
By: **Delegates Elliott, Sophocleus, and Bozman**
Introduced and read first time: February 11, 2000
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Equitable Reimbursement for Prescription Drugs**

3 FOR the purpose of requiring that certain insurers and certain managed care
4 providers provide equitable coverage for mail order prescription drugs and
5 nonmail order prescription drugs; prohibiting insurers and managed care plans
6 from providing monetary incentives for accepting less than the minimum
7 protection available to enrollees under the policy or plan coverage; requiring
8 that the Secretary of Health and Mental Hygiene and the Insurance
9 Commissioner adopt regulations to implement this Act; defining certain terms;
10 and generally relating to the equitable provision of mail order and nonmail
11 order prescription drugs by certain managed care plans and insurers.

12 BY repealing and reenacting, with amendments,
13 Article - Health - General
14 Section 15-101 and 15-105
15 Annotated Code of Maryland
16 (1994 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Health - General
19 Section 19-713.3
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1999 Supplement)

22 BY adding to
23 Article - Insurance
24 Section 15-715
25 Annotated Code of Maryland
26 (1997 Volume and 1999 Supplement)

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

1 **Article - Health - General**

2 15-101.

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

4 (a-1) "Dental managed care organization" means a pre-paid dental plan that
5 receives fees to manage dental services.6 (a-2) "Dental services" means diagnostic, emergency, preventive, and
7 therapeutic services for oral diseases.8 (b) "Enrollee" means a program recipient who is enrolled in a managed care
9 organization.10 (c) "Facility" means a hospital or nursing facility including an intermediate
11 care facility, skilled nursing facility, comprehensive care facility, or extended care
12 facility.13 (d) "Foundation" means the Maryland Health Care Foundation established
14 under Title 20, Subtitle 5 of this article.15 (e) (1) "Historic provider" means a health care provider, as defined in §
16 19-133 of this article, or a residential service agency licensed under Title 19, Subtitle
17 4A of this article, that, on or before June 30, 1995, had a demonstrated history of
18 providing services to program recipients, as defined by the Department in
19 regulations.20 (2) "Historic provider", to the extent the provider meets the
21 requirements in paragraph (1) of this subsection, shall include:

22 (i) A federal or State qualified community health center;

23 (ii) A provider with a program for the training of health care
24 professionals, including an academic medical center;25 (iii) A hospital outpatient program, physician, or advanced practice
26 nurse that is a Maryland Access to Care (MAC) provider;

27 (iv) A local health department;

28 (v) A hospice, as defined in Title 19, Subtitle 9 of this article;

29 (vi) A pharmacy; and

30 (vii) Any other historic provider designated in accordance with
31 regulations adopted by the Department.32 (F) "MAIL ORDER PRESCRIPTION DRUG COVERAGE" MEANS THE PROVIDING
33 OF PRESCRIPTION DRUG BENEFITS FOR PRESCRIPTION DRUGS THAT ARE

1 DELIVERED DIRECTLY TO THE SUBSCRIBER OR ENROLLEE THROUGH THE MAIL OR
2 BY SIMILAR MEANS.

3 [(f)] (G) "Managed care organization" means:

4 (1) A certified health maintenance organization that is authorized to
5 receive medical assistance prepaid capitation payments; or

6 (2) A corporation that:

7 (i) Is a managed care system that is authorized to receive medical
8 assistance prepaid capitation payments;

9 (ii) Enrolls only program recipients or individuals or families
10 served under the Children and Families Health Care Program; and

11 (iii) Is subject to the requirements of § 15-102.4 of this title.

12 (H) "NONMAIL ORDER PRESCRIPTION DRUG COVERAGE" MEANS THE
13 PROVIDING OF PRESCRIPTION DRUG BENEFITS FOR PRESCRIPTION DRUGS THAT ARE
14 OBTAINED THROUGH ONE OR MORE LOCAL PHARMACIES THAT ARE LOCATED
15 WITHIN:

16 (1) 5 MILES OF THE RESIDENCE OF THE ENROLLEE IN AN URBAN AREA;
17 OR

18 (2) 10 MILES OF THE RESIDENCE OF THE ENROLLEE IN A RURAL AREA.

