

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

Name: Catherine E Grason
Agency: Maryland Insurance Administration
Address: 200 St. Paul Place, Suite 2700
State: MD
Zip: 21202
Phone: 410-468-2201
Email: Catherine.Grason@maryland.gov

In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 31.10.01.02-.03

COMAR Codification: 31.10.04.01, .02

COMAR Codification: 31.10.16.03

COMAR Codification: 31.10.19.00

COMAR Codification: 31.10.20.02

COMAR Codification: 31.10.24.00

COMAR Codification: 31.10.25.02, .04

COMAR Codification: 31.10.28.00

COMAR Codification: 31.10.37.00

Corresponding Federal Standard:

45 C.F.R 148.122(i), 45 C.F.R. 147.106(f)(1), 45 C.F.R. 156.270(d), and 45 C.F.R. 147.108

Discussion/Justification:

Amendments to Regulations .02 and .03 under 31.10.01 Health Insurance add new definitions for "grandfathered health plan coverage" and "nongrandfathered health plan coverage" and to comply with federal regulations, require at least 60 days' notice of renewal for individual grandfathered health benefit plans (45 C.F.R 148.122(i)) and require notice of renewal before the first day of the open enrollment period for individual non-

grandfathered health benefit plans (45 C.F.R. 147.106(f)(1)). THE CORRESPONDING FEDERAL STANDARDS CAN BE FOUND AT 45 C.F.R 148.122(j) and 45 C.F.R. 147.106(f)(1), RESPECTIVELY.

Amendments to Regulation .04C under 31.10.25 clarify that the current required text shall apply only to individuals who are not receiving advance payment of premium tax credits, and that contracts subject to the Affordable Care Act shall also contain the Grace Period referenced in §15-1315 of the Insurance Article for those individuals who are receiving advance payment of premium tax credits. THE CORRESPONDING FEDERAL STANDARDS CAN BE FOUND AT 45 C.F.R. 156.270(d).

Amendments to Regulation .04D under 31.10.25 prohibit an exclusion for an accident that occurs prior to reinstatement or a sickness that begins prior to 10 days after reinstatement, consistent with the Affordable Care Act's ban on pre-existing condition limitations. THE CORRESPONDING FEDERAL STANDARDS CAN BE FOUND AT 45 C.F.R. 147.108.

These amendments are required to ensure that Maryland law is consistent with the minimum requirements under federal law.

TO BE COMPLETED BY DBED

- Agree

-Disagree

Comments:

Commerce does not have subject matter expertise in this matter. However, we believe MIA does and trust their assertion that the proposed regulation is not more restrictive/stringent than a corresponding federal standard.

Name: Sandy Popp

Date: 11/12/2015

-Submit to Governor's Office

Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	11/12/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/28/2015

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
31	10	01	02-.03
31	10	04	01, .02
31	10	16	03
31	10	19	00
31	10	20	02
31	10	24	00
31	10	25	02, .04
31	10	28	00
31	10	37	00

3. Name of Promulgating Authority

Maryland Insurance Administration

4. Name of Regulations Coordinator

Catherine E Grason

Telephone Number

410-468-2201

Mailing Address

200 St. Paul Place, Suite 2700

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.01 Health Insurance

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.04 Health Insurance — Plan of Withdrawal

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.16 Carrier Provider Panels — Application Process

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.19 Independent Review Organizations and Medical Experts

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.20 Certification of HMO Medical Directors

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.24 Chapter 24 Discount Medical Plan Organizations and Discount Drug Plan Organizations

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.25 Chapter 25 Required Standard Provisions for Individual Nonprofit Health Service Plan Contracts

Subtitle 10 HEALTH INSURANCE — GENERAL

held pursuant to State Government Article, §10-506(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 J. Van Dorsey, Assistant Attorney General, (telephone #410-468-2023) on 11/9/15. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Alfred W. Redmer, Jr.

Title

Insurance Commissioner

Telephone No.

410-468-2090

Date

11-12-15

Statement of Purpose

The purpose of this action is to make changes to 31.10-Health Insurance-General consistent with the changes recommended in the Maryland Insurance Administration's Regulatory Review and Evaluation Act Report for COMAR 31.10. These proposed regulations:

