

ENROLLED BILL
-- Finance/Health and Government Operations --

Introduced by **Senators Exum, Currie, Lawlah, Astle, Della, Middleton, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Medicaid Quality Improvement Act of 2005**
3 **Managed Care Organizations - Adjustment to Capitation Payments -**
4 **Quality Improvement Incentive**
5 **Maryland Medical Assistance Program - Medical Loss Ratio and Quality of**
6 **Care**

7 FOR the purpose of ~~authorizing the Secretary of Health and Mental Hygiene, in~~
8 ~~consultation with the Maryland Insurance Commissioner, to adjust capitation~~
9 ~~payments for a managed care organization based on a certain loss ratio of the~~
10 ~~managed care organization; authorizing a managed care organization or a~~
11 ~~certified health maintenance organization to appeal a certain decision of the~~
12 ~~Secretary of Health and Mental Hygiene under certain circumstances;~~
13 ~~authorizing a managed care organization to take a certain appeal under the~~
14 ~~Administrative Procedure Act under certain circumstances; requiring the~~

1 Secretary to adopt certain regulations prior to making a certain adjustment to
 2 capitation payments; ~~establishing~~ requiring the Secretary, in consultation with
 3 the *Maryland Insurance* Commissioner, to adopt regulations that establish a
 4 certain definition and certain procedures, standards, and ~~limits~~ data collection
 5 and reporting requirements for the adjustment of capitation payments;
 6 ~~authorizing the Secretary, in consultation with the Commissioner, to adjust~~
 7 ~~capitation payments based on a certain quality performance initiative adopted~~
 8 ~~by the Secretary; establishing certain standards and procedures relating to the~~
 9 ~~quality performance initiative; requiring the Secretary to adopt certain~~
 10 ~~regulations on or before a certain date; providing that this Act may not be~~
 11 ~~implemented until the Secretary adopts certain regulations; authorizing the~~
 12 ~~Secretary to modify, enhance, or replace the Value Based Purchasing Initiative~~
 13 ~~in effect on a certain date, subject to certain conditions; and generally relating to~~
 14 ~~adjustments to capitation payments to managed care organizations and quality~~
 15 ~~of care~~ *the Maryland Medical Assistance Program, medical loss ratio, and*
 16 *quality of care.*

17 BY repealing and reenacting, with amendments,
 18 Article - Insurance
 19 Section 15-605(c)
 20 Annotated Code of Maryland
 21 (2002 Replacement Volume and 2004 Supplement)

22 ~~BY adding to~~
 23 ~~Article - Insurance~~
 24 ~~Section 15-605.1~~
 25 ~~Annotated Code of Maryland~~
 26 ~~(2002 Replacement Volume and 2004 Supplement)~~

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

29 **Article - Insurance**

30 15-605.

31 (c) (1) For a health benefit plan that is issued under Subtitle 12 of this title,
 32 the Commissioner may require the insurer, nonprofit health service plan, or health
 33 maintenance organization to file new rates if the loss ratio is less than 75%.

34 (2) (i) Subject to subparagraph (ii) of this paragraph, for a health
 35 benefit plan that is issued to individuals the Commissioner may require the insurer,
 36 nonprofit health service plan, or health maintenance organization to file new rates if
 37 the loss ratio is less than 60%.

38 (ii) Subparagraph (i) of this paragraph does not apply to an
 39 insurance product that:

- 1 1. is listed under § 15-1201(f)(3) of this title; or
- 2 2. is nonrenewable and has a policy term of no more than 6
- 3 months.

4 (iii) The Commissioner may establish a loss ratio for each insurance

5 product described in subparagraph (ii)1 and 2 of this paragraph.

6 (3) The authority of the Commissioner under paragraphs (1) and (2) of

7 this subsection to require an insurer, nonprofit health service plan, or health

8 maintenance organization to file new rates based on loss ratio:

9 (i) is in addition to any other authority of the Commissioner under

10 this article to require that rates not be excessive, inadequate, or unfairly

11 discriminatory; and

12 (ii) does not limit any existing authority of the Commissioner to

13 determine whether a rate is excessive.

