Overview and Legal and Fiscal Impact

The regulation establishes coverage, certification, and payment requirements for providers of home visiting services to members of Medicaid who are pregnant, postpartum, or are otherwise recognized under specified evidence-based home visiting models.

The regulation presents no legal issues of concern.

There is no fiscal impact on State agencies beyond that already accounted for in the fiscal and policy note for Chapter 150 of 2021 (the Budget Reconciliation and Financing Act of 2021).

Regulation of COMAR Affected

Maryland Department of Health:
Medical Care Programs: Establishment, Operation, and Authority for Making Capitated Payments for Dual Eligibles Enrolled in Medicare Advantage Plans:
COMAR 10.09.78.01 through .09

Legal Analysis

Background

Maternal and child health is a population health priority area under Maryland’s Statewide Integrated Health Improvement Strategy. The Maryland Health Services Cost Review Commission recently committed $8 million in annual funding to support Medicaid initiatives to address severe maternal morbidity and pediatric asthma. In part, the Maryland Department of Health is using this funding to reimburse for home visiting services under two evidence-based models; (1) Healthy Families America (HFA) and (2) Nurse Family Partnership (NFP). Through the regulation, the department adds home visiting services as a covered benefit under Medicaid.

Additionally, the regulation is based on the current Maryland Medicaid Home Visiting Services Pilot, which is implemented at the local health department level in Garrett and Harford counties. Under the regulation, entities running an accredited HFA and NFP site, including local health departments, will be able to bill Medicaid through their current Medicaid billing structures.
Summary of Regulation

The regulation establishes coverage, certification, and payment requirements for providers of home visiting services to members of Medicaid who are pregnant, postpartum, or are otherwise recognized under specified evidence-based home visiting models. The regulation requires a home visiting program provider to have an active accreditation from HFA or NFP. The regulation also requires a home visiting program provider to meet specified general medical assistance provider participation criteria. The regulation specifies that Medicaid will cover home visiting services if the services are rendered during the birthing parent’s prenatal period and postpartum period and, if not rendered in-person, the services comply with specified telehealth requirements and guidance. Medicaid does not cover expenses related to administrative overhead, lactation consulting services, or start-up costs and does not cover services that are not medically necessary.

The regulation sets up a payment procedure. As part of the payment procedure, Medicaid will reimburse a home visiting program provider for covered services for the lesser of:

- unless the service is free to individuals not covered by Medicaid, the provider’s customary charge to the general public; or
- effective January 1, 2022, $188 per home visit.

The regulation also requires compliance with current regulations for recovery and reimbursement, cause of suspension or removal and imposition of sanctions, and appeal procedures.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-104(b), 15-103, and 15-105 of the Health – General Article as authority for the regulation. Section 2-104(b) gives the Secretary of Health authority to adopt rules and regulations to carry out the provisions of law within the jurisdiction of the Secretary. Section 15-103 establishes Medicaid and requires the Secretary to administer the program, including adopting regulations. Section 15-105(b) requires the department to adopt rules and regulations for the reimbursement of providers for services under Medicaid.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

In response to a request from the Department of Legislative Services, the department submitted an updated regulation with a complete regulation .09. A citation was inadvertently removed from the originally sent document.
Fiscal Analysis

There is no fiscal impact on State agencies beyond that already accounted for in the fiscal and policy note for Chapter 150 of 2021 (the Budget Reconciliation and Financing Act of 2021). Local government revenues increase beginning in fiscal 2022 from reimbursement for additional Medicaid home visiting services provided by local health departments (LHDs) and local management boards (LMBs).

Agency Estimate of Projected Fiscal Impact

The regulations implement an expansion of Medicaid home visiting services. Funding authority for the expansion was granted under Chapter 150 of 2021. The department advises that the regulations increase Medicaid expenditures by $4,692,480 (50% special funds, 50% federal funds) in fiscal 2022 to expand home visiting services effective January 1, 2022. This reflects 1,664 Medicaid recipients accessing services (ranging from one to four visits per month) at a rate of $188 per visit. In fiscal 2023, Medicaid expenditures increase by an estimated $9,384,960 (50% special funds, 50% federal funds) to reflect a full year of expenditures. The Department of Legislative Services concurs but notes that the fiscal impact of this expansion (and additional related initiatives) was accounted for in the fiscal and policy note for Chapter 150 of 2021. The fiscal and policy note indicated that department special fund revenues increase by $5.0 million in fiscal 2022, with a corresponding increase in special fund expenditures. As up to $4.0 million in special funds are dedicated to Medicaid maternal and child health initiatives, federal matching revenues and expenditures increase by as much as $4.0 million in fiscal 2022. Although the fiscal and policy note did not anticipate a local effect, the department advises that home visiting services for Medicaid enrollees are predominately provided by LHDs and LMBs; thus, local government revenues increase beginning in fiscal 2022 from reimbursement for additional services.

Impact on Budget

Medicaid expenditures increase by $4,692,480 (50% special funds, 50% federal funds) in fiscal 2022 to expand home visiting services. Funding is derived from an assessment built into hospital rates as approved by the Health Services Cost Review Commission as part of a four-year maternal and child health population health improvement initiative. Funding for fiscal 2022 will be provided to Medicaid through a budget amendment or deficiency appropriation.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State as services will predominately be provided by LHDs and LMBs. The Department of Legislative Services concurs.

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