- amend the enabling authority for 31.10.01 Health Insurance, 31.10.04 Health Insurance - Plan of Withdrawal, 31.10.19 Independent Review Organizations and Medical Experts, 31.10.20 Certification of HMO Medical Directors, 31.10.24 Discount Medical Plan Organizations and Discount Drug Plan Organizations, 31.10.28 Individual Health Insurance Contracts — Standard Provisions and Exclusions, and 31.10.37 Delivery of Policy or Certificate;
- amend Regulations .02 and .03 under 31.10.01 Health Insurance to add new definitions for “grandfathered health plan coverage” and “nongrandfathered health plan coverage” and to comply with federal regulations requiring at least 60 days’ notice of renewal for individual grandfathered health benefit plans (45 C.F.R 148.122(i)) and requiring notice of renewal before the first day of the open enrollment period for individual non-grandfathered health benefit plans (45 C.F.R. 147.106(f)(1));
- amend Regulations .01 and .02 under COMAR 31.10.04 Health Insurance - Plan of Withdrawal to clarify that this chapter does not apply to health benefit plans that are issued under Title 15, Subtitles 12, 13, or 14 of the Insurance Article, and to add a

definition of “health benefit plan”;

- amend Regulation .03 under COMAR 31.10.16 Carrier Provider Panels - Application Process to clarify that certain information in the application process for carrier provider panels is required only “if applicable”;
- repeal regulation .02 under COMAR 31.10.20 Certification of HMO Medical Directors as this Regulation provided a transition for those physicians who were acting as medical directors for HMOs before the effective date of this chapter. Since Regulation .02 applied only to physicians who were acting as medical directors before December 31, 1998, this regulation is no longer needed and should be repealed; and
- amend Regulations .02 and .04 under COMAR 31.10.25 Required Standard Provisions for Individual Nonprofit Health Service Plan Contracts. Amendments to Regulation .02 add a new definition of “health benefit plan.” Amendments to Regulation .04C clarify that the current required text shall apply only to individuals who are not receiving advance payment of premium tax credits, and that contracts subject to the Affordable Care Act shall also contain the Grace Period referenced in §15-1315 of the Insurance Article for those individuals who are receiving advance payment of premium tax credits. Amendments to Regulation .04D prohibit an exclusion for an accident that occurs prior to reinstatement or a sickness that begins prior to 10 days after reinstatement, consistent with the Affordable Care Act’s ban on pre-existing condition limitations.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

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 Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through January 27, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 16

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 required to implement these regulations.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

These regulations are largely technical and update regulations based upon existing federal law. Thus, no new costs will be incurred.

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 apply to insurance companies, which in Maryland, do not include small businesses.

G. Small Business Worksheet:

Attached Document:

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH INSURANCE — GENERAL

Chapter 01 Health Insurance

Authority: Insurance Article, §§2-109, 12-203, 12-205, 13-110(a), 13-111(b), 14-109(3)(iv), 14-126(a)(1), 14-405(b)(9), 14-410(c), 15-903, 15-904, 15-906—15-908, and 15-911; [Health-General Article, §19-713;] Annotated Code of Maryland

.02 Definition.

- A. (text unchanged)
- B. Terms Defined.
 - (1) (text unchanged)
 - (2) “*Grandfathered health plan coverage*” has the meaning stated in Insurance Article, §15-1301, Annotated Code of Maryland.
 - [(2)](3)—[(4)](5) (text unchanged)
 - (6) “*Nongrandfathered health plan coverage*” is a health benefit plan that is not grandfathered health plan coverage.
 - [(5)](7) (text unchanged)

.03 Filing of Health Insurance Forms for Approval.

- A.-R. (text unchanged)
- S. In any individual health benefit plan in which the carrier has the right to change premium rates, the health benefit plan shall provide that notice of any increase in premium rates shall be given to the policyholder by mail:
 - (1) For grandfathered health plan coverage, at least [45] 60 days before the change in premium rates is proposed to become effective; and
 - (2) For nongrandfathered health plan coverage, before the first day of the annual open enrollment period.
- T. (text unchanged)

Chapter 04 Health Insurance - Plan of Withdrawal

Authority: Insurance Article, §§2-109, [27-601, 27-603, and 27-604] 27-606, Annotated Code of Maryland

.01 Scope.

- A. This chapter applies to all insurers writing health insurance in this State.
- B. This chapter does not apply to [health insurance products] *health benefit plans issued under Insurance Article, Title 15, Subtitles 12, 13, or 14* [governed by Insurance Article, §15-1212], Annotated Code of Maryland.

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) “*Health benefit plan*” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.
 - [(1)](2)—[(2)](3) (text unchanged)

Chapter 16 Carrier Provider Panels - Application Process

Authority: Insurance Article, §§2-109 and 15-112, Annotated Code of Maryland

.03 Requirements for Application Process.