14 (4) (i) In determining whether to require an insurer to file new rates

15 under this subsection, the Commissioner may consider the amount of health

16 insurance premiums earned in the State on individual policies in proportion to the

17 total health insurance premiums earned in the State for the insurer.

18 (ii) The insurer shall provide to the Commissioner the information

19 necessary to determine the proportion of individual health insurance premiums to

20 total health insurance premiums as provided under this paragraph.

21 (5) ~~{The} IN ACCORDANCE WITH § 15-605.1 OF THIS SUBTITLE, THE~~

22 Secretary of Health and Mental Hygiene, in consultation with the Commissioner and

23 in accordance with their memorandum of understanding, may adjust capitation

24 payments for a managed care organization or for the Maryland Medical Assistance

25 Program of a managed care organization that is a certified health maintenance

26 organization:

27 (i) if the loss ratio is less than 80% during calendar year 1997; and

28 (ii) during each subsequent calendar year if the loss ratio is less

29 than 85%.

30 (6) {A loss ratio reported under paragraph (5) of this subsection shall be

31 calculated separately and may not be part of another loss ratio reported under this

32 section.

33 (7)~~}~~ Any rebate received by a managed care organization may not be

34 considered part of the loss ratio of the managed care organization.

35 (8) IF THE SECRETARY OF HEALTH AND MENTAL HYGIENE ADJUSTS

36 CAPITATION PAYMENTS IN ACCORDANCE WITH FOR A MANAGED CARE

37 ORGANIZATION OR A CERTIFIED HEALTH MAINTENANCE ORGANIZATION UNDER

~~1 PARAGRAPH (5) OF THIS SUBSECTION, A *THE* MANAGED CARE ORGANIZATION OR THE
2 MARYLAND MEDICAL ASSISTANCE PROGRAM OF A MANAGED CARE ORGANIZATION
3 THAT IS A CERTIFIED HEALTH MAINTENANCE ORGANIZATION MAY:~~

~~4 (I) APPEAL THE DECISION OF THE SECRETARY TO THE BOARD OF
5 REVIEW ESTABLISHED UNDER TITLE 2, SUBTITLE 2 OF THE HEALTH - GENERAL
6 ARTICLE; AND~~

~~7 (II) TAKE ANY FURTHER APPEAL ALLOWED BY THE
8 ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE STATE
9 GOVERNMENT ARTICLE.~~

~~10 45-605.1.~~

~~11 (A) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, IN CONSULTATION
12 WITH THE COMMISSIONER AND IN ACCORDANCE WITH THEIR MEMORANDUM OF
13 UNDERSTANDING, MAY ADJUST CAPITATION PAYMENTS FOR A MANAGED CARE
14 ORGANIZATION IF THE LOSS RATIO OF THE MANAGED CARE ORGANIZATION IS LESS
15 THAN 85%.~~

~~16 (B) (1) THE SECRETARY SHALL CALCULATE THE MEDICAL LOSS RATIO THAT
17 SERVES AS THE BASIS FOR A CAPITATION ADJUSTMENT:~~

~~18 (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
19 BASED ON THE AUDITED HEALTHCHOICE FINANCIAL MONITORING REPORT FILED
20 BY THE MANAGED CARE ORGANIZATION;~~

~~21 (II) IN A MANNER THAT INCLUDES THE MEDICAL ADMINISTRATION
22 EXPENSES OF A MANAGED CARE ORGANIZATION AS AN ELEMENT OF MEDICAL
23 EXPENSES IN THE LOSS RATIO; AND~~

~~24 (III) ON A 3-YEAR AVERAGE LOSS RATIO BASED ON THE MEDICAL
25 LOSS RATIOS OF THE PRECEDING 3 CALENDAR YEARS.~~

~~26 (2) IF A MANAGED CARE ORGANIZATION DOES NOT REPORT MEDICAL
27 ADMINISTRATION EXPENSES ON A HEALTHCHOICE FINANCIAL MONITORING
28 REPORT, THE MANAGED CARE ORGANIZATION SHALL REPORT ALL MEDICAL
29 ADMINISTRATION EXPENSES TO THE SECRETARY ON THE FORM REQUIRED BY THE
30 SECRETARY.~~

