
By: Delegates Rosenberg and Oaks

Introduced and read first time: February 1, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Medicaid Waiver - Managed Care**
3 **Organizations**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene under
5 certain circumstances to hire and train certain individuals receiving assistance under
6 the program of Aid to Families with Dependent Children to staff a certain program
7 involving the enrollment of Maryland Medical Assistance Program recipients into
8 certain managed care organizations; altering certain provisions of law related to the
9 Maryland Medical Assistance Program regarding a certain federal waiver and the
10 enrollment of Program recipients into certain managed care organizations; allowing
11 certain tax exempt managed care organizations to apply certain tax credits against
12 certain taxes withheld from the wages of employees and required to be paid to the
13 Comptroller under certain circumstances; providing that certain addition
14 modifications relating to certain tax credits do not apply to certain tax exempt
15 managed care organizations; altering certain definitions; providing for the
16 application of certain provisions of this Act; repealing and altering certain
17 contingency provisions related to the Program and a certain federal waiver; and
18 generally relating to the Maryland Medical Assistance Program and the enrollment
19 of Program recipients into certain managed care organizations and the hiring and
20 training of certain individuals by the Program and managed care organizations for
21 certain purposes.

22 BY repealing and reenacting, with amendments,
23 Article - Health - General
24 Section 15-101, 15-102.1(b), 15-103(b), and 15-121.3
25 Annotated Code of Maryland
26 (1994 Replacement Volume and 1995 Supplement)
27 (As enacted by Chapter 500 of the Acts of the General Assembly of 1995)

28 BY repealing and reenacting, with amendments,
29 Article - State Finance and Procurement
30 Section 11-101(n)
31 Annotated Code of Maryland
32 (1995 Replacement Volume and 1995 Supplement)
33 (As enacted by Chapter 500 of the Acts of the General Assembly of 1995)

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1 BY repealing and reenacting, without amendments,
2 Article 88A - Social Services Administration
3 Section 56(a)(1) and (4), (b), and (f)
4 Annotated Code of Maryland
5 (1995 Replacement Volume)
6 (As enacted by Chapter 500 of the Acts of the General Assembly of 1995)

7 BY repealing and reenacting, with amendments,
8 Article 88A - Social Services Administration
9 Section 56(a)(2) and (g)
10 Annotated Code of Maryland
11 (1995 Replacement Volume)
12 (As enacted by Chapter 500 of the Acts of the General Assembly of 1995)

13 BY repealing and reenacting, without amendments,
14 Article - Tax - General
15 Section 10-906(a)
16 Annotated Code of Maryland
17 (1988 Volume and 1995 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Tax - General
20 Section 10-704.3
21 Annotated Code of Maryland
22 (1988 Volume and 1995 Supplement)

23 BY repealing
24 Chapter 500 of the Acts of the General Assembly of 1995
25 Section 2, 3, and 4

26 BY repealing and reenacting, with amendments,
27 Chapter 500 of the Acts of the General Assembly of 1995
28 Section 5

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article - Health - General**

32 15-101.

33 (a) In this title the following words have the meanings indicated.

34 (b) "Facility" means a hospital or nursing facility including an intermediate care
35 facility, skilled nursing facility, comprehensive care facility, or extended care facility.

36 (c) "Managed care [plan] ORGANIZATION" means:

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1 (1) A certified health maintenance organization;

2 (2) A managed care system that is not a health maintenance organization
3 and does not hold a certificate of authority to operate as an insurer but is authorized
4 UNDER FEDERAL LAW OR WAIVER to receive MEDICAID prepaid capitation payments
5 AND IS subject to the regulatory solvency requirements, appropriate for the risk to be
6 assumed, adopted by the Insurance Commissioner in consultation with the Secretary; or

7 (3) A program that provides services to individuals under Title 7, Subtitle 3,
8 Title 7, Subtitle 7, § 8-204, Title 8, Subtitle 4, Title 10, Subtitle 9, or Title 10, Subtitle 12
9 of this article.

10 (d) "Program" means the Maryland Medical Assistance Program.

11 (e) "Program recipient" means an individual who receives benefits under the
12 Program.

13 15-102.1.

