**FINAL AND PROPOSAL**

**FINAL AAP**

**Maryland Register**

**Issue Date: May 8, 2020**

**Volume 47 • Issue 10 • Page 515**

**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Notice of Final Action**

[20-034-F]

On April 28, 2020, the Secretary of Health adopted:

(1) Amendments to Regulation **.01** under **COMAR 10.01.04 Fair Hearing Appeals Under the Maryland State Medical Assistance Program**;

(2) The repeal in their entirety of Regulations **.01—.11** under  **COMAR 10.09.78 Establishment, Operation, and Authority for Making Capitated Payments for Dual Eligibles Enrolled in Medicare Advantage Plans**;

(3) Amendments to Regulations **.15**, **.25**, and **.27** under **COMAR 10.67.04 Maryland Medicaid Managed Care Program: Managed Care Organizations**;

(4) Amendments to Regulation **.03** under **COMAR 10.67.08****Maryland Medicaid Managed Care Program: Non-Capitated Covered Services**; and

(5) Amendments to Regulation **.03** under **COMAR 10.67.09****Maryland Medicaid Managed Care Program: MCO Dispute Resolution Procedures**.

This action, which was proposed for adoption in 47:2 Md. R. 81—82 (January 17, 2020), has been adopted as proposed.

**Effective Date: May 18, 2020.**

ROBERT R. NEALL
Secretary of Health

**PROPOSAL**

**Maryland Register**

**Issue Date: January 17, 2020**

**Volume 47 • Issue 2 • Page 81-82**

**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Notice of Proposed Action**

[20-034-P]

The Secretary of Health proposes to:

(1) Amend Regulation **.01** under **COMAR 10.01.04 Fair Hearing Appeals Under the Maryland State Medical Assistance Program**;

(2) Repeal in their entirety Regulations **.01—.11** under  **COMAR 10.09.78 Establishment, Operation, and Authority for Making Capitated Payments for Dual Eligibles Enrolled in Medicare Advantage Plans**;

(3) Amend Regulations **.15**, **.25**, and **.27** under **COMAR 10.67.04 Maryland Medicaid Managed Care Program: Managed Care Organizations**;

(4) Amend Regulation **.03** under **COMAR 10.67.08****Maryland Medicaid Managed Care Program: Non-Capitated Covered Services**; and

(4) Amend Regulation **.03** under **COMAR 10.67.09****Maryland Medicaid Managed Care Program: MCO Dispute Resolution Procedures**.

**Statement of Purpose**

The purpose of this action is to:

(1) Update obsolete references and definitions;

(2) Correct the due dates of MCO reports to coincide with current policy;

(3) Remove HIV drugs from the list of non-capitated covered services;

(4) Clarify the time frames for resolving provider complaints and enrollee appeals; and

(5) Repeal an obsolete chapter of regulations.

**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.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 18, 2020. A public hearing has not been scheduled.

**Subtitle 01 PROCEDURES**

**10.01.04 Fair Hearing Appeals Under the Maryland State Medical Assistance Program**

Authority: Health-General Article, §2-104, Annotated Code of Maryland

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(9) (text unchanged)

**[**(10) “MAGI” means modified adjusted gross income, as calculated for purposes of determining eligibility for insurance affordability programs under the Affordable Care Act.**]**

**[**(11)**]** *(10)*—**[**(14)**]** *(13)* (text unchanged)

**Subtitle 67 MARYLAND HEALTHCHOICE PROGRAM**

**10.67.04 Maryland Medicaid Managed Care Program: Managed Care Organizations**

Authority: Health-General Article, §§2-104, 15-102.3, and 15-103; Insurance Article, §§15-112, 15-605, and 15-1008; Annotated Code of Maryland

**.15 Data Collection and Reporting.**

A.—C. (text unchanged)

D. Quarterly Reports. An MCO shall submit to the Department:

(1) (text unchanged)

(2) Within **[**10**]***30* calendar days after the close of each calendar quarter, in the format specified by the Department, a list of all pre-service denials or reduction of services or benefits issued by the MCO or MCO subcontractors during the preceding quarter.

(3)—(6) (text unchanged)

E —K. (text unchanged)

**.25 Enrollee Outreach Plan.**

A. (text unchanged)

B. Submission Date.

(1) (text unchanged)

(2) An MCO shall submit by December 1 **[**of each year**]** an enrollee outreach plan, including the information specified in §A of this regulation, to be reviewed as part of the **[**annual**]***triennial* audit performed by an external quality review organization (EQRO).

*(3) For years in which the triennial EQRO audit is not performed, an MCO shall submit by April 30 any changes to the enrollee outreach plan, including the information specified in §A of this regulation.*

**.27 Newborn Coordinator.**

A.—B. (text unchanged)

C. The newborn coordinator shall:

(1) (text unchanged)

(2) Interface with the enrollment **[**broker**]***agent*, the Department, the newborn coordinators of other MCOs, and the provider to resolve any eligibility issues involving multiple MCOs;

(3)—(9) (text unchanged)

**10.67.08 Maryland Medicaid Managed Care Program: Non-Capitated Covered Services**

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

**.03 Nonbehavioral Health Fee-for-Service Benefits.**

An MCO may not be required to provide any of the following benefits or services that are reimbursed directly by the Department:

A.—E. (text unchanged)

F. The following HIV/AIDS services:

(1) Genotypic, phenotypic, or other HIV/AIDS drug resistance testing used in the treatment of HIV/AIDS, if the service is:

(a) (text unchanged)

(b) Medically necessary; *and*

(2) Viral load testing used in treatment of HIV/AIDS**[**; and

(3) Antiretroviral drugs in American Hospital Formulary Service therapeutic class 8:18:08 used in the treatment of HIV/AIDS;**]***.*

G.—N. (text unchanged)

**10.67.09 Maryland Medicaid Managed Care Program: MCO Dispute Resolution Procedures**

Authority: Health-General Article, §15-103(b)(9)(i)(4), Annotated Code of Maryland

**.03 MCO Provider Complaint Process.**

A.—C. (text unchanged)

*D. An MCO or its pharmacy benefits manager shall resolve pharmacy appeals concerning drug pricing within 21 days of the receipt of a request.*

ROBERT R. NEALL
Secretary of Health