
By: Chairman, Environmental Matters Committee (Departmental - Health and Mental Hygiene)

Introduced and read first time: February 6, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Managed Care Organizations**

3 FOR the purpose of authorizing the Department of Health and Mental Hygiene to
4 require Program recipients to enroll in managed care organizations; authorizing the
5 Department to prohibit managed care organizations from enrolling Program
6 recipients; authorizing the Department to require managed care organizations to
7 include providers who have historically served Program recipients; defining certain
8 terms; and generally relating to eligibility and managed care organizations under
9 the Maryland Medical Assistance Program.

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 15-101, 15-102(a), 15-102.1, 15-103(a)and (b), and 15-121.3
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1995 Supplement)
15 (As enacted by Chapter 500 of the Acts of the General Assembly of 1995)

16 BY repealing and reenacting, with amendments,
17 Article - State Finance and Procurement
18 Section 11-101(n)
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1995 Supplement)
21 (As enacted by Chapter 500 of the Acts of the General Assembly of 1995)

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

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

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1 Preamble

2 WHEREAS, The Secretary of Health and Mental Hygiene has conducted an
3 extensive and lengthy public process in which members of a broad-based steering
4 committee, legislators, consumers, providers, and others have had an opportunity to
5 significantly influence the development of a proposal for mandatory enrollment of
6 Medicaid recipients in managed care organizations; and

7 WHEREAS, After taking into consideration the opinions and comments of
8 legislators, the steering committee, and members of the public, the Secretary has
9 prepared a proposal to enroll Medicaid recipients in managed care organizations which
10 he has submitted to the General Assembly for review and approval; and

11 WHEREAS, The General Assembly wishes to express its approval of the
12 Secretary's proposal by enacting this legislation which will authorize the Secretary to
13 implement said proposal; and

14 WHEREAS, More than 120,000 Maryland Medical Assistance recipients or more
15 than 25% of the total Medical Assistance population have voluntarily enrolled in health
16 maintenance organizations; and

17 WHEREAS, The General Assembly recognizes that federal spending caps for
18 Medicaid are likely at some time in the future and that State tax revenues cannot support
19 the high growth rates of the Medicaid Program in the past few years; and

20 WHEREAS, Placing Medicaid recipients in managed care organizations and
21 capitating payments to those organizations will enable the State to meet spending caps
22 which may be imposed by the federal government and to slow the rapid growth of the
23 Medicaid Program; and

24 WHEREAS, The Secretary should have sufficient flexibility to modify his
25 innovative managed care program as necessary during implementation so as to obtain the
26 greatest amount of savings while assuring quality of care and access to services; and

27 WHEREAS, The General Assembly recognizes the successes of the all-payor
28 rate-setting system in the areas of cost containment, financial access, and equity and
29 intends that the new system will support and complement the existing rate-setting system;
30 now, therefore,

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

33 **Article - Health - General**

34 15-101.

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

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

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

39 (1) A certified health maintenance organization;

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

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

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

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

12 15-102.

13 (a) Subject to the limitations of the State budget [and the availability of federal
14 funds], the Department shall provide preventive and home care services for indigent and
15 medically indigent individuals.

16 15-102.1.

17 (a) The General Assembly finds that it is a goal of this State to promote the
18 development of a health care system that provides adequate and appropriate health care
19 SERVICES to indigent and medically indigent individuals.

20 (b) The Department shall, to the extent permitted, subject to the limitations of
21 the State budget [and the availability of federal funds]:

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

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

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

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

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

34 (i) Provider availability throughout the State;

35 (ii) Consumer education;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 15-103.

37 (a) (1) The Secretary shall administer the Maryland Medical Assistance
38 Program.

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1 (2) The Program:

2 (i) Subject to the limitations of the State budget [and the availability
3 of federal funds], shall provide comprehensive medical and other healthcare SERVICES
4 for indigent individuals or medically indigent individuals or both;

5 (ii) Shall provide, subject to the limitations of the State budget [and
6 the availability of federal funds], comprehensive medical and other health care
7 SERVICES for all QUALIFYING pregnant women and, at a minimum, all children
8 currently under the age of 1 whose family income falls below 185 percent of the poverty
9 level, as permitted by the federal law;

10 (iii) Shall provide, subject to the limitations of the State budget, family
11 planning [service] SERVICES to women currently eligible for comprehensive medical
12 care and other health care under item (ii) of this paragraph for 5 years after the second
13 month following the month in which the woman delivers her child;