14 (b) The Department shall, to the extent permitted, subject to the limitations of
15 the State Budget and the availability of federal funds:

16 (1) Provide a comprehensive system of quality health care with an emphasis
17 on prevention, education, individualized care, and appropriate case management;

18 (2) Develop a prenatal care program for Program recipients and encourage
19 its utilization;

20 (3) Allocate State resources for the Program to provide a balanced system of
21 health care to the population served by the Program;

22 (4) Seek to coordinate the Program activities with other State programs and
23 initiatives that are necessary to address the health care needs of the population served by
24 the Program;

25 (5) Promote Program policies that facilitate access to and continuity of care
26 by encouraging:

27 (i) Provider availability throughout the State;

28 (ii) Consumer education;

29 (iii) The development of ongoing relationships between Program
30 recipients and primary health care providers; and

31 (iv) The regular review of the Program's regulations to determine
32 whether the administrative requirements of those regulations are unnecessarily
33 burdensome on Program providers;

34 (6) Strongly urge health care providers to participate in the Program and
35 thereby address the needs of Program recipients;

36 (7) Require health care providers who participate in the Program to provide
37 access to Program recipients on a nondiscriminatory basis in accordance with State and
38 federal law;

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1 (8) Seek to provide appropriate levels of reimbursement for providers to
2 encourage greater participation by providers in the Program;

3 (9) Promote individual responsibility for maintaining good health habits;

4 (10) Encourage the Program and Maryland's Health Care Regulatory System
5 to work to cooperatively promote the development of an appropriate mix of health care
6 providers, limit cost increases for the delivery of health care to Program recipients, and
7 insure the delivery of quality health care to Program recipients;

8 (11) Encourage the development and utilization of cost-effective and
9 preventive alternatives to the delivery of health care services to appropriate Program
10 recipients in inpatient institutional settings;

11 (12) Encourage the appropriate executive agencies to coordinate the
12 eligibility determination, policy, operations, and compliance components of the Program;

13 (13) Work with representatives of inpatient institutions, third party payors,
14 and the appropriate State agencies to contain Program costs;

15 (14) Identify and seek to develop an optimal mix of State, federal, and
16 privately financed health care services for Program recipients, within available resources
17 through cooperative interagency efforts;

18 (15) Develop joint legislative and executive branch strategies to persuade the
19 federal government to reconsider those policies that discourage the delivery of cost
20 effective health care to Program recipients;

21 (16) Evaluate departmental recommendations as to those persons whose
22 financial need or health care needs are most acute;

23 (17) Establish mechanisms for aggressively pursuing recoveries against third
24 parties permitted under current law and exploring additional methods for seeking to
25 recover other moneys expended by the Program; and

26 (18) Take appropriate measures to assure the quality of health care provided
27 by managed care [plans] ORGANIZATIONS.

28 15-103.

29 (b) (1) The Secretary may establish a program under which Program recipients
30 are required to enroll in managed care [plans] ORGANIZATIONS.

31 (2) A managed care [plan] ORGANIZATION shall:

32 (i) Have a quality assurance program in effect which is subject to the
33 approval of the Department;

34 (ii) Collect and submit to the Department service-specific data by
35 service type in a format to be established by the Department;

36 (iii) Promote timely access to and continuity of health care for Program
37 recipients;

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1 (iv) Develop special programs tailored to meet the individual health
2 care needs of Program recipients;

3 (v) Provide assistance to Program recipients in securing necessary
4 health care services;

5 (vi) Provide or assure alcohol and drug abuse treatment for substance
6 abusing pregnant women;

7 (vii) Educate Program recipients on health care prevention and good
8 health habits;

9 (viii) Assure necessary provider capacity in all geographic areas under
10 contract;

11 (ix) Be accountable for standards established by the Department and,
12 upon failure to meet those standards, be subject to a penalty up to and including
13 revocation of its Medicaid managed care contract; and

14 (x) Subject to applicable federal and State law, include incentives for
15 Program recipients to comply with provisions of the managed care [plan]
16 ORGANIZATION, and disincentives for failing to comply with provisions of the managed
17 care [plan] ORGANIZATION.

18 [(3) The Secretary shall ensure participation in the development of the
19 managed care program by the involvement of a broad-based steering committee including
20 legislative, consumer, and provider representation.]

