

ENROLLED BILL

-- Health and Government Operations/Finance --

Introduced by ~~Delegate Hubbard~~ **Delegates Hubbard, Nathan-Pulliam, Frank, Benson, Boteler, Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater, Hammen, Hurson, Kullen, Mandel, McDonough, Morhaim, Murray, Oaks, Pendergrass, Rudolph, V. Turner, and Weldon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Medical Loss Ratio – ~~Appeals and~~ Quality of Care**
3

4 FOR the purpose of authorizing a managed care organization or a certified health
5 maintenance organization to appeal a certain ~~decisions~~ *decision* of the Secretary
6 of Health and Mental Hygiene ~~that adjust capitation payments based on a~~
7 ~~certain medical loss ratio; under certain circumstances; authorizing a managed~~
8 ~~care organization to take a certain appeal under the Administrative Procedure~~
9 ~~Act under certain circumstances; and generally relating to the Maryland Medical~~
10 ~~Assistance Program and medical loss ratio~~ requiring the Secretary to adopt
11 certain regulations prior to making a certain adjustment to capitation
12 payments; requiring the Secretary, in consultation with the Maryland Insurance
13 Commissioner, to adopt regulations that establish a certain definition and
14 certain procedures, standards, and data collection and reporting requirements

1 for the adjustment of capitation payments; authorizing the Secretary to modify,
2 enhance, or replace the Value Based Purchasing Initiative in effect on a certain
3 date, subject to certain conditions; and generally relating to the Maryland
4 Medical Assistance Program, medical loss ratio, and quality of care.

5 BY repealing and reenacting, without amendments,
6 Article - Insurance
7 Section 15-605(c)(5), (c)(6), and (c)(7)
8 Annotated Code of Maryland
9 (2002 Replacement Volume and 2004 Supplement)

10 BY adding to
11 Article - Insurance
12 Section 15-605(c)(8)
13 Annotated Code of Maryland
14 (2002 Replacement Volume and 2004 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Health - General
17 Section 2-207
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2004 Supplement)

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

22 **Article - Insurance**

23 15-605.

24 (c) (5) The Secretary of Health and Mental Hygiene, in consultation with
25 the Commissioner and in accordance with their memorandum of understanding, may
26 adjust capitation payments for a managed care organization or for the Maryland
27 Medical Assistance Program of a managed care organization that is a certified health
28 maintenance organization:

29 (i) if the loss ratio is less than 80% during calendar year 1997; and

30 (ii) during each subsequent calendar year if the loss ratio is less
31 than 85%.

32 (6) A loss ratio reported under paragraph (5) of this subsection shall be
33 calculated separately and may not be part of another loss ratio reported under this
34 section.

35 (7) Any rebate received by a managed care organization may not be
36 considered part of the loss ratio of the managed care organization.

1 (8) IF THE SECRETARY OF HEALTH AND MENTAL HYGIENE ADJUSTS
2 CAPITATION PAYMENTS FOR A MANAGED CARE ORGANIZATION OR A CERTIFIED
3 HEALTH MAINTENANCE ORGANIZATION UNDER PARAGRAPH (5) OF THIS
4 SUBSECTION, THE MANAGED CARE ORGANIZATION OR CERTIFIED HEALTH
5 MAINTENANCE ORGANIZATION MAY:

6 (I) APPEAL ~~THAT~~ THE DECISION OF THE SECRETARY TO THE
7 BOARD OF REVIEW ESTABLISHED UNDER TITLE 2, SUBTITLE 2 OF THE HEALTH -
8 GENERAL ARTICLE; AND

9 (II) TAKE ANY FURTHER APPEAL ALLOWED BY THE
10 ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE STATE
11 GOVERNMENT ARTICLE.

12 Article - Health - General

13 2-207.

14 (a) If any person is aggrieved by any decision, action, or inaction on the part of
15 the Secretary or of any unit in the Department for which an appeal to the Board is
16 provided by this subtitle, that person is entitled to appeal as provided in this section.

17 (b) Except as provided in subsection (e)(2) of this section, before beginning an
18 appeal, the person aggrieved shall make known the basis of the complaint to the
19 individual responsible for the decision, action, or inaction complained of, together
20 with a request for review. If, within 30 days after the request, a resolution
21 satisfactory to the complainant does not occur, the complainant may file a statement
22 of complaint in accordance with subsection (c) of this section.

23 (c) The complainant shall file a detailed written statement of the complaint
24 and all relevant facts and circumstances with the chief executive officer of the
25 Department or unit in the Department to which application for review is made. If
26 there is no chief executive officer, the statement may be filed with any member of the
27 unit's governing body. The complaint shall be acknowledged promptly in writing, and
28 a copy of the complaint and acknowledgment shall be sent to the Secretary.

