
By: **Chairman, Health and Government Operations Committee (By Request
- Departmental - Insurance Administration, Maryland)**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Mandated Benefits - Exclusions for Preexisting**
3 **Conditions**

4 FOR the purpose of authorizing an insurer to exclude coverage for a mandated health
5 insurance benefit under certain provisions of the Insurance Article if the benefit
6 relates to a condition or hazard revealed during medical underwriting and the
7 benefit related to the condition or hazard is excluded by an exclusionary waiver
8 rider signed by the insured and attached to the contract; clarifying that the use
9 of an exclusionary rider with certain benefits is not discriminatory; providing for
10 the application and construction of certain provisions of this Act; defining
11 certain terms; making this Act an emergency measure; and generally relating to
12 health insurance contracts and mandated health insurance benefits.

13 BY repealing and reenacting, with amendments,
14 Article - Insurance
15 Section 15-802
16 Annotated Code of Maryland
17 (2002 Replacement Volume and 2004 Supplement)

18 BY adding to
19 Article - Insurance
20 Section 15-841
21 Annotated Code of Maryland
22 (2002 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:

25 **Article - Insurance**

26 15-802.

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

1 (2) "Alcohol abuse" has the meaning stated in § 8-101 of the Health -
2 General Article.

3 (3) "Drug abuse" has the meaning stated in § 8-101 of the Health -
4 General Article.

5 (4) "Managed care system" means a system of cost containment methods
6 that a carrier uses to review and preauthorize a treatment plan developed by a health
7 care provider for a covered individual in order to control utilization, quality, and
8 claims.

9 (5) "Partial hospitalization" means the provision of medically directed
10 intensive or intermediate short-term treatment:

11 (i) to an insured, subscriber, or member;

12 (ii) in a licensed or certified facility or program;

13 (iii) for mental illness, emotional disorders, drug abuse, or alcohol
14 abuse; and

15 (iv) for a period of less than 24 hours but more than 4 hours in a
16 day.

17 (b) This section applies to each health insurance policy or contract that is
18 delivered or issued for delivery in the State to an employer or individual on a group or
19 individual basis and that provides coverage on an expense-incurred basis.

20 (c) A policy or contract subject to this section may not discriminate against an
21 individual with a mental illness, emotional disorder, drug abuse disorder, or alcohol
22 abuse disorder by failing to provide benefits for the diagnosis and treatment of these
23 illnesses under the same terms and conditions that apply under the policy or contract
24 for the diagnosis and treatment of physical illnesses.

25 (d) It is not discriminatory under subsection (c) of this section if at least the
26 following benefits are provided:

27 (1) with respect to inpatient benefits for services provided in a licensed
28 or certified facility, including hospital inpatient benefits, the total number of days for
29 which benefits are payable and the terms and conditions that apply to those benefits
30 are at least equal to those that apply to the benefits available under the policy or
31 contract for physical illnesses;

32 (2) subject to subsection [(g)] (H) of this section, with respect to benefits
33 for partial hospitalization, at least 60 days of partial hospitalization are covered
34 under the same terms and conditions that apply to the benefits available under the
35 policy or contract for physical illnesses; and

36 (3) with respect to outpatient coverage, other than for inpatient or
37 partial hospitalization services, benefits for covered expenses arising from services

1 provided to treat mental illnesses, emotional disorders, drug abuse, or alcohol abuse
2 are at a rate that, after the applicable deductible, is not less than:

3 (i) 80% for the first five visits in a calendar year or benefit period
4 of not more than 12 months;

5 (ii) 65% for the 6th through 30th visit in a calendar year or benefit
6 period of not more than 12 months; and

7 (iii) 50% for the 31st visit and any subsequent visit in a calendar
8 year or benefit period of not more than 12 months.

9 (E) IT IS NOT DISCRIMINATORY UNDER SUBSECTION (C) OF THIS SECTION TO
10 APPLY AN EXCLUSIONARY RIDER UNDER § 15-841 OF THIS ARTICLE TO THE BENEFIT
11 REQUIRED UNDER THIS SECTION AS THE RESULT OF MEDICAL UNDERWRITING.

