

Chapter 325

(House Bill 1376)

AN ACT concerning

Maryland Medical Assistance Program, Maryland Children's Health Program, and Health Insurance – Transfers to Special Pediatric Hospitals – Requirements

FOR the purpose of requiring the Maryland Medical Assistance Program, and the Maryland Children's Health Program, ~~managed care organizations, and certain health insurers, nonprofit health service plans, and health maintenance organizations~~ to provide a prior authorization determination regarding a transfer on request of a special pediatric hospital ~~or referring health care provider, to provide a retrospective review of a determination of medical necessity under certain circumstances, and to reimburse a special pediatric hospital or a referring health care provider for administrative days at the applicable rate for a certain period within a certain number of business days;~~ requiring the Maryland Department of Health to adopt regulations, on or before a certain date, establishing a retrospective review process for special pediatric hospitals; and generally relating to transfers to special pediatric hospitals.

BY repealing and reenacting, without amendments,

Article – Health – General

Section 15–101(a) and (k), ~~15–102.3(m), and 15–103(a)(1) and (2)(xxvi)~~

Annotated Code of Maryland

(2023 Replacement Volume and 2025 Supplement)

BY repealingArticle – Health – GeneralSection 15–102.3(m)Annotated Code of Maryland(2023 Replacement Volume and 2025 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 15–102.3(n) and (o), 15–103(a)(2)(xxvi), and 15–158

Annotated Code of Maryland

(2023 Replacement Volume and 2025 Supplement)

~~BY repealing and reenacting, with amendments,~~~~Article – Insurance~~~~Section 15–861~~~~Annotated Code of Maryland~~~~(2017 Replacement Volume and 2025 Supplement)~~

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

Article – Health – General

15–101.

(a) In this title the following words have the meanings indicated.

(k) “Special pediatric hospital” means a facility in the State that provides nonacute medical, rehabilitation, therapy, and palliative services to individuals:

(1) Under the age of 22 years; or

(2) Who are at least 2 years old and under the age of 23 years and have co-occurring physical and behavioral health conditions.

15–102.3.

~~(m) Beginning January 1, 2026, the provisions of § 15–861 of the Insurance Article apply to managed care organizations in the same manner that they apply to carriers.~~

[(n)] (M) Beginning January 1, 2026, the provisions of § 15–862 of the Insurance Article apply to managed care organizations in the same manner that they apply to carriers.

[(o)] (N) The provisions of § 15–863 of the Insurance Article apply to managed care organizations in the same manner they apply to carriers.

15–103.

(a) (1) The Secretary shall administer the Maryland Medical Assistance Program.

(2) The Program:

(xxvi) Beginning on January 1, 2026, shall provide coverage for a transfer to a special pediatric hospital in accordance with ~~§ 15–861 of the Insurance Article~~ **§ 15–158 OF THIS SUBTITLE**;

15–158.

(A) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE Program and the Maryland Children’s Health Program may not require prior authorization for a transfer to a special pediatric hospital.

(2) AT THE REQUEST OF A SPECIAL PEDIATRIC HOSPITAL, THE PROGRAM AND THE MARYLAND CHILDREN’S HEALTH PROGRAM SHALL PROVIDE A PRIOR AUTHORIZATION DETERMINATION REGARDING A TRANSFER TO A SPECIAL PEDIATRIC HOSPITAL WITHIN ~~2~~ 3 BUSINESS DAYS AFTER THE REQUEST IS RECEIVED.

(B) (1) ON OR BEFORE DECEMBER 31, 2026, THE DEPARTMENT SHALL ADOPT REGULATIONS ESTABLISHING A RETROSPECTIVE REVIEW PROCESS FOR SPECIAL PEDIATRIC HOSPITALS.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) PROVIDE FOR A PEER-TO-PEER RECONSIDERATION OF A MEDICAL NECESSITY DETERMINATION MADE BY THE DEPARTMENT OR ITS AGENT ON REQUEST OF A PEDIATRIC SPECIALTY HOSPITAL;

(II) PROVIDE FOR RETROSPECTIVE REVIEW OF ANY MEDICAL NECESSITY DETERMINATION ISSUED BY THE DEPARTMENT OR ITS AGENT DENYING:

1. ADMISSION TO A SPECIAL PEDIATRIC HOSPITAL ON OR AFTER ~~JULY~~ JANUARY 1, 2025; OR

2. REIMBURSEMENT FOR INPATIENT SERVICES OR OUTPATIENT SERVICES PROVIDED BY A SPECIAL PEDIATRIC HOSPITAL ON OR AFTER ~~JULY~~ JANUARY 1, 2025;

(III) COMPLY WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE; AND

(IV) PROVIDE THAT THE RETROSPECTIVE REVIEW PROCESS BE CONDUCTED BY A LICENSED PHYSICIAN.

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

~~(2) “ADMINISTRATIVE DAY” MEANS A DAY DURING WHICH A HEALTH CARE PROVIDER DELIVERS CARE TO A PATIENT WHO NO LONGER REQUIRES CARE FROM THE PROVIDER BUT WHO THE PROVIDER IS UNABLE TO DISCHARGE OR TRANSFER TO ANOTHER CARE SETTING.~~

~~(3) “MEDICALLY NECESSARY” MEANS THAT CARE IS:~~

~~(I) DIRECTLY RELATED TO DIAGNOSTIC, PREVENTIVE, CURATIVE, PALLIATIVE, REHABILITATIVE, OR AMELIORATIVE TREATMENT OF AN ILLNESS, AN INJURY, A DISABILITY, OR ANY HEALTH CONDITION;~~

