



Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – Nelson J. Sabatini, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM

Managed Care Organization Transmittal No. 43

August 8, 2003

Managed Care Organizations

FROM:

Susan D. Tucker
Susan Tucker, Executive Director
Office of Health Services

NOTE:

Please ensure that the appropriate staff members in your organization are informed of the contents of this transmittal.

Emergency and Proposed Amendments to HealthChoice Regulations

ACTION:

Emergency Regulations
Proposed Regulations

PROPOSED EFFECTIVE DATE:

July 1, 2003

WRITTEN COMMENTS TO:

Michele Phinney
201 W. Preston St., Rm. 538
Baltimore, MD 21201
Fax (410) 767-6483 or call
(410) 767-6499 or
1-877-4MD-DHMH extension 6483

PROGRAM CONTACT:

James Gardner, Chief
Division of HealthChoice Management and
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(410) 767-1482 or call
1-877-4MD-DHMH extension 1482

The Maryland Medical Assistance Program is promulgating emergency and proposed amendments to Regulations .02, .19, and .20 and repeal Regulation.19-1 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations; amend Regulations .01 and .12 under COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits; and amend Regulations .01 and .03 and adopt new Regulation .01-1 under COMAR 10.09.73, Maryland Medicaid Managed Care Program: Sanctions.



These amendments will

1. Add new language that requires MCOs to pass on to providers monies that were allocated in a rate adjustment and specified by the Department for a fee increase.
2. Repeal Regulation .19-1, Risk Sharing –Medical expenses of enrollees with Hepatitis C;
3. Add new language that allows MCOs to charge its enrollees up to a \$2 co-payment for brand name drugs;
4. Amend Sanction regulation to provide the Department with the flexibility to sanction MCOs without corrective action plans.
5. Add new language that requires the Department to comply with CMS notification requirements for sanction determinations at 42 CFR §438.730;
6. Add new language under Nursing Facility Services that requires MCOs to reserve nursing facilities beds for recipients hospitalized for an acute condition within the first 30 days of their nursing home stay, not to exceed 15 days per single acute visit;
7. Revise the Incentive regulations language to allow the Department or Legislature to redirect the MCO incentive fund;
8. Amend the 42 CFR Reference for Advance Directive from 42CFR §417.436(d) to 42 CFR §438.6(i); and
9. Amend the reference for American with Disabilities Act of 1990 from P.L. 101-330 to P.L.101-336.

A copy of these amendments as published in the July 25, 2003 Maryland Register is attached to this transmittal.

Attachment

.15 Post-Eligibility Requirements.

A — C. (text unchanged)

D. Scheduled Redetermination.

(1) (text unchanged)

(2) [For ESI, redetermination shall be ~~scheduled~~ *concurrently* with the open enrollment period established by the employer, and at least annually after that.

(3) For default, redetermination] *Redetermination* shall be scheduled annually.

(4) (3) (text unchanged)

NELSON J. SABATINI
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS**10.09.58 Family Planning Program**

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105,
Annotated Code of Maryland

Notice of Proposed Action

[03-201-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .01 under COMAR 10.09.58 **Family Planning Program**.

Statement of Purpose

The purpose of this action is to replace the citations to the pregnant women and children's eligibility category with the current citation for the Maryland Children's Health Program and to limit eligibility for the Family Planning Program to women who continue to meet the income guidelines for pregnant women under COMAR 10.09.11.03 Eligibility, Maryland Children's Health Program, whose family income is equal to or less than 250 percent of the federal poverty level.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dnhm.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by August 25, 2003.

.01 Purpose and Scope.

A. (text unchanged)

B. A maximum 5-year period of eligibility may be established for women who:

(1) Have filed an application with a local department of social services[;] or at the local health department;

(2) Have been determined eligible by a local department of social services or the local health department in the [Pregnant Women and Children's (PWC)] Maryland Chil-

ren's Health Program Medicaid eligibility category[, other than for a presumptive eligibility period,] as defined in COMAR [10.09.28.02;] 10.09.11.03;

(3) Have lost Medicaid coverage in the [PWC] Maryland Children's Health Program category after their pregnancy related period of eligibility; and

(4) (text unchanged)

C. A woman eligible for Medical Assistance benefits under this chapter shall continue to be eligible for benefits for 5 years [without regard to any change in income of the family of which she is a member,] unless she [becomes]:

(1) [A] *Becomes a resident* of a state other than Maryland; [or]

(2) [Eligible] *Is determined eligible* for another Medical Assistance program[.];

(3) *Has a permanent sterilization*; or

(4) *Has family income that exceeds the eligibility requirements for pregnant women under COMAR 10.09.11.*

NELSON J. SABATINI
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS**Notice of Proposed Action**

[03-184-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulations .02, .19, and .20 and repeal Regulation .19-1 under COMAR 10.09.65 **Maryland Medicaid Managed Care Program: Managed Care Organizations**;

(2) Amend Regulations .01 and .12 under COMAR 10.09.67 **Maryland Medicaid Managed Care Program: Benefits**; and

(3) Amend Regulations .01 and .03 and adopt new Regulation .01-1 under COMAR 10.09.73 **Maryland Medicaid Managed Care Program: Sanctions**.