19 [(g)] (I) "Ombudsman program" means a program that assists enrollees in
20 resolving disputes with managed care organizations in a timely manner and that is
21 responsible, at a minimum, for the following functions:

22 (1) Investigating disputes between enrollees and managed care
23 organizations referred by the enrollee hotline;

24 (2) Reporting to the Department:

25 (i) The resolution of all disputes;

26 (ii) A managed care organization's failure to meet the Department's
27 requirements; and

28 (iii) Any other information specified by the Department;

29 (3) Educating enrollees about:

30 (i) The services provided by the enrollee's managed care
31 organization; and

32 (ii) The enrollee's rights and responsibilities in receiving services
33 from the managed care organization; and

1 (4) Advocating on behalf of the enrollee before the managed care
2 organization, including assisting the enrollee in using the managed care
3 organization's grievance process.

4 [(h)] (J) "Primary mental health services" means the clinical evaluation and
5 assessment of services needed by an individual and the provision of services or
6 referral for additional services as deemed medically appropriate by a primary care
7 provider.

8 [(i)] (K) "Program" means the Maryland Medical Assistance Program.

9 [(j)] (L) "Program recipient" means an individual who receives benefits under
10 the Program.

11 [(k)] (M) "Specialty mental health services" means any mental health services
12 other than primary mental health services.

13 15-105.

14 (a) The Department shall adopt rules and regulations for the reimbursement
15 of providers under the Program. However, except for an invoice that must be
16 submitted to a Medicare intermediary or Medicare carrier for an individual who may
17 have both Medicare and Medicaid coverage, payment may not be made for an invoice
18 that is received more than 1 year after the dates of the services given.

19 (b) A provider who fails to submit an invoice within the required time may not
20 recover the amount later from the Program recipient.

21 (c) (1) The Department shall adopt regulations for the reimbursement of
22 specialty outpatient treatment and diagnostic services rendered to Program
23 recipients at a freestanding clinic owned and operated by a hospital that is under a
24 capitation agreement approved by the Health Services Cost Review Commission.

25 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the
26 reimbursement rate under paragraph (1) of this subsection shall be set according to
27 Medicare standards and principles for retrospective cost reimbursement as described
28 in 42 CFR Part 413 or on the basis of charges, whichever is less.

29 (ii) The reimbursement rate for a hospital that has transferred
30 outpatient oncology, diagnostic, rehabilitative, and digestive disease services to an
31 off-site facility prior to January 1, 1999 shall be set according to the rates approved
32 by the Health Services Cost Review Commission if:

33 1. The transfer of services was due to zoning restrictions at
34 the hospital campus;

35 2. The off-site facility is surveyed as part of the hospital for
36 purposes of accreditation by the Joint Commission on the Accreditation of HealthCare
37 Organizations; and

1 3. The hospital notifies the Health Services Cost Review
2 Commission in writing by July 1, 1999 that the hospital would like the services
3 provided at the off-site facility subject to Title 19, Subtitle 2 of the Health - General
4 Article.

5 (D) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR EQUITABLE
6 COVERAGE FOR PRESCRIPTION DRUG COVERAGE THAT ALLOWS AN ENROLLEE OR
7 INSURED TO RECEIVE PRESCRIPTION BENEFITS BY MAIL OR NONMAIL ORDER.

8 (2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS
9 SUBSECTION SHALL REQUIRE THAT A PROVIDER OF PRESCRIPTION DRUG COVERAGE
10 SHALL:

11 (I) OFFER THE SAME BENEFITS UNDER MAIL ORDER
12 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
13 COVERAGE;

14 (II) IMPOSE ANY DEDUCTIBLE OR COST SHARING EQUALLY IN MAIL
15 ORDER PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
16 COVERAGE; AND

17 (III) PROVIDE EQUAL REIMBURSEMENT FOR MAIL ORDER
18 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
19 COVERAGE.

