
By: **Delegate Hubbard**

Introduced and read first time: January 13, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Medical Loss Ratio - Appeals**

3 FOR the purpose of authorizing a managed care organization or a certified health
4 maintenance organization to appeal certain decisions of the Secretary of Health
5 and Mental Hygiene that adjust capitation payments based on a certain medical
6 loss ratio; and generally relating to the Maryland Medical Assistance Program
7 and medical loss ratio.

8 BY repealing and reenacting, without amendments,
9 Article - Insurance
10 Section 15-605(c)(5), (c)(6), and (c)(7)
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2004 Supplement)

13 BY adding to
14 Article - Insurance
15 Section 15-605(c)(8)
16 Annotated Code of Maryland
17 (2002 Replacement Volume and 2004 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Health - General
20 Section 2-207
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2004 Supplement)

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

1

Article - Insurance

2 15-605.

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

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

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

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

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

16 (8) IF THE SECRETARY OF HEALTH AND MENTAL HYGIENE ADJUSTS
17 CAPITATION PAYMENTS FOR A MANAGED CARE ORGANIZATION OR A CERTIFIED
18 HEALTH MAINTENANCE ORGANIZATION UNDER PARAGRAPH (5) OF THIS
19 SUBSECTION, THE MANAGED CARE ORGANIZATION OR CERTIFIED HEALTH
20 MAINTENANCE ORGANIZATION MAY:

21 (I) APPEAL THAT DECISION TO THE BOARD OF REVIEW; AND

22 (II) TAKE ANY FURTHER APPEAL ALLOWED BY THE
23 ADMINISTRATIVE PROCEDURE ACT.

24

Article - Health - General

25 2-207.

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

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

35 (c) The complainant shall file a detailed written statement of the complaint
36 and all relevant facts and circumstances with the chief executive officer of the

1 Department or unit in the Department to which application for review is made. If
2 there is no chief executive officer, the statement may be filed with any member of the
3 unit's governing body. The complaint shall be acknowledged promptly in writing, and
4 a copy of the complaint and acknowledgment shall be sent to the Secretary.

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

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

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

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

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

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

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

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

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

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2005.