

MARYLAND REGISTER

Emergency Action on Regulations

TO BE COMPLETED BY AELR COMMITTEE	EMERGENCY Transmittal Sheet	TO BE COMPLETED BY DSD
Date Received by AELR Committee		Date Filed with Division of State Documents
03/06/2020		Document Number
Emergency Status Approved		Date of Publication in MD Register
_ -Yes _ -No		
Emergency Status Begins On		
Emergency Status Ends On		
Name of AELR Committee Counsel		

1. COMAR Codification

Title Subtitle Chapter Regulation
 31 01 02 03, .06

2. Name of Promulgating Authority

Maryland Insurance Administration

3. Name of Regulations Coordinator Telephone Number
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5. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
- Repeal of Existing Regulations
- Incorporation by Reference of Documents Requiring DSD Approval

6. Date Requested for Emergency Status to Begin: 3/9/2020

Date Requested for Emergency Status to Expire: 9/5/2020

7. Agency Will Take the Following Action on These Regulations

- Promulgate them in accordance with State Government Article, §§ 10-101 -- 10-126
- Allow them to expire

8. Is there proposed text which is identical to emergency text:

- Yes - No

9. Check the following item if it is included in the attached document:

- 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.)

10. Reason for Request for Emergency Status

A new Coronavirus ("COVID-19") has been detected in humans, and cases have been confirmed in Maryland. Pursuant to Insurance Article Section 2-115, Annotated Code of Maryland, the Insurance Administration is adopting changes to COMAR 31.01.02 Emergency Powers to provide safeguards to consumers with respect to their dealings with entities licensed or registered to transact insurance business in the State now that the Governor has declared a State of Emergency. The adoption of these regulatory amendments are necessary to make certain that consumers do not have barriers to obtaining testing, diagnosis, and treatment of COVID-19. Specifically, the regulatory changes would prohibit insurance carriers from passing on co-payment, coinsurance, and deductible charges to consumers for the diagnosis, testing, laboratory fees, or vaccination for COVID-19.

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 J. Van Dorsey, Assistant Attorney General, (telephone #410-468-2023) on 03/06/2020. A signed copy of the approval is on file at this agency.

Name of Authorized Officer

Alfred W. Redmer, Jr.

Title

Insurance Commissioner

Date

03/06/2020

Telephone No.

410-468-2090

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 01 GENERAL PROVISIONS

31.01.02 Emergency Powers

Authority: Health-General Article, §19-706; Insurance Article, §2-115; Annotated
Code of Maryland

Notice of Emergency Action

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The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to COMAR 31.01.02 Emergency Powers.

Emergency status began:

Emergency status expires:

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The requirements in the proposed regulation for insurance carriers to waive cost-sharing and pay claims for specified medical services associated with COVID-19 will have a positive fiscal impact on consumers and a negative fiscal impact on insurance carriers. Consumers covered under health plans subject to regulation by the Commissioner will save money by having their share of costs waived for certain preventive, testing, diagnostic, and lab services for COVID-19, and potentially having their insurance coverage pay for new treatments for COVID-19 that would otherwise be denied as experimental. This will remove potential barriers for consumer to access these services. Conversely, insurance carriers will experience increased costs because they will not be permitted to deduct cost-sharing from their payment for these services, and may be required to pay certain claims for COVID-19 treatment that would otherwise be denied as experimental. The magnitude for these fiscal impacts is impossible to quantify at this time due to the variance in cost-sharing levels for the affected services under different plans, the variance in provider charges for these services, and the uncertainty about the number of consumers who will need to access these services. Employees of small businesses that have purchased insurance plans subject to regulation by the Commissioner will be eligible for the cost-sharing waivers, but otherwise, these proposed regulations will have no direct impact on small businesses.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
(1) Cost	(-)	Unknown
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	
(1) Cost reduction	(+)	Unknown

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

D(1). Insurance carriers will experience increased costs because they will not be permitted to deduct cost-sharing from their payments for these services, and may be required to pay certain claims for COVID-19 treatment that would otherwise be denied as experimental. The magnitude for these fiscal impacts is unknown due to the variance in cost-sharing levels for the affected services under different plans, the variance in provider charges for these services, and the uncertainty about the number of consumers who will need access to these services.

F(1). Consumers covered under health plans subject to regulation by the Maryland Insurance Administration will save money by having their share of costs waived for certain preventive, testing, diagnostic, and lab services for COVID-19 and potentially having their insurance coverage pay for new treatments for COVID-19 that would otherwise be denied as experimental.

Economic Impact on Small Businesses

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

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 20

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

No

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:

No additional funds are necessary to implement 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.

No additional funds are necessary to implement these regulations.

G. Response to small business worksheet:

Attached Document:

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 01 GENERAL PROVISIONS

Chapter 02 Emergency Powers

Authority: Health-General Article, §19-706; Insurance Article, §2-115; Annotated Code of Maryland

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) – (10) (text unchanged)

(11) *"Copayment" means a specified charge that a covered person shall pay each time services of a particular type or in a designated setting are received.*

(12) *"COVID-19" means, interchangeably and collectively, the coronavirus known as COVID-19 or 2019-nCoV and the SARS-CoV-2 virus.*

(13) *"Deductible" means the amount of allowable charges that shall be incurred by an individual or family per year before a carrier begins payment.*

[(11)] (14) – [(23)] (26) (text unchanged)

.06 Life and Health.

A. The bulletin issued by the Commissioner under Regulation .05 of this chapter may require health carriers to:

(1) – (4) (text unchanged)

(5) *Except as provided in §§J and K of this regulation, waive any cost-sharing, including co-payments, coinsurance and deductibles, for any visit to diagnose or test for COVID-19 regardless of the setting of the testing (for example emergency rooms, urgent care centers, and a primary physician's office);*

(6) *Except as provided in §§J and K of this regulation, waive any cost-sharing, including co-payments, coinsurance, and deductibles, for laboratory fees to diagnose or test for COVID-19; and*

(7) Except as provided in §§J and K of this regulation, waive any cost-sharing, including co-payments, coinsurance and deductibles, for vaccination for COVID-19.

B. – E. (text unchanged)

F. The Commissioner may require a health carrier to make a claims payment for treatment for COVID-19 that the health carrier has denied as experimental.

G. A health carrier shall evaluate a request to use an out of network provider to perform diagnostic testing of COVID-19 solely on the basis of whether the use of the out of network provider is medically necessary or appropriate.

H. The only prior authorization requirements a health carrier may utilize relating to testing for COVID-19 shall relate to the medical necessity of that testing.

I. An adverse decision on a request for coverage of diagnostic services for COVID-19 shall be considered an emergency case for which an expedited grievance procedure is required under Insurance Article, §15-10A-02, Annotated Code of Maryland.

J. The requirements of §§ A(5), (6), and (7) of this regulation do not apply to a Medicare supplement policy as defined by Insurance Article, §15-90I(k), Annotated Code of Maryland.

K. A carrier is not required to waive the deductible for an insured covered under a high deductible health plan, as defined in 26 U.S.C. § 223, if the waiver of the deductible would disqualify the plan from being considered a high deductible health plan under federal law.