
By: **Senators Exum, Currie, Lawlah, Astle, Della, Middleton, and
Teitelbaum**

Introduced and read first time: February 4, 2005

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medicaid Quality Improvement Act of 2005**

3 FOR the purpose of authorizing the Secretary of Health and Mental Hygiene, in
4 consultation with the Insurance Commissioner, to adjust capitation payments
5 for a managed care organization based on a certain loss ratio of the managed
6 care organization; establishing certain procedures, standards, and limits for the
7 adjustment of capitation payments; authorizing the Secretary, in consultation
8 with the Commissioner, to adjust capitation payments based on a certain quality
9 performance initiative adopted by the Secretary; establishing certain standards
10 and procedures relating to the quality performance initiative; requiring the
11 Secretary to adopt certain regulations on or before a certain date; providing that
12 this Act may not be implemented until the Secretary adopts certain regulations;
13 and generally relating to adjustments to capitation payments to managed care
14 organizations and quality of care.

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

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

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

1 **Article - Insurance**

2 15-605.

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

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

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

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

15 (iii) The Commissioner may establish a loss ratio for each insurance
16 product described in subparagraph (ii)1 and 2 of this paragraph.

17 (3) The authority of the Commissioner under paragraphs (1) and (2) of
18 this subsection to require an insurer, nonprofit health service plan, or health
19 maintenance organization to file new rates based on loss ratio:

20 (i) is in addition to any other authority of the Commissioner under
21 this article to require that rates not be excessive, inadequate, or unfairly
22 discriminatory; and

23 (ii) does not limit any existing authority of the Commissioner to
24 determine whether a rate is excessive.

25 (4) (i) In determining whether to require an insurer to file new rates
26 under this subsection, the Commissioner may consider the amount of health
27 insurance premiums earned in the State on individual policies in proportion to the
28 total health insurance premiums earned in the State for the insurer.

29 (ii) The insurer shall provide to the Commissioner the information
30 necessary to determine the proportion of individual health insurance premiums to
31 total health insurance premiums as provided under this paragraph.

32 (5) [The] IN ACCORDANCE WITH § 15-605.1 OF THIS SUBTITLE, THE
33 Secretary of Health and Mental Hygiene, in consultation with the Commissioner and
34 in accordance with their memorandum of understanding, may adjust capitation
35 payments for a managed care organization or for the Maryland Medical Assistance
36 Program of a managed care organization that is a certified health maintenance
37 organization:

- 1 (i) if the loss ratio is less than 80% during calendar year 1997; and
2 (ii) during each subsequent calendar year if the loss ratio is less
3 than 85%.

4 (6) [A loss ratio reported under paragraph (5) of this subsection shall be
5 calculated separately and may not be part of another loss ratio reported under this
6 section.

7 (7)] Any rebate received by a managed care organization may not be
8 considered part of the loss ratio of the managed care organization.

9 15-605.1.

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

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

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

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

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

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

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

32 (1) CONSULT WITH THE COMMISSIONER;

33 (2) SUBMIT TO THE COMMISSIONER THE CALCULATION OF THE
34 MEDICAL LOSS RATIO THAT IS THE BASIS FOR THE ADJUSTMENT IN ORDER FOR THE
35 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 (II) 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 (III) 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 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2005.