
By: **Senators Middleton, Astle, Della, Exum, Gladden, Hafer, Hooper, Kelley,
Klausmeier, Pipkin, and Teitelbaum**
Introduced and read first time: February 1, 2005
Assigned to: Finance

A BILL ENTITLED

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

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

24 **Article - Insurance**

25 15-839.

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

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

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

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

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

9 (b) This section applies to:

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

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

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

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

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

22 (2) consistent with guidelines approved by the National Institutes of
23 Health.

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

27 **Chapter 486 of the Acts of 2004**

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

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

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

32 (1) two representatives of the Maryland Hospital Association, appointed
33 by the Maryland Hospital Association;

1 (2) four members, appointed by the Maryland Insurance Administration,
2 as follows:

3 (i) two representatives of health maintenance organizations in the
4 State;

5 (ii) one representative of a nonprofit health service plan in the
6 State; and

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

8 (3) five physicians appointed by the Department of Health and Mental
9 Hygiene, including:

10 (i) two endocrinologists or internists with special expertise in
11 bariatric medicine; and

12 (ii) one bariatric surgeon;

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

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

16 (c) The members of the Task Force shall appoint a chairman from among their
17 members.

18 (d) A member of the Task Force is not entitled to compensation or
19 reimbursement for expenses.

20 (e) The Task Force shall:

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

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

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

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

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

3 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December
4 15, 2004 AND ANNUALLY THEREAFTER, the Maryland Insurance Administration shall
5 report, in accordance with § 2-1246 of the State Government Article, to the Senate
6 Finance Committee and the House Health and Government Operations Committee,
7 [for the period from June 1, 2004, through November 30, 2004] FOR THE 12-MONTH
8 PERIOD FOLLOWING THE DATE THE PRECEDING REPORT IS PROVIDED, on:

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

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

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

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 June 1, 2004. [It shall remain effective for a period of 1 year and, at the end of May
17 31, 2005, with no further action required by the General Assembly, this Act shall be
18 abrogated and of no further force and effect.]

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

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

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

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