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.45 Dental Network Adequacy

Authority: Insurance Article, §§ 2-109(a)(1), 15-112(a)(4), and 15-112(e), Annotated Code of Maryland

Notice of Proposed Action

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The Insurance Commissioner proposes to adopt new Regulations .01-.06 under COMAR 31.10.45 Dental Network Adequacy.

Statement of Purpose

The purpose of this action is to adopt new Regulations .01-.06 under a new chapter 45 of COMAR 31.10 Health Insurance -- General entitled Dental Network Adequacy. These regulations are being promulgated pursuant to updates to Insurance Article, § 15-112, Annotated Code of Maryland, that occurred during the 2016 legislative session.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The cost to insurance carriers may increase to meet these new requirements. While the amount of the cost is unknown, the increase is expected to be minimal.

II. Types of Economic Impact.	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE		
B. On other State agencies:	NONE		
C. On local governments:	NONE		
	Benefit (+)		Magnitude
	Cost (-)		
D. On regulated industries or trade groups:			
(1) Administrative Expense	(-)		Minimal
(2) Cost of Operations	(-)		Minimal

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D(1). Assuming that insurance carriers are now required to submit additional forms to the Maryland Insurance Administration for review, their administrative expense may increase.

D(2). Assuming that insurance carriers may have to expend some time and resources to work with additional providers to contract with them, their cost of operations may increase slightly.

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 Lisa Larson, Regulations Manager, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700 Baltimore, MD 21202, or call 410-468-2007, or email to networkadequacy.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through November 12, 2017. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 18

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used: No additional funds will be necessary to implement these Regulations.

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:

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

Small businesses will not be impacted by the promulgation of these Regulations because insurance carriers in Maryland are not small businesses.

G. Small Business Worksheet:

Attached Document:

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH INSURANCE — GENERAL

Chapter 45 Dental Network Adequacy

Authority: Insurance Article, §§ 2-109(a)(1) and 15-112(e), Annotated Code of Maryland

.01 Scope.

This chapter applies to carriers that issue or renew dental plans in Maryland and use a provider panel for a dental plan offered in Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Carrier" means:

(a) An insurer authorized to sell dental insurance;

(b) A nonprofit health service plan that provides coverage for dental services; or

(c) A dental plan organization as defined in Insurance Article, § 14-401, Annotated Code of Maryland.

(2) "Dental plan" means a contractual arrangement for dental services.

(3) "Dentist" has the meaning stated in Health Occupations Article § 4-101, Annotated Code of Maryland.

(4) "Dental service" has the meaning stated in Insurance Article, § 14-401, Annotated Code of Maryland.

(5) "Enrollee" means a person entitled to dental benefits from a carrier.

(6) Essential community provider.

(a) "Essential community provider" means a provider that serves predominantly low-income or dentally underserved individuals.

(b) "Essential community provider" includes local health departments.

(7) "Network" means:

(a) A carrier's participating providers with which a carrier contracts to provide dental services to the carrier's enrollees under the carrier's dental plan.

(b) If a carrier uses a provider panel developed by a subcontracting entity, "network" includes providers that contract with the subcontracting entity to provide dental services to the carrier's enrollees under the carrier's dental plan.

(8) "Dental Network adequacy waiver request" means a written request from a carrier to the Commissioner where the carrier seeks the Commissioner's approval to be relieved of certain dental network adequacy standards in this chapter for one year.

(9) "Participating provider" means a provider on a carrier's provider panel.

(10) "Provider" means;

(a) A dentist;

(b) A group of dentists; or

(c) A facility where dentists provide dental services.

(11) Provider panel

(a) "Provider panel" means the providers who participate in a carrier's network.

(b) "Provider panel" does not include an arrangement in which any provider may participate solely by contracting with the carrier to provide dental services at a discounted fee-for-service rate.

(12) "Rural area" means a list of zip codes provided on the Commissioner's website, with a human population of less than 1,000 per square mile according to the Maryland Department of Planning.

(13) “Specialty provider” means a dentist who focuses on a specific area of dental care for a group of patients and is identified as a specialist by the Maryland State Board of Dental Examiners.

(14) “Suburban area” means a list of zip codes provided on the Commissioner’s website, with a human population equal to or more than 1,000 per square mile, but less than 3,000 per square mile according to the Maryland Department of Planning.

(15) “Telehealth” means:

(a) As it relates to the delivery of dental services, the use of interactive audio, video, or other telecommunications or electronic technology by a provider to deliver a dental service within the scope of practice of the provider at a location other than the location of the patient.

(b) “Telehealth” does not include:

- (i) An audio-only telephone conversation between a provider and a patient;
- (ii) An electronic mail message between a provider and a patient; or
- (iii) A facsimile transmission between a provider and a patient.

(16) “Urban area” means a list of zip codes provided on the Commissioner’s website, with a human population equal to or greater than 3,000 per square mile according to the Maryland Department of Planning.

(17) “Urgent care” means the treatment for a condition of an enrollee that satisfies either of the following:

(a) A dental condition that, in the absence of dental services within 72 hours, could reasonably be expected by an individual, acting on behalf of a carrier and applying the judgment of a prudent layperson who possesses an average knowledge of health and medicine, would result in:

- (i) Placing the enrollee’s life or dental health in serious jeopardy;
- (ii) The inability of the enrollee to regain maximum dental function;
- (iii) Serious impairment to the enrollee’s dental function; or
- (iv) Serious dysfunction of any bodily organ or part of the enrollee.

(b) A dental condition of an enrollee that, in the absence of dental services or treatment within 72 hours, would, in the opinion of a provider with knowledge of the enrollee’s condition, subject the enrollee to severe pain that cannot be adequately managed without the care or treatment.