14 (iv) Shall provide, subject to the limitations of the State budget [and
15 the availability of federal funds], comprehensive medical and other health care
16 SERVICES for all children from the age of 1 year up through and including the age of 5
17 years whose family income falls below 133 percent of the poverty level, as permitted by
18 the federal law;

19 (v) Shall provide, subject to the limitations of the State budget [and
20 the availability of federal funds], comprehensive medical care and other health care
21 SERVICES for all children born after September 30, 1983 who are at least 6 years of age
22 but are under 19 years of age whose family income falls below 100 percent of the poverty
23 level, as permitted by federal law; [and]

24 (VI) MAY PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE
25 BUDGET AND AS PERMITTED BY FEDERAL LAW OR WAIVER, GUARANTEED
26 ELIGIBILITY FOR A PERIOD NOT TO EXCEED 6 MONTHS; AND

27 [(vi)] (VII) May include bedside nursing care for eligible Program
28 recipients.

29 (3) Subject to restrictions in federal law or waivers, the Department may
30 impose cost-sharing on Program recipients.

31 (b) (1) [The] AS PERMITTED BY FEDERAL LAW OR WAIVER, THE Secretary
32 may establish a program under which Program recipients are required to enroll in
33 managed care [plans] ORGANIZATIONS.

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

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

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

39 (iii) Promote timely access to and continuity of health care SERVICES
40 for Program 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].

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) The Secretary shall submit to the Senate Finance Committee and House
22 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 (3) THE SECRETARY MAY PROHIBIT MANAGED CARE ORGANIZATIONS
27 FROM ENROLLING PROGRAM RECIPIENTS.

28 [(5)] (4) (i) The Secretary may exclude specific populations or services
29 from any program developed under paragraph (1) of this subsection.

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

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

37 (i) In areas that have been served historically by a community health
38 center, the Secretary may require a managed care plan to include that community health
39 center in its delivery of service to Program recipients who have traditionally obtained
40 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 to include those
3 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.] PROVIDERS WHO HAVE HISTORICALLY SERVED PROGRAM RECIPIENTS,
7 IN ACCORDANCE WITH REGULATIONS ISSUED BY THE SECRETARY.

8 15-121.3.

9 The Department may assign its right of subrogation under §§ 15-120, 15-121.1, and
10 15-121.2 of this article to a managed care [plan] ORGANIZATION.

11 **Article - State Finance and Procurement**

12 11-101.

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

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

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

17 (ii) an agreement with a contractual employee, as defined in §
18 1-101(e) of the State Personnel and Pensions Article;

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

21 1. user or recipient eligibility; and

22 2. price payable by the State; or

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

26 1. recipient eligibility;

27 2. minimum qualifications for managed care [plans]

28 ORGANIZATIONS; and

29 3. criteria for enrolling recipients in managed care [plans]

30 ORGANIZATIONS.

31 **Chapter 500 of the Acts of 1995**

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

1 [SECTION 3. AND BE IT FURTHER ENACTED, That if Section 1 of this Act
2 takes effect, the Secretary of Health and Mental Hygiene shall report to the Senate
3 Finance Committee and House Environmental Matters Committee of the General
4 Assembly on the effectiveness of this Act and the managed care plans in which program
5 recipients are enrolled under this Act. The Secretary shall submit the report to the
6 Committees no later than 1 year after the date Section 1 of this Act takes effect. The
7 report shall include information about the number of program recipients enrolled in
8 managed care plans, the quality assurance programs for the managed care plans, a
9 comprehensive financial assessment of the management of care of program recipients in
10 the plans, the scope of program benefits, and the availability of special programs tailored
11 to meet the individual health care needs of program recipients.]

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Health
21 and Mental Hygiene shall appear before the Senate Finance Committee and House
22 Environmental Matters Committee of the General Assembly to report on the
23 implementation of the Secretary's mandatory managed care program on a quarterly basis
24 until 2 years after the Program is first implemented. No later than 1 year after the
25 implementation date of the program, the Secretary shall submit a written report to the
26 Committees which shall include information about the number of Program recipients
27 enrolled in managed care organizations, the quality assurance programs for the managed
28 care organizations, a comprehensive financial assessment of the management of care of
29 Program recipients in the organizations, the scope of Program benefits, and the
30 availability of special programs tailored to meet the individual healthcare needs of
31 Program recipients.

32 SECTION 3. AND BE IT FURTHER ENACTED, That no later than 15 days prior
33 to submitting any proposed regulations implementing the Secretary's mandatory managed
34 care program to the AELR Committee for review, the Secretary shall submit the
35 proposed regulations to the Senate Finance Committee and the House Environmental
36 Matters Committee of the General Assembly.

37 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 July 1, 1996.