
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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 8, 2005

CHAPTER _____

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, and, in the case of a
9 condition or hazard related to a mandated benefit, without the exclusionary
10 rider, the carrier would otherwise disapprove the application for a health
11 insurance contract; clarifying that the use of an exclusionary rider with certain
12 benefits is not discriminatory; requiring the Maryland Insurance
13 Administration to obtain certain information from health insurance carriers
14 regarding exclusionary riders and to report on the information to certain
15 committees of the General Assembly on or before a certain date; providing for
16 the termination of this Act; providing for the application and construction of
17 certain provisions of this Act; defining certain terms; making this Act an
18 emergency measure; and generally relating to health insurance contracts and
19 mandated health insurance benefits.

20 ~~BY repealing and reenacting, with amendments,~~
21 ~~Article Insurance~~
22 ~~Section 15-802~~
23 ~~Annotated Code of Maryland~~
24 ~~(2002 Replacement Volume and 2004 Supplement)~~

25 BY adding to

1 Article - Insurance
 2 Section 15-841
 3 Annotated Code of Maryland
 4 (2002 Replacement Volume and 2004 Supplement)

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

7 **Article - Insurance**

8 ~~15-802.~~

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

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

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

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

18 (5) ~~"Partial hospitalization" means the provision of medically directed~~
 19 ~~intensive or intermediate short term treatment:~~

20 (i) ~~to an insured, subscriber, or member;~~

21 (ii) ~~in a licensed or certified facility or program;~~

22 (iii) ~~for mental illness, emotional disorders, drug abuse, or alcohol~~
 23 ~~abuse; and~~

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

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

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

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

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

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

10 (3) with respect to outpatient coverage, other than for inpatient or
11 partial hospitalization services, benefits for covered expenses arising from services
12 provided to treat mental illnesses, emotional disorders, drug abuse, or alcohol abuse
13 are at a rate that, after the applicable deductible, is not less than:

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

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

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

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

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

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

28 (ii) the treatment is medically necessary.

29 (2) The benefits required under this section:

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

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

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

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

3 (i) separate lifetime maximums for physical illnesses and illnesses
4 covered under this section;

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

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

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

11 (i) actuarially equivalent to any coinsurance requirements under
12 this section; or

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

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

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

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

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

24 15-841.

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (2) "CARRIER" MEANS:

28 (I) AN INSURER; AND

29 (II) A NONPROFIT HEALTH SERVICE PLAN.

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

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

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

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

10 (1) THE BENEFIT RELATES TO A CONDITION OR HAZARD REVEALED
11 DURING MEDICAL UNDERWRITING; ~~AND~~

12 (2) THE BENEFIT RELATED TO THE CONDITION OR HAZARD IS
13 EXCLUDED BY AN EXCLUSIONARY RIDER THAT IS SIGNED BY THE INSURED AND
14 ATTACHED TO THE CONTRACT; AND

15 (3) IN THE CASE OF A CONDITION OR HAZARD RELATED TO A MANDATED
16 BENEFIT, WITHOUT THE EXCLUSIONARY RIDER, THE CARRIER WOULD OTHERWISE
17 DISAPPROVE THE APPLICATION FOR A HEALTH INSURANCE CONTRACT.

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance
23 Administration shall obtain information from health insurance carriers regarding the
24 frequency and duration of exclusionary riders issued by the carriers and the
25 conditions or hazards excluded under the riders. On or before January 1, 2006, the
26 Administration shall report on the information obtained, in accordance with § 2-1246
27 of the State Government Article, to the Senate Finance Committee and the House
28 Health and Government Operations Committee.

29 SECTION 2-3. AND BE IT FURTHER ENACTED, That this Act is an
30 emergency measure, is necessary for the immediate preservation of the public health
31 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
32 members elected to each of the two Houses of the General Assembly, and shall take
33 effect from the date it is enacted. It shall remain effective through May 31, 2007, and,
34 at the end of May 31, 2007, with no further action required by the General Assembly,
35 this Act shall be abrogated and of no further force and effect.

