
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

Committee Report: Favorable

Senate action: Adopted

Read second time: February 25, 2005

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

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

1

Article - Insurance

2 15-839.

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

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

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

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

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

12 (b) This section applies to:

13 (1) insurers and nonprofit health service plans that provide hospital,
14 medical, or surgical benefits to individuals or groups on an expense-incurred basis
15 under health insurance policies or contracts that are issued or delivered in the State;16 (2) health maintenance organizations that provide hospital, medical, or
17 surgical benefits to individuals or groups under contracts that are issued or delivered
18 in the State; and19 (3) managed care organizations, as defined in § 15-101 of the Health -
20 General Article.21 (c) An entity subject to this section shall provide coverage for the surgical
22 treatment of morbid obesity that is:23 (1) recognized by the National Institutes of Health as effective for the
24 long-term reversal of morbid obesity; and25 (2) consistent with guidelines approved by the National Institutes of
26 Health.27 (d) An entity subject to this section shall provide the benefits required under
28 this section to the same extent as for other medically necessary surgical procedures
29 under the enrollee's or insured's contract or policy with the entity.

30

Chapter 486 of the Acts of 2004

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

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

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

2 (1) two representatives of the Maryland Hospital Association, appointed
3 by the Maryland Hospital Association;

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

6 (i) two representatives of health maintenance organizations in the
7 State;

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

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

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

13 (i) two endocrinologists or internists with special expertise in
14 bariatric medicine; and

15 (ii) one bariatric surgeon;

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

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

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

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

23 (e) The Task Force shall:

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

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

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

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

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

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

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

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

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

19 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 June 1, 2004. [It shall remain effective for a period of 1 year and, at the end of May
21 31, 2005, with no further action required by the General Assembly, this Act shall be
22 abrogated and of no further force and effect.]

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

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

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

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