~~31 (C) PRIOR TO IMPOSING AN ADJUSTMENT TO THE CAPITATION PAYMENT TO A
32 MANAGED CARE ORGANIZATION UNDER THIS SECTION, THE SECRETARY SHALL:~~

~~33 (1) CONSULT WITH THE COMMISSIONER;~~

~~34 (2) SUBMIT TO THE COMMISSIONER THE CALCULATION OF THE
35 MEDICAL LOSS RATIO THAT IS THE BASIS FOR THE ADJUSTMENT IN ORDER FOR THE
36 COMMISSIONER TO VERIFY THE CALCULATION; AND~~

1 (3) OBTAIN FROM THE COMMISSIONER A DETERMINATION THAT THE
2 IMPOSITION OF AN ADJUSTMENT WOULD NOT IMPAIR THE FINANCIAL CONDITION
3 OF THE MANAGED CARE ORGANIZATION.

4 (D) A CAPITATION ADJUSTMENT UNDER THIS SECTION MAY NOT EXCEED:

5 (1) IN THE FIRST YEAR IN WHICH AN ADJUSTMENT IS MADE, THE
6 LESSER OF:

7 (I) 50% OF THE DIFFERENCE BETWEEN THE CAPITATION PAID TO
8 THE MANAGED CARE ORGANIZATION AND THE CAPITATION THAT WOULD HAVE
9 RESULTED IN AN 80% MEDICAL LOSS RATIO; OR

10 (II) 25% OF THE NET INCOME OF THE MANAGED CARE
11 ORGANIZATION FOR THE YEAR FOR WHICH THE MEDICAL LOSS RATIO WAS
12 CALCULATED;

13 (2) IN THE SECOND YEAR IN WHICH AN ADJUSTMENT IS MADE, THE
14 LESSER OF:

15 (I) 75% OF THE DIFFERENCE BETWEEN THE CAPITATION PAID TO
16 THE MANAGED CARE ORGANIZATION AND THE CAPITATION THAT WOULD HAVE
17 RESULTED IN AN 80% MEDICAL LOSS RATIO; OR

18 (II) 35% OF THE NET INCOME OF THE MANAGED CARE
19 ORGANIZATION FOR THE YEAR FOR WHICH THE MEDICAL LOSS RATIO WAS
20 CALCULATED; AND

21 (3) IN ANY SUBSEQUENT YEAR IN WHICH AN ADJUSTMENT IS MADE, 50%
22 OF THE AVERAGE NET INCOME OF THE MANAGED CARE ORGANIZATION FOR THE
23 YEAR FOR WHICH THE MEDICAL LOSS RATIO WAS CALCULATED.

24 (E) IN EXERCISING DISCRETION TO MAKE A CAPITATION ADJUSTMENT
25 UNDER THIS SECTION, THE SECRETARY MAY NOT MAKE AN ADJUSTMENT UNLESS
26 THE SECRETARY DETERMINES THAT THE OBJECTIVES OF THE HEALTHCHOICE
27 PROGRAM WOULD BE ADVANCED BY THE ADJUSTMENT.

28 (F) A CAPITATION ADJUSTMENT UNDER THIS SECTION MAY NOT BE MADE IF,
29 FOR THE CALENDAR YEAR FOR WHICH AN ADJUSTMENT IS CONSIDERED:

30 (1) THE 3 YEAR AVERAGE MEDICAL LOSS RATIO OF THE MANAGED CARE
31 ORGANIZATION IS LESS THAN 85%, BUT EQUAL TO OR GREATER THAN 80%; AND

32 (2) (I) THE SERVICE COUNT RATIO, WHICH IS THE NUMBER OF
33 SERVICES COMPARED TO THE AVERAGE YEARLY ENROLLMENT, FOR THE MANAGED
34 CARE ORGANIZATION IS AT OR ABOVE THE AVERAGE MANAGED CARE ORGANIZATION
35 SERVICE COUNT RATIO FOR ALL MANAGED CARE ORGANIZATIONS AS DETERMINED
36 BY THE SECRETARY; OR