~~(II) CONSISTENT WITH ACCEPTED STANDARDS OF GOOD MEDICAL PRACTICE; AND~~

~~(III) NOT PRIMARILY FOR THE CONVENIENCE OF THE PATIENT, THE PATIENT'S FAMILY, OR THE PROVIDER.~~

~~(B) The Program and the Maryland Children's Health Program [may]:~~

~~(1) MAY not require prior authorization for a transfer to a special pediatric hospital; BUT~~

~~(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, SHALL PROVIDE A PRIOR AUTHORIZATION DETERMINATION FOR A TRANSFER TO A SPECIAL PEDIATRIC HOSPITAL ON REQUEST OF THE SPECIAL PEDIATRIC HOSPITAL OR THE REFERRING HEALTH CARE PROVIDER.~~

~~(C) IF THE PROGRAM OR MARYLAND CHILDREN'S HEALTH PROGRAM RECEIVE A REQUEST UNDER SUBSECTION (B)(2) OF THIS SECTION, THE PROGRAM OR MARYLAND CHILDREN'S HEALTH PROGRAM SHALL PROVIDE THE PRIOR AUTHORIZATION DETERMINATION WITHIN 3 BUSINESS DAYS AFTER THE REQUEST IS RECEIVED.~~

~~(D) (1) (I) IF A SPECIAL PEDIATRIC HOSPITAL OR A REFERRING HEALTH CARE PROVIDER DISAGREES WITH A DETERMINATION BY THE PROGRAM OR MARYLAND'S CHILDREN HEALTH PROGRAM THAT A TRANSFER TO A SPECIAL PEDIATRIC HOSPITAL IS NOT MEDICALLY NECESSARY, THE SPECIAL PEDIATRIC HOSPITAL OR THE REFERRING HEALTH CARE PROVIDER MAY REQUEST A RETROSPECTIVE REVIEW BY THE PROGRAM OR MARYLAND CHILDREN'S HEALTH PROGRAM IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.~~

~~(II) THE PROGRAM OR MARYLAND CHILDREN'S HEALTH PROGRAM SHALL CONDUCT A REQUESTED RETROSPECTIVE REVIEW EVEN IF THE ENROLLEE WILL NOT BENEFIT FINANCIALLY FROM THE OUTCOME OF THE APPEAL.~~

~~(2) IF A SPECIAL PEDIATRIC HOSPITAL OR A REFERRING HEALTH CARE PROVIDER REQUESTS A RETROSPECTIVE REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SPECIAL PEDIATRIC HOSPITAL OR THE REFERRING HEALTH CARE PROVIDER SHALL BE REIMBURSED FOR ALL ADMINISTRATIVE DAYS AT THE~~

~~APPLICABLE RATE FROM THE DATE OF THE MEDICAL NECESSITY DETERMINATION UNTIL THE CONCLUSION OF THE RETROSPECTIVE REVIEW.~~

~~Article Insurance~~

~~15-861.~~

~~(a) (1) In this section[, “special”] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) “ADMINISTRATIVE DAY” HAS THE MEANING STATED IN § 15-158 OF THE HEALTH GENERAL ARTICLE.~~

~~(3) “MEDICALLY NECESSARY” HAS THE MEANING STATED IN § 15-158 OF THE HEALTH GENERAL ARTICLE.~~

~~(4) “SPECIAL pediatric hospital” has the meaning stated in § 15-101 of the Health General Article.~~

~~(b) This section applies to:~~

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

~~(2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.~~

~~(c) An entity subject to this section:~~

~~(1) may not require prior authorization for a transfer to a special pediatric hospital; BUT~~

~~(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, SHALL PROVIDE A PRIOR AUTHORIZATION DETERMINATION FOR A TRANSFER TO A SPECIAL PEDIATRIC HOSPITAL ON REQUEST OF A SPECIAL PEDIATRIC HOSPITAL OR A REFERRING HEALTH CARE PROVIDER.~~

~~(D) IF AN ENTITY SUBJECT TO THIS SECTION RECEIVES A REQUEST UNDER SUBSECTION (C)(2) OF THIS SECTION, THE ENTITY SHALL PROVIDE THE PRIOR AUTHORIZATION DETERMINATION WITHIN 3 BUSINESS DAYS AFTER THE REQUEST IS RECEIVED.~~

~~(E) (1) IF A SPECIAL PEDIATRIC HOSPITAL OR A REFERRING HEALTH CARE PROVIDER DISAGREES WITH A DETERMINATION BY THE ENTITY THAT A TRANSFER TO A SPECIAL PEDIATRIC HOSPITAL IS NOT MEDICALLY NECESSARY, THE SPECIAL PEDIATRIC HOSPITAL OR THE REFERRING HEALTH CARE PROVIDER MAY REQUEST A RETROSPECTIVE REVIEW BY THE ENTITY THAT MADE THE DETERMINATION.~~

~~(2) THE ENTITY THAT IS REQUESTED TO CONDUCT THE RETROSPECTIVE REVIEW SHALL CONDUCT THE REVIEW EVEN IF THE INSURED WILL NOT BENEFIT FINANCIALLY FROM THE OUTCOME OF THE APPEAL.~~

~~(3) IF A SPECIAL PEDIATRIC HOSPITAL OR A REFERRING HEALTH CARE PROVIDER REQUESTS A RETROSPECTIVE REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SPECIAL PEDIATRIC HOSPITAL OR THE REFERRING HEALTH CARE PROVIDER SHALL BE REIMBURSED FOR ALL ADMINISTRATIVE DAYS AT THE APPLICABLE RATE FROM THE DATE OF THE MEDICAL NECESSITY DETERMINATION UNTIL THE CONCLUSION OF THE RETROSPECTIVE REVIEW.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2027.~~

~~SECTION 3. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2027~~ July 1, 2026.

Approved by the Governor, April 28, 2026.