Statement of Purpose

The purposes of this action are to:

(1) Require MCOs to pass on to providers monies that were allocated in a rate adjustment and specified by the Department for a fee increase;

(2) Repeal Regulation .19-1 Risk Sharing — Medical Expenses of Enrollees with Hepatitis C;

(3) Allow MCOs to charge its enrollees up to a \$2 copayment for brand name drugs;

(4) Provide the Department with the flexibility to sanction MCOs without corrective action plans;

(5) Require the Department to comply with CMS notification requirements for sanction determinations at 42 CFR §438.730;

(6) Require MCOs to reserve nursing facilities beds for recipients hospitalized for an acute condition within the first 30 days of their nursing home stay, not to exceed 15 days per single acute visit;

(7) Allow the Department or Legislature to redirect the MCO incentive fund;

(8) Amend the 42 CFR reference for Advance Directive; and

(9) Amend the reference for the American with Disabilities Act of 1990.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed regulation, but the proposed regulation is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, Room 521, 201 West Preston Street, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhhm.state.md.us, or call (410) 767-6499, or 1-877-4MD-DHMH, extension 6499. These comments must be received by August 25, 2003.

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Health-General Article,
Annotated Code of Maryland;
Ch. 203, Acts of 2003

Regulations	Sections
.02	§15-102.4(a)(i)
.19	§15-103(b)(18)
[.19-1]	§15-103(b)(18)]
.20	§15-103(b)(11) and (19)

.02 Conditions for Participation.

- A. — F. (text unchanged)
- G. Health Care Delivery: An MCO shall:
 - (1) (text unchanged)
 - (2) Conform with and fulfill the requirements of [42 CFR §417.436(d)] 42 CFR §438.6(i), which pertains to advance directives;
 - (3) — (5) (text unchanged)
- H. An MCO:
 - (1) Shall comply with the standards in [P.L. 101-330] P.L. 101-336, Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.;
 - (2) — (4) (text unchanged)
- I. — X. (text unchanged)

.19 MCO Reimbursement.

- A. — C. (text unchanged)
- D. Interim Rates Adjustments.
 - (1) (text unchanged)
 - (2) The Department shall adjust the capitation taxes specified in §B(4)(a) and (b) of this regulation to reflect service cost changes that qualify under §D(3) of this regulation and result from:
 - (a) (text unchanged)
 - (b) An increase or decrease in Medicaid fee-for-service payment rates or copayments, if the MCOs are obligated to adjust their payment rates to providers as a result of those fee-for-service rate changes; or
 - (c) (text unchanged)
 - (3) — (4) (text unchanged)

.20 MCO Payment for Self-Referred [and], Emergency, and Physician Services.

- A. — B. (text unchanged)

C. An MCO shall pass on to providers any MCO rate adjustment that is specified by the Department for a fee increase.

10.09.67 Maryland Medicaid Managed Care Program: Benefits

Authority: Health-General Article, §15-103(b)(2)(i),
Annotated Code of Maryland

.01 Required Benefits Package — In General.

- A. — B. (text unchanged)
- C. Cost Sharing and Prohibitions.
 - (1) [An] Except for the following, an MCO may not charge its enrollees any copayments, premiums, or cost sharing [of any kind]:
 - (a) Up to a \$2 copayment in accordance with COMAR 10.09.03.05C; or
 - (b) Any other charge up to fee-for-service limits as approved by the Department.
 - (2) (text unchanged)
- D. — E. (text unchanged)

.12 Benefits — Nursing Facility Services.

- A. — B. (text unchanged)
- C. The MCO shall reserve nursing facility beds for recipients hospitalized for an acute condition within the first 30 days, not to exceed 15 days per single acute visit.
- [C.] D. — [E.] F. (text unchanged)

10.09.73 Maryland Medicaid Managed Care Program: Sanctions

Authority: Health-General Article, §15-103(b)(9),
Annotated Code of Maryland

.01 [Sanctions.] Sanction by the Department.

- A. (text unchanged)
- B. Corrective Action.
 - (1) Subject to §B(2) and (3) of this regulation, before imposing a sanction pursuant to §A of this regulation, the Department [shall] may permit an MCO an opportunity to take corrective action in accordance with a plan approved by the Department.
 - (2) (text unchanged)
 - (3) The Department is not required to provide an MCO with an opportunity for corrective action before imposing a sanction if the Department determines that there is a likelihood of immediate and substantial harm to the MCO's enrollees if implementation of the sanction is delayed.]
- C. (text unchanged)

.01-1 Sanction by Center for Medicare and Medicaid Services (CMS).

The Department shall comply with notification requirements of CMS at 42 CFR §438.730 for sanction determinations as specified in 42 CFR §438.700(b)(1) — (b)(6).

.03 Incentives.

- A. — B. (text unchanged)
- C. The fund shall be used [exclusively] to provide financial incentive awards to the MCOs that meet or exceed specific performance targets as established by the Department, unless otherwise directed by law.

NELSON J. SABATINI
Secretary of Health and Mental Hygiene