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Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Treatment of Morbid Obesity**

3 FOR the purpose of altering the duties of the Task Force to Study Utilization Review
4 of the Surgical Treatment of Morbid Obesity; altering the date a certain report of
5 the Task Force is provided to certain committees of the General Assembly;
6 requiring the Maryland Health Care Commission and the Maryland Insurance
7 Administration to provide staffing for the Task Force; requiring the Maryland
8 Insurance Administration to annually provide a certain report to certain
9 committees of the General Assembly; repealing the termination date of a certain
10 provision of law mandating coverage of the surgical treatment of morbid obesity;
11 requiring the Maryland Insurance Commissioner to adopt certain regulations
12 regarding the utilization review of primary bariatric surgery; and generally
13 relating to the surgical treatment of morbid obesity.

14 BY repealing and reenacting, without amendments,
15 Article - Insurance
16 Section 15-839
17 Annotated Code of Maryland
18 (2002 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, with amendments,
20 Chapter 486 of the Acts of the General Assembly of 2004
21 Section 2, 3, and 4

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

3 **Article - Insurance**

4 15-839.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) "Body mass index" means a practical marker that is used to assess
7 the degree of obesity and is calculated by dividing the weight in kilograms by the
8 height in meters squared.

9 (3) "Morbid obesity" means a body mass index that is:

10 (i) greater than 40 kilograms per meter squared; or

11 (ii) equal to or greater than 35 kilograms per meter squared with a
12 comorbid medical condition, including hypertension, a cardiopulmonary condition,
13 sleep apnea, or diabetes.

14 (b) This section applies to:

15 (1) insurers and nonprofit health service plans that provide hospital,
16 medical, or surgical benefits to individuals or groups on an expense-incurred basis
17 under health insurance policies or contracts that are issued or delivered in the State;

18 (2) health maintenance organizations that provide hospital, medical, or
19 surgical benefits to individuals or groups under contracts that are issued or delivered
20 in the State; and

21 (3) managed care organizations, as defined in § 15-101 of the Health -
22 General Article.

23 (c) An entity subject to this section shall provide coverage for the surgical
24 treatment of morbid obesity that is:

25 (1) recognized by the National Institutes of Health as effective for the
26 long-term reversal of morbid obesity; and

27 (2) consistent with guidelines approved by the National Institutes of
28 Health.

29 (d) An entity subject to this section shall provide the benefits required under
30 this section to the same extent as for other medically necessary surgical procedures
31 under the enrollee's or insured's contract or policy with the entity.

1 **Chapter 486 of the Acts of 2004**

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

3 (a) There is a Task Force to Study Utilization Review of the Surgical
4 Treatment of Morbid Obesity.

5 (b) The Task Force consists of the following members:

6 (1) two representatives of the Maryland Hospital Association, appointed
7 by the Maryland Hospital Association;8 (2) four members, appointed by the Maryland Insurance Administration,
9 as follows:10 (i) two representatives of health maintenance organizations in the
11 State;12 (ii) one representative of a nonprofit health service plan in the
13 State; and

14 (iii) one representative of a health insurer in the State;

15 (3) five physicians appointed by the Department of Health and Mental
16 Hygiene, including:17 (i) two endocrinologists or internists with special expertise in
18 bariatric medicine; and

19 (ii) one bariatric surgeon;

20 (4) one consumer, appointed by the Maryland Weight Loss Surgery
21 Legislative Action Committee; and

22 (5) one representative of the Maryland Health Care Commission.

23 (c) The members of the Task Force shall appoint a chairman from among their
24 members.25 (d) A member of the Task Force is not entitled to compensation or
26 reimbursement for expenses.

27 (e) The Task Force shall:

28 (1) review the [utilization review procedures currently used by health
29 insurance carriers that provide surgical treatment for morbid obesity under § 15-839
30 of the Insurance Article] LITERATURE ON THE SURGICAL TREATMENT OF MORBID
31 OBESITY; AND

1 (2) [review the National Institutes of Health guidelines and any other
2 nationally recognized guidelines or criteria for the surgical treatment of morbid
3 obesity; and

4 (3)] recommend a set of guidelines or criteria that are appropriate for the
5 utilization review of the surgical treatment of morbid obesity, and reasonable
6 procedures for documenting patient compliance with the guidelines or criteria.

7 (f) The Task Force shall report its findings and recommendations, in
8 accordance with § 2-1246 of the State Government Article, to the Senate Finance
9 Committee and the House Health and Government Operations Committee on or
10 before December 1, [2004] 2007.

11 (G) THE MARYLAND HEALTH CARE COMMISSION AND THE MARYLAND
12 INSURANCE ADMINISTRATION SHALL PROVIDE THE STAFFING FOR THE TASK FORCE.

13 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December
14 15, 2004 AND ANNUALLY THEREAFTER, the Maryland Insurance Administration shall
15 report, in accordance with § 2-1246 of the State Government Article, to the Senate
16 Finance Committee and the House Health and Government Operations Committee,
17 [for the period from June 1, 2004, through November 30, 2004] FOR THE 12-MONTH
18 PERIOD FOLLOWING THE DATE THE PRECEDING REPORT IS PROVIDED, on:

19 (1) the number of complaints filed with the Administration relating to
20 the denial of coverage for the surgical treatment of morbid obesity;

21 (2) the health insurance carrier that denied coverage and the reason
22 given for the denial; and

23 (3) whether the Administration upheld or reversed the denial of coverage
24 and the basis of the decision.

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 June 1, 2004. [It shall remain effective for a period of 1 year and, at the end of May
27 31, 2005, with no further action required by the General Assembly, this Act shall be
28 abrogated and of no further force and effect.]

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance
30 Administration shall adopt regulations:

31 (1) clarifying the applicability of the National Institutes of Health's
32 guidelines to the utilization review process for primary bariatric surgery for
33 insurance carriers and private review agents; and

34 (2) establishing reasonable documentation requirements for the
35 utilization review of primary bariatric surgery following the recommendations of the
36 Task Force to Study Utilization Review of the Surgical Treatment of Morbid Obesity
37 as set forth in the report of the Task Force issued November, 2004.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2005.