20 (3) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS
21 SUBSECTION ALSO SHALL PROVIDE THAT A GROUP HEALTH PLAN, INSURER, OR
22 PROVIDER-SPONSORED PLAN OFFERING PRESCRIPTION DRUG BENEFITS MAY NOT
23 PROVIDE MONETARY PAYMENTS TO A SUBSCRIBER OR ENROLLEE TO ENCOURAGE
24 THE INDIVIDUAL TO ACCEPT LESS THAN THE MINIMUM PROTECTION PROVIDED
25 UNDER THE PLAN OR POLICY OF INSURANCE.

26 [(d)] (E) This section has no effect if its operation would cause this State to
27 lose any federal funds.

28 19-713.3.

29 (a) (1) In this section[,], THE FOLLOWING WORDS HAVE THE MEANINGS
30 INDICATED.

31 (2) ["health] "HEALTH maintenance organization" or "HMO" includes
32 any agent of a health maintenance organization.

33 (3) "MAIL ORDER PRESCRIPTION DRUG COVERAGE" MEANS THE
34 PROVIDING OF PRESCRIPTION DRUG BENEFITS FOR PRESCRIPTION DRUGS THAT ARE
35 DELIVERED DIRECTLY TO THE SUBSCRIBER OR ENROLLEE THROUGH THE MAIL OR
36 BY SIMILAR MEANS.

37 (4) "NONMAIL ORDER PRESCRIPTION DRUG COVERAGE" MEANS THE
38 PROVIDING OF PRESCRIPTION DRUG BENEFITS FOR PRESCRIPTION DRUGS THAT ARE

1 OBTAINED THROUGH ONE OR MORE LOCAL PHARMACIES THAT ARE LOCATED
2 WITHIN:

3 (I) 5 MILES OF THE RESIDENCE OF THE ENROLLEE IN AN URBAN
4 AREA; OR

5 (II) 10 MILES OF THE RESIDENCE OF THE ENROLLEE IN A RURAL
6 AREA.

7 (b) (1) A health maintenance organization that issues a request for proposal,
8 including changes in terms to an existing contract to provide pharmaceutical services,
9 shall notify the Maryland Pharmacists Association of the request for proposal to
10 provide pharmaceutical services within 10 days after issuing that request.

11 (2) The Maryland Pharmacists Association may inform licensed
12 pharmacists of the request.

13 (c) A health maintenance organization may not charge a fee for processing or
14 accepting an application to provide pharmaceutical services.

15 (D) (1) A HEALTH MAINTENANCE ORGANIZATION THAT HAS CONTRACTED
16 TO PROVIDE PHARMACY SERVICES SHALL PROVIDE BOTH MAIL ORDER
17 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
18 COVERAGE.

19 (2) A HEALTH MAINTENANCE ORGANIZATION SHALL:

20 (I) OFFER THE SAME BENEFITS UNDER MAIL ORDER
21 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
22 COVERAGE;

23 (II) IMPOSE ANY DEDUCTIBLE OR COST SHARING EQUALLY IN MAIL
24 ORDER PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
25 COVERAGE; AND

26 (III) PROVIDE EQUAL REIMBURSEMENT FOR MAIL ORDER
27 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
28 COVERAGE.

29 (3) A HEALTH MAINTENANCE ORGANIZATION OFFERING PRESCRIPTION
30 DRUG BENEFITS MAY NOT PROVIDE MONETARY PAYMENTS TO A SUBSCRIBER OR
31 ENROLLEE TO ENCOURAGE THE SUBSCRIBER OR ENROLLEE TO ACCEPT LESS THAN
32 THE MINIMUM PROTECTION PROVIDED UNDER THE HEALTH MAINTENANCE
33 ORGANIZATION'S COVERAGE.