21 [(4)] (3) The Secretary shall submit to the Senate Finance Committee and
22 House Environmental Matters Committee of the General Assembly for their review any
23 proposals developed under paragraph (1) of this subsection prior to requesting approval
24 by the U.S. Department of Health and Human Services under § 1115 of the Social
25 Security Act.

26 [(5)] (4) (i) The Secretary may exclude specific populations or services
27 from any program developed under paragraph (1) of this subsection.

28 (ii) The Secretary may establish a managed care program for any
29 population or service excluded under subparagraph (i) of this paragraph.

30 [(6)] (5) For a managed care [plan] ORGANIZATION with which the
31 Secretary contracts to provide services to Program recipients under this subsection, the
32 Secretary may require as a condition of that contract that the managed care [plan]
33 ORGANIZATION include, to the extent economically feasible, particular providers in
34 providing those services in the following circumstances:

35 (i) In areas that have been served historically by a community health
36 center, the Secretary may require a managed care [plan] ORGANIZATION to include
37 that community health center in its delivery of service to Program recipients who have
38 traditionally obtained health care services through that community health center;

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1 (ii) For providers with residency programs for the training of health
2 care professionals, the Secretary may require a managed care [plan] ORGANIZATION to
3 include those providers in its delivery of service to Program recipients; and

4 (iii) In other circumstances to meet particular needs of Program
5 recipients or the community being served as provided in regulations adopted by the
6 Secretary.

7 (6) IF THE DEPARTMENT DEVELOPS A PROGRAM FOR THE EDUCATION
8 AND ENROLLMENT OF PROGRAM RECIPIENTS INTO MANAGED CARE
9 ORGANIZATIONS, THE DEPARTMENT, TO THE EXTENT POSSIBLE, SHALL INCLUDE IN
10 THAT PROGRAM FOR STAFFING PURPOSES THE HIRING AND TRAINING OF
11 INDIVIDUALS RECEIVING ASSISTANCE UNDER THE PROGRAM OF AID TO FAMILIES
12 WITH DEPENDENT CHILDREN ESTABLISHED UNDER TITLE IV, PART A OF THE
13 SOCIAL SECURITY ACT.

14 15-121.3.

15 The Department may assign its right of subrogation under §§ 15-120, 15-121.1, and
16 15-121.2 of this article to a managed care [plan] ORGANIZATION.

17 **Article - State Finance and Procurement**

18 11-101.

19 (n) (1) "Procurement contract" means an agreement in any form entered into
20 by a unit for procurement.

21 (2) "Procurement contract" does not include:

22 (i) a collective bargaining agreement with an employee organization;

23 (ii) an agreement with a contractual employee, as defined in §
24 1-101(e) of the State Personnel and Pensions Article;

25 (iii) a Medicaid, Judicare, or similar reimbursement contract for which
26 law sets:

27 1. user or recipient eligibility; and

28 2. price payable by the State; or

29 (iv) a Medicaid contract with a managed care [plan]
30 ORGANIZATION, as defined in [§ 15-101(d)] § 15-101 of the Health - General Article, as
31 to which regulations adopted by the Department establish:

32 1. recipient eligibility;

33 2. minimum qualifications for managed care [plans]
34 ORGANIZATIONS; and

35 3. criteria for enrolling recipients in managed care [plans]
36 ORGANIZATIONS.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article 88A - Social Services Administration**

4 56.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) "Business entity" means:

7 (I) [a] A person conducting or operating a trade or business in
8 Maryland; OR

9 (II) A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15-101 OF
10 THE HEALTH - GENERAL ARTICLE, THAT IS EXEMPT FROM TAXATION UNDER §
11 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.

12 (4) (i) "Qualified employment opportunity employee" means an
13 individual who is a resident of Maryland and who for six months before the individual's
14 employment with a business entity was a Maryland resident and a recipient of benefits
15 from the State under the Aid to Families with Dependent Children Program.

16 (ii) "Qualified employment opportunity employee" does not include
17 an individual who is the spouse of, or has any of the relationships specified in § 152(a)(1)
18 through (8) of the Internal Revenue Code to, a person who controls, directly or indirectly,
19 more than 50% of the ownership of the business entity.

