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**By: Chairman, Finance Committee (Departmental - Health and Mental Hygiene)**

Introduced and read first time: February 15, 1996

Rule 32(b) suspended

Assigned to: Finance

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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.