34 [(d)] (E) [This] EXCEPT FOR THE RESTRICTIONS CONTAINED IN SUBSECTION
35 (D) OF THIS SECTION, THIS section does not apply to a health maintenance
36 organization if the health maintenance organization provides pharmaceutical
37 services from a pharmacy that is:

- 1 (1) Located on the site of the health maintenance organization; and
2 (2) Wholly owned and operated by the health maintenance organization.

3 (F) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE EQUITABLE
4 PROVISION OF PRESCRIPTION DRUGS UNDER SUBSECTION (D) OF THIS SECTION.

5 **Article - Insurance**

6 15-715.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "MAIL ORDER PRESCRIPTION DRUG COVERAGE" MEANS THE
10 PROVIDING OF PRESCRIPTION DRUG BENEFITS FOR PRESCRIPTION DRUGS THAT ARE
11 DELIVERED DIRECTLY TO THE SUBSCRIBER OR ENROLLEE THROUGH THE MAIL OR
12 BY SIMILAR MEANS.

13 (3) "NONMAIL ORDER PRESCRIPTION DRUG COVERAGE" MEANS THE
14 PROVIDING OF PRESCRIPTION DRUG BENEFITS FOR PRESCRIPTION DRUGS THAT ARE
15 OBTAINED THROUGH ONE OR MORE LOCAL PHARMACIES THAT ARE LOCATED
16 WITHIN:

17 (I) 5 MILES OF THE RESIDENCE OF THE ENROLLEE IN AN URBAN
18 AREA; OR

19 (II) 10 MILES OF THE RESIDENCE OF THE ENROLLEE IN A RURAL
20 AREA.

21 (B) THIS SECTION APPLIES TO EACH INDIVIDUAL, GROUP, OR BLANKET
22 HEALTH INSURANCE POLICY, CONTRACT, CERTIFICATE, OR NONPROFIT HEALTH
23 SERVICE PLAN THAT PROVIDES REIMBURSEMENT FOR PRESCRIPTION DRUG
24 COVERAGE AND THAT:

25 (1) IS ISSUED OR DELIVERED IN THE STATE;

26 (2) IS ISSUED TO A GROUP THAT IS INCORPORATED OR HAS A MAIN
27 OFFICE IN THE STATE; OR

28 (3) COVERS INDIVIDUALS WHO RESIDE OR WORK IN THE STATE.

29 (C) (1) AN INSURER COVERED UNDER THIS SECTION THAT HAS
30 CONTRACTED TO PROVIDE PHARMACY SERVICES SHALL PROVIDE BOTH MAIL ORDER
31 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
32 COVERAGE.

33 (2) AN INSURER COVERED UNDER THIS SECTION SHALL:

1 (I) OFFER THE SAME BENEFITS UNDER MAIL ORDER
2 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
3 COVERAGE;

4 (II) IMPOSE ANY DEDUCTIBLE OR COST SHARING EQUALLY IN MAIL
5 ORDER PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
6 COVERAGE; AND

7 (III) PROVIDE EQUAL REIMBURSEMENT FOR MAIL ORDER
8 PRESCRIPTION DRUG COVERAGE AND NONMAIL ORDER PRESCRIPTION DRUG
9 COVERAGE.

10 (3) AN INSURER COVERED UNDER THIS SECTION THAT OFFERS
11 PRESCRIPTION DRUG BENEFITS MAY NOT PROVIDE MONETARY PAYMENTS TO AN
12 INSURED OR ENROLLEE TO ENCOURAGE THE INDIVIDUAL TO ACCEPT LESS THAN
13 THE MINIMUM PROTECTION PROVIDED BY THE POLICY, CONTRACT, OR CERTIFICATE.

14 (4) THE COMMISSIONER SHALL ADOPT REGULATIONS FOR THE
15 EQUITABLE PROVISION OF AND REIMBURSEMENT FOR PRESCRIPTION DRUGS UNDER
16 THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2000.