- A.-C. (text unchanged)
- D. A carrier shall maintain an application log which, at a minimum, provides the following information:
 - (1) Name of the provider requesting *or submitting* the application;
 - (2) Date the provider requested an application, *if applicable*;
 - (3) Date the application is sent or delivered to the provider, *if applicable*;
 - (4) Date the application is received from the provider;
 - (5) Date the application is returned to the provider with a request for additional information to complete the application, *if applicable*;
 - (6) Date of receipt by the carrier of an application previously returned for additional information, *if applicable*;
 - (7) Date that the provider is notified of:
 - (a) Rejection, or
 - (b) Carrier's intent to continue the credentialing process; and
 - (8) Date after completion of credentialing that the provider is notified of acceptance or rejection in the provider panel.
- E.-F. (text unchanged)

Chapter 19 Independent Review Organizations and Medical Experts

Authority: Insurance Article, §§2-109, 15-10A-05, and 15-10A-09, Annotated Code of Maryland[; Chapter 112, Acts of 1998]

Chapter 20 Certification of HMO Medical Directors

Authority: Insurance Article, §§2-109 and 15-10C-02, Annotated Code of Maryland[; Chapter 112, Acts of 1998]

[.02 Individuals Who Are Medical Directors on December 31, 1998.

An individual who is a medical director on or before December 31, 1998, shall:

A. Disclose to the Commissioner on or before January 15, 1999:

(1) That the individual is currently acting as a medical director for a health maintenance organization,
(2) The name, address, phone number, and facsimile number of the health maintenance organization, and the name of the governing authority of the health maintenance organization that the individual is employed by or contracted with as a medical director, and

(3) The date of hire; and

B. On or before March 1, 1999, file a completed application for a certificate.]

[.03] .02-[.07] .06 (text unchanged)

Chapter 24 Discount Medical Plan Organizations and Discount Drug Plan Organizations

Authority: [Health-General Article, §19-706(iii);] Insurance Article, §2-109 and Title 14, Subtitle 6; Annotated Code of Maryland

Chapter 25 Required Standard Provisions for Individual Nonprofit Health Service Plan Contracts

Authority: Insurance Article, §12-203(g), Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)-(2-1) (text unchanged)

(2-2) *“Health benefit plan” has the meaning stated in Insurance Article, §15-1301, Annotated Code of Maryland.*

(3)-(7) (text unchanged)

.04 Standard Provisions.

A.-C. (text unchanged)

C. Grace Period.

(1)-(2) (text unchanged)

(2-1) *The grace period provisions described in paragraphs (1) and (2) of this Section shall not apply to an individual contract that is a health benefit plan under which the subscriber is receiving advance payment of federal premium tax credits.*

(2-2) *If the individual contract is a health benefit plan under which the subscriber is receiving advance payment of federal premium tax credits, the individual contract shall contain the grace period provision required by Insurance Article, §15-1315, Annotated Code of Maryland.*

(3)-(5) (text unchanged)

D. Reinstatement.

(1) Each individual contract shall contain in substance the following provision: "Reinstatement: If any renewal premium is not paid in full within the time granted the subscriber for payment, a later acceptance of premium in full by the carrier or by any agent authorized by the carrier to accept the premium, without requiring a reinstatement application in connection with the acceptance of the premium in full, shall reinstate the contract. However, if the carrier or the agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the contract will be reinstated upon approval of the application by the carrier or, lacking approval, upon the forty-fifth day following the date of the conditional receipt unless the carrier has previously notified the subscriber in writing of its disapproval of the reinstatement application. [The reinstated contract shall cover only loss resulting from accidental injury sustained after the date of reinstatement and loss due to sickness that begins more than ten days after the date of reinstatement. In all other respects the] *The subscriber and carrier shall have the same rights under the reinstated contract as they had under the contract immediately before the due date of the defaulted premium, subject to any provisions endorsed on the contract or attached to the contract in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.*"

(2) (text unchanged)

(3) *The reinstatement provision of an individual contract that is not a health benefit plan may also include the following sentence: “The reinstated contract shall cover only loss resulting from accidental injury sustained after the date of reinstatement and loss due to sickness that first manifests itself more than ten days after the date of reinstatement.”*

E.—M. (text unchanged)

Chapter 28 Individual Health Insurance Contracts — Standard Provisions and Exclusions

Authority: Insurance Article, §§2-109, 12-203(g), and [12-209(4)] *12-205(b)(4)*, Annotated Code of Maryland

Chapter 37 Delivery of Policy or Certificate

Authority: Health-General Article, §§19-705(a)(2), [19-713,] and 19-729; Insurance Article, §§2-109(a)(1), 4-113, [12-107,] *and* 12-203, [12-209, 15-201, 15-412, 15-413, and 27-303]; Annotated Code of Maryland