20 (b) (1) Except as provided in subsection (e) of this section, a business entity
21 may claim a tax credit in the amounts determined under subsections (c) and (d) of this
22 section for the wages and qualified child care expenses with respect to a qualified
23 employment opportunity employee that are paid in the taxable year for which the
24 business entity claims the credit.

25 (2) The same tax credit cannot be applied more than once against different
26 taxes by the same taxpayer.

27 (f) If the credit allowed under this section in any taxable year exceeds the total
28 tax otherwise payable by the business entity for that taxable year, a business entity may
29 apply the excess as a credit for succeeding taxable years until the earlier of:

30 (1) The full amount of the excess is used; or

31 (2) The expiration of the fifth taxable year after the taxable year in which
32 the wages or qualified child care expenses for which the credit is claimed are paid.

33 (g) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
34 IF a credit is claimed under this section, the claimant must make the addition required in
35 § 10-205 or § 10-306 of the Tax - General Article.

36 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A
37 MANAGED CARE ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
38 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.

1 **Article - Tax - General**

2 10-704.3.

3 (A) An individual or a corporation may claim a credit against the income tax for
4 wages paid to qualified employment opportunity employees and for child care provided or
5 paid for by a business entity for the children of a qualified employment opportunity
6 employee as provided under Article 88A, § 56 of the Code.

7 (B) A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15-101 OF THE
8 HEALTH - GENERAL ARTICLE, THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3)
9 OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER THIS
10 SECTION AS A CREDIT AGAINST INCOME TAX THAT THE ORGANIZATION HAS
11 WITHHELD FROM WAGES OF ITS EMPLOYEES AND IS REQUIRED TO PAY TO THE
12 COMPTROLLER UNDER § 10-906(A) OF THIS TITLE.

13 10-906.

14 (a) Except as provided in § 10-907 of this subtitle, each employer or payor shall:

15 (1) withhold the income tax required to be withheld under § 10-908 of this
16 subtitle; and

17 (2) pay to the Comptroller the income tax withheld for a period with the
18 withholding return that covers the period.

19 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
20 be applicable to all taxable years beginning after December 31, 1995, but before January
21 1, 2002; provided however, that:

22 (1) the tax credits allowed under Section 2 of this Act shall be allowed only
23 for employees hired on or after June 1, 1995, but before July 1, 1998; and

24 (2) any excess credits may be carried forward and, subject to the limitations
25 of, may be applied as a credit for taxable years beginning on or after January 1, 2002.

26 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
27 read as follows:

28 **Chapter 500 of the Acts of 1995**

29 [SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act may
30 not take effect until the beginning of the period covered by a waiver approved by the U.S.
31 Department of Health and Human Services under § 1115 of the Social Security Act and
32 shall be effective only for as long as the period covered under the waiver.]

33 [SECTION 3. AND BE IT FURTHER ENACTED, That if Section 1 of this Act
34 takes effect, the Secretary of Health and Mental Hygiene shall report to the Senate
35 Finance Committee and House Environmental Matters Committee of the General
36 Assembly on the effectiveness of this Act and the managed care plans in which program
37 recipients are enrolled under this Act. The Secretary shall submit the report to the
38 Committees no later than 1 year after the date Section 1 of this Act takes effect. The
39 report shall include information about the number of program recipients enrolled in
40 managed care plans, the quality assurance programs for the managed care plans, a

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1 comprehensive financial assessment of the management of care of program recipients in
2 the plans, the scope of program benefits, and the availability of special programs tailored
3 to meet the individual health care needs of program recipients.]

4 [SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act may
5 not take effect until the General Assembly gives legislative approval to the proposed plan
6 of the Secretary of Health and Mental Hygiene to implement the program to require
7 enrollment in managed care plans provided under this Act, including the feasibility of
8 expanding benefits to unserved individuals who are unable to afford health insurance or
9 long-term care, or to other populations.]

10 SECTION 5. AND BE IT FURTHER ENACTED, That[, subject to Sections 2 and
11 4 of this Act,] this Act shall take effect July 1, 1995.

12 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
13 this Act, this Act shall take effect July 1, 1996.