29 (d) (1) The Department or unit then shall investigate the complaint. Subject
30 to extensions of time to which the parties may agree, the Department or unit shall
31 give a written decision and send a copy of it to the complainant within 30 days after
32 the filing of the complaint.

33 (2) A record shall be kept of each complaint and its disposition. The
34 record shall be open to public inspection during regular business hours.

35 (e) (1) If the matter is one for which an appeal to the Board is provided by
36 this subtitle, a complainant aggrieved by an adverse decision or action or by inaction
37 within the time required by subsection (d) of this section may file an appeal to the
38 Board.

1 (2) Subject to § 10-212 of the State Government Article, any party
2 aggrieved by a decision in a contested case for which an appeal is provided to the
3 Board may appeal directly to the Board.

4 (f) (1) The Board shall adopt procedural rules and regulations as provided
5 in the Administrative Procedure Act and in all respects shall be governed by that Act.
6 At least 3 members shall sit at each hearing of the Board when it sits as a board of
7 appeal. Decisions shall be by a majority of the members sitting, shall be in writing,
8 and shall state the Board's reasons. The Board shall keep minutes of its proceedings.

9 (2) A decision of the Board is a final agency decision for purposes of
10 judicial review under the Administrative Procedure Act or any other law that permits
11 an appeal to the courts from a decision of a unit in the Department.

12 (g) (1) As to any issue for which the taking of evidence is authorized, the
13 chairman or the acting chairman may administer oaths and issue subpoenas and
14 orders for the attendance of witnesses and the production of evidence.

15 (2) If a person fails to comply with a lawful order or subpoena issued
16 under this subsection, on the petition of the chairman or acting chairman, a court of
17 competent jurisdiction may compel obedience to the order or subpoena or compel
18 testimony or the production of evidence.

19 (h) Unless there is a special provision of law governing an appeal of a decision
20 of a particular unit, each appeal from a decision of the Board shall be governed by the
21 Administrative Procedure Act.

22 SECTION 2. AND BE IT FURTHER ENACTED, That:

23 (a) Prior to making any adjustments to capitation payments for a managed
24 care organization, the Secretary of Health and Mental Hygiene, in consultation with
25 the Maryland Insurance Commissioner, shall adopt regulations to implement the
26 provisions of § 15-605(c)(5) of the Insurance Article.

27 (b) The regulations adopted under subsection (a) of this section shall:

28 (1) establish the definition of "loss ratio" for uniform application by all
29 managed care organizations;

30 (2) establish procedures requiring the Secretary of Health and Mental
31 Hygiene to consider the financial performance of a managed care organization in
32 prior periods;

33 (3) establish standard data collection and reporting requirements for all
34 managed care organizations;

35 (4) consistent with the provisions of § 15-605(c)(5) of the Insurance
36 Article, establish a process for allowing a managed care organization to appeal a
37 decision of the Secretary of Health and Mental Hygiene to adjust a managed care
38 organization's capitation payments; and

1 (5) establish a mechanism for, and conditions under which, an
2 adjustment to the capitation rates of a managed care organization are made.

3 (c) The Secretary of Health and Mental Hygiene shall adopt any additional
4 regulations necessary to carry out the provisions of § 15-605(c)(5) of the Insurance
5 Article and the goals of the Health Choice Program.

6 SECTION 3. AND BE IT FURTHER ENACTED, That, as part of the ongoing
7 efforts of the Department of Health and Mental Hygiene to ensure that managed care
8 organizations deliver quality health care to their members, the Department may
9 modify, enhance, or replace the Value Based Purchasing Initiative in effect on
10 January 1, 2005, provided that:

11 (1) except as provided in item (4) of this section, any changes to the core
12 set of performance measures and the methodology for penalties, rewards,
13 disincentives, or incentives shall be adopted by regulation prior to the calendar year
14 for which the managed care organizations will be held accountable for ~~the standard~~
15 compliance with the performance measures;

16 (2) except as provided in item (4) of this section, the Secretary of Health
17 and Mental Hygiene shall notify managed care organizations of the core set of
18 performance measures and targets at least 3 months prior to the calendar year for
19 which the managed care organizations will be held accountable ~~to the standard for~~
20 compliance with the performance measures;

21 (3) any penalty or capitation adjustment imposed under this section on a
22 managed care organization may not be ~~accomplished~~ implemented by means of a
23 capitation payment withhold; and

24 (4) with respect to the performance measures for calendar year 2005, the
25 Secretary of Health and Mental Hygiene may modify the ranges or targets of the core
26 set of performance measures without complying with the provisions of items (1) and
27 (2) of this section, provided that the dollar amounts of any financial rewards or
28 disincentives shall be calculated as set forth in the Value Based Purchasing Initiative
29 in effect on January 1, 2005.

30 SECTION ~~2-4~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
31 effect ~~October~~ June 1, 2005.