(18) “Waiting time” means the time from the initial request for dental services by an enrollee or by the enrollee’s treating provider to the earliest date offered for the appointment for services.

.03 Travel Distance Standards.

A. Sufficiency Standards.

(1) Using the zip code list on the Maryland Insurance Administration’s website, each provider panel of a carrier shall have within the geographic area served by the carrier’s network or networks, sufficient dentists, including specialty dental providers, and facilities to meet the maximum travel distance standards listed in the chart in § A(2) of this regulation for each type of geographic area measured from the enrollee’s place of residence.

(2) Chart of Travel Distance Standards.

	Urban Area Maximum Distance (miles)	Suburban Area Maximum Distance (miles)	Rural Area Maximum Distance (miles)
<i>Provider Type:</i>			
<i>General Dentist</i>	15	30	60
<i>Endodontic</i>	30	45	75
<i>Orthodontics and Dentofacial Orthopedics</i>	30	45	75
<i>Oral and Maxillofacial Pathology</i>	30	45	75
<i>Oral and Maxillofacial Radiology</i>	30	45	75

	<i>Urban Area Maximum Distance (miles)</i>	<i>Suburban Area Maximum Distance (miles)</i>	<i>Rural Area Maximum Distance (miles)</i>
<i>Oral and Maxillofacial Surgery</i>	<i>30</i>	<i>45</i>	<i>75</i>
<i>Pediatric Dentistry</i>	<i>30</i>	<i>45</i>	<i>75</i>
<i>Periodontic</i>	<i>30</i>	<i>45</i>	<i>75</i>
<i>Prosthodontics</i>	<i>30</i>	<i>45</i>	<i>75</i>

B. Each provider panel of a carrier shall include at least 20 percent of the available essential community providers in each of the urban, rural, and suburban areas.

.04 Appointment Waiting Time Standards.

A. Sufficiency Standards.

(1) Subject to § B of this regulation, each carrier's provider panel shall meet the waiting time standards listed in § C of this regulation for at least 95 percent of the enrollees covered under dental plans that use that provider panel.

(2) When it is clinically appropriate and an enrollee elects to utilize a telehealth appointment, a carrier may consider that utilization as a part of its meeting the standards listed in § C of this regulation.

B. Preventive care services and periodic follow-up care may be scheduled in advance consistent with professionally recognized dental standards of practice as determined by the treating provider acting within the scope of the provider's license.

C. Chart of Waiting Time Standards.

<i>First Available Appointment Waiting Time Standards</i>	
<i>Urgent care</i>	<i>3 calendar days</i>
<i>General dentistry services</i>	<i>30 calendar days</i>
<i>Non-urgent specialty care</i>	<i>30 calendar days</i>

.05 Waiver Request Standards.

A. A carrier may apply for a dental network adequacy waiver, for up to one year, of a dental network adequacy requirement listed in this chapter.

B. The Commissioner may find good cause to grant the dental network adequacy waiver request if the carrier demonstrates that the providers necessary for an adequate network:

- (1) Are not available to contract with the carrier;*
- (2) Are not available in sufficient numbers;*
- (3) Have refused to contract with the carrier; or*
- (4) Are unable to reach agreement with the carrier.*

C. A carrier seeking a dental network adequacy waiver shall submit a written request to the Commissioner that includes the following information:

- (1) A description of any waiver previously granted by the Commissioner;*
- (2) A list of providers within the relevant service area that the carrier attempted to contract with, identified by name and specialty, if any, or facility type;*
- (3) A description of how and when the carrier last contacted the providers;*
- (4) A description of any reason each provider gave for refusing to contract with the carrier;*
- (5) Steps the carrier will take to attempt to improve its network to avoid future dental network adequacy waiver requests;*
- (6) If applicable, a statement that there are no providers available within the relevant service area for a covered service or services for which the carrier requests the waiver; and*
- (7) An attestation to the accuracy of the information contained in the dental network adequacy waiver request.*

D. A carrier submitting a dental network adequacy waiver request may submit a written request to the Commissioner that specific information included in the plan or request not be disclosed under the Public Information Act and shall:

- (1) Identify the particular information that the carrier requests not be disclosed; and*
- (2) Cite the statutory authority that permits denial of access to the information.*

E. The Commissioner may review a request made under § D of this regulation upon receipt of a request for access pursuant to the Public Information Act.

F. The Commissioner may notify the carrier that made a request under § D of this regulation before granting access to information that was the subject of the request.

.06 Dental Network Adequacy Executive Summary Form.

A. For each provider panel used by a carrier for a dental plan, the carrier shall provide the network sufficiency results for the dental plan service area as follows:

(1) Travel Distance Standards.

(a) List the percentage the carrier met of the standards listed in Regulation .03 of this chapter in the following format:

	Urban Area	Suburban Area	Rural Area
General dentist			
Specialty Provider			

(b) List the total number of essential community providers in the carrier's network.

(c) List the total percentage of essential community providers available in the dental benefit plan's service area that are participating providers.

(2) Appointment Waiting Time Standards.

(a) List the percentage the carrier met of the standards listed in Regulation .05 of this chapter of appointments by type of care, visits, or services, in the following format:

Appointment Waiting Time Standard Results	
Urgent care- within 3 calendar days	
Routine dental services- within 30 calendar days	
Non-urgent specialty care – within 30 calendar days	

(b) List the total percentage of telehealth appointments counted as part of the appointment waiting time standard results.

B. The dental network adequacy access plan executive summary form filed by a carrier pursuant to § A of this regulation is not confidential information.