12 [(e)] (F) (1) The benefits under this section are required only for expenses
13 arising from the treatment of mental illnesses, emotional disorders, drug abuse, or
14 alcohol abuse if, in the professional judgment of health care providers:

15 (i) the mental illness, emotional disorder, drug abuse, or alcohol
16 abuse is treatable; and

17 (ii) the treatment is medically necessary.

18 (2) The benefits required under this section:

19 (i) shall be provided as one set of benefits covering mental
20 illnesses, emotional disorders, drug abuse, and alcohol abuse;

21 (ii) shall have the same terms and conditions as the benefits for
22 physical illnesses covered under the policy or contract subject to this section, except
23 as specifically provided in this section; and

24 (iii) may be delivered under a managed care system.

25 (3) Except for the coinsurance requirements under subsection (d)(3) of
26 this section, a policy or contract subject to this section may not have:

27 (i) separate lifetime maximums for physical illnesses and illnesses
28 covered under this section;

29 (ii) separate deductibles and coinsurance amounts for physical
30 illnesses and illnesses covered under this section; or

31 (iii) separate out-of-pocket limits in a benefit period of not more
32 than 12 months for physical illnesses and illnesses covered under this section.

33 (4) Any copayments required under a policy or contract subject to this
34 section for benefits for illnesses covered under this section shall be:

1 (i) actuarially equivalent to any coinsurance requirements under
2 this section; or

3 (ii) if there are no coinsurance requirements, not greater than any
4 copayment required under the policy or contract for a benefit for a physical illness.

5 [(f)] (G) An office visit to a physician or other health care provider for
6 medication management:

7 (1) may not be counted against the number of visits required to be
8 covered as a part of the benefits required under subsection (d)(3) of this section; and

9 (2) shall be reimbursed under the same terms and conditions as an office
10 visit for a physical illness covered under the policy or contract subject to this section.

11 [(g)] (H) This section does not prohibit exceeding the minimum benefits
12 required under subsection (d)(2) of this section for any partial hospitalization day that
13 is medically necessary and would serve to prevent inpatient hospitalization.

14 15-841.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "CARRIER" MEANS:

18 (I) AN INSURER; AND

19 (II) A NONPROFIT HEALTH SERVICE PLAN.

20 (3) "EXCLUSIONARY RIDER" MEANS AN AGREEMENT ATTACHED TO A
21 HEALTH INSURANCE CONTRACT THAT ELIMINATES A SPECIFIED PREEXISTING
22 CONDITION OR SPECIFIED HAZARD FROM COVERAGE UNDER THE CONTRACT.

23 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
24 SECTION APPLIES TO A MEDICALLY UNDERWRITTEN HEALTH INSURANCE
25 CONTRACT ISSUED BY A CARRIER.

26 (2) THIS SECTION DOES NOT APPLY TO A GROUP HEALTH INSURANCE
27 CONTRACT OR POLICY ISSUED TO AN EMPLOYER THAT IS SUBJECT TO TITLE 15,
28 SUBTITLE 12 OR SUBTITLE 14 OF THIS ARTICLE.

29 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A CARRIER
30 MAY EXCLUDE COVERAGE FOR A CONDITION OR HAZARD RELATED TO A BENEFIT,
31 INCLUDING A BENEFIT THAT IS MANDATED IN THIS SUBTITLE, IF:

32 (1) THE BENEFIT RELATES TO A CONDITION OR HAZARD REVEALED
33 DURING MEDICAL UNDERWRITING; AND

1 (2) THE BENEFIT RELATED TO THE CONDITION OR HAZARD IS
2 EXCLUDED BY AN EXCLUSIONARY RIDER THAT IS SIGNED BY THE INSURED AND
3 ATTACHED TO THE CONTRACT.

4 (D) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS RELIEVING A
5 CARRIER FROM THE REQUIREMENTS OF ANY FEDERAL LAW REQUIRING COVERAGE
6 FOR A CONDITION UNDER A HEALTH INSURANCE CONTRACT DESCRIBED IN
7 SUBSECTION (B) OF THIS SECTION.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
9 measure, is necessary for the immediate preservation of the public health or safety,
10 has been passed by a yea and nay vote supported by three-fifths of all the members
11 elected to each of the two Houses of the General Assembly, and shall take effect from
12 the date it is enacted.