37 (II) THE MANAGED CARE ORGANIZATION ACHIEVED:

- 1 C. ~~"DISINCENTIVE";~~
- 2 (H) ~~PROVIDE FOR A SYSTEM OF FINANCIAL INCENTIVES AND~~
3 ~~DISINCENTIVES LINKED TO THE SCORES OF THE MANAGED CARE ORGANIZATIONS~~
4 ~~ON EACH OF THE QUALITY MEASURES AND PERFORMANCE STANDARDS;~~
- 5 (HH) ~~SERVE AS THE SINGLE, COMPREHENSIVE QUALITY~~
6 ~~MEASUREMENT AND IMPROVEMENT INITIATIVE OF THE SECRETARY; AND~~
- 7 (IV) ~~BE ADOPTED BY REGULATION.~~

8 SECTION 2. AND BE IT FURTHER ENACTED, That ~~the requirements of this~~
9 ~~Act may not be implemented until the Secretary of Health and Mental Hygiene~~
10 ~~adopts regulations as required by this Act. The Secretary shall adopt regulations as~~
11 ~~required by this Act on or before December 31, 2005;~~

12 (a) Prior to making any adjustments to capitation payments for a managed
13 care organization, the Secretary of Health and Mental Hygiene, in consultation with
14 the Maryland Insurance Commissioner, shall adopt regulations to implement the
15 provisions of § 15-605(c)(5) of the Insurance Article.

16 (b) The regulations adopted under subsection (a) of this section shall:

17 (1) establish the definition of "loss ratio" for uniform application by all
18 managed care organizations;

19 (2) establish procedures requiring the Secretary of Health and Mental
20 Hygiene to consider the financial performance of a managed care organization in
21 prior periods;

22 (3) establish standard data collection and reporting requirements for all
23 managed care organizations;

24 (4) consistent with the provisions of § 15-605(c)(5) of the Insurance
25 Article, establish a process for allowing a managed care organization to appeal a
26 decision of the Secretary of Health and Mental Hygiene to adjust a managed care
27 organization's capitation payments; and

28 (5) establish a mechanism for, and the conditions under which, an
29 adjustment to the capitation rates of a managed care organization are made.

30 (c) The Secretary of Health and Mental Hygiene shall adopt any additional
31 regulations necessary to carry out the provisions of § 15-605(c)(5) of the Insurance
32 Article and the goals of the HealthChoice Program.

33 SECTION 3. AND BE IT FURTHER ENACTED, That, as part of the ongoing
34 efforts of the Department of Health and Mental Hygiene to ensure that managed care
35 organizations deliver quality health care to *their* members, the Department may
36 modify, enhance, or replace the Value Based Purchasing Initiative in effect on
37 January 1, 2005, provided that:

1 (1) except as provided in item (4) of this section, any changes to the core
2 set of performance measures and the methodology for ~~determining~~ penalties, rewards,
3 disincentives, or incentives shall be adopted by regulation prior to the calendar year
4 for which the managed care organizations will be held accountable for compliance
5 with the performance measures;

6 (2) except as provided in item (4) of this section, the Secretary of Health
7 and Mental Hygiene shall notify managed care organizations of the core set of
8 performance measures and the targets at least 3 months prior to the calendar year for
9 which the managed care organizations will be held accountable for compliance with
10 the performance measures;

11 (3) any penalty or capitation adjustment imposed under this section on a
12 managed care organization may not be implemented by means of a capitation
13 payment withhold; and

14 (4) with respect to the performance measures for calendar year 2005, the
15 Secretary of Health and Mental Hygiene may modify the ranges or targets of the core
16 set of performance measurers without complying with the provisions of items (1) and
17 (2) of this section, provided that the dollar amounts of any financial rewards or
18 disincentives shall be calculated as set forth in the Value Based Purchasing Initiative
19 in effect on January 1, 2005.

20 SECTION ~~3-4.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect ~~July~~ June 1, 2005.