

Title 10
MARYLAND DEPARTMENT OF HEALTH
Subtitle 67 MARYLAND HEALTHCHOICE PROGRAM

Notice of Final Action

[21-092-F]

On September 9, 2021, the Secretary of Health adopted:

(1) Amendments to Regulations **.03** and **.19**, the recodification of Regulations **.19-3**, **.19-4**, and **.19-5** to be Regulations **.03-1**, **.19-3**, and **.19-4**, respectively, and new Regulation **.03-2** under **COMAR 10.67.04 Maryland Medicaid Managed Care Program: Managed Care Organizations**; and

(2) Amendments to Regulation **.05-1** under **COMAR 10.67.05 Maryland Medicaid Managed Care Program: Access**.

This action, which was proposed for adoption in 48:15 Md. R. 610—612 (July 16, 2021), has been adopted with the nonsubstantive changes shown below.

Effective Date: October 18, 2021.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation **.03-2I(4)(a)**: The Department is making a technical correction to specify that MCOs may earn an improvement incentive payment of 33.3 percent of the incentive allocation for any performance measure under specified conditions.

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

.03-2 HealthChoice Population Health Incentive Program (PHIP).

A.—H. (proposed text unchanged)

I. Round One Incentives.

(1)—(3) (proposed text unchanged)

(4) Round One Improvement Incentive Payments.

(a) An MCO may earn an improvement incentive payment of 33.3 percent of the incentive allocation for any performance measure if the following conditions are met:

(i)—(ii) (proposed text unchanged)

(b)—(d) (proposed text unchanged)

J.—K. (proposed text unchanged)

DENNIS R. SCHRADER
Secretary of Health

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 67 MARYLAND HEALTHCHOICE PROGRAM

Notice of Proposed Action

[21-092-P]

The Secretary of Health proposes to:

- (1) Amend Regulations .03 and .19, recodify Regulations .19-3, .19-4, and .19-5 to be Regulations .03-1, .19-3, and .19-4, respectively, and adopt new Regulation .03-2 under **COMAR 10.67.04 Maryland Medicaid Managed Care Program: Managed Care Organizations**; and
- (2) Amend Regulation .05-1 under **COMAR 10.67.05 Maryland Medicaid Managed Care Program: Access**.

Statement of Purpose

The purpose of this action is to recodify the MCO Rural Access Incentive regulation, sunset the MCO Value-Based Purchasing Program effective December 31, 2021 and implement the HealthChoice Population Health Incentive Program (PHIP) effective January 1, 2022. Additionally, this proposal updates a reference to reflect the recodified MCO Rural Access Incentive regulation.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The previous iteration of the Value-Based Purchasing Program was funded within capitation rates; therefore, it was not budget neutral to the Department. The Department in consultation with the Department of Budget and Management would set the annual budget for the new Population Health Incentive Program.

II. Types of Economic Impact.	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)		Indeterminable
B. On other State agencies:	NONE		
C. On local governments:	NONE		
	Benefit (+)		
	Cost (-)		Magnitude
D. On regulated industries or trade groups:	(+)		Indeterminable
E. On other industries or trade groups:	NONE		
F. Direct and indirect effects on public:	NONE		

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. and D. In CY20, the budget for the Value-Based Purchasing was set at 0.5 percent of the MCO capitation rate. The Department anticipates that funding for the Population Health Incentive Program would be set at a similar level for CY22. As such, while the new Program is not budget neutral to the Department, the Department is unable to provide the specific magnitude of the economic impact because budget and rate setting processes are still underway. The Department projects that approximate costs will be similar to the Value-Based Purchasing Program it replaced.

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 Jason Caplan, 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 August 16, 2021. A public hearing has not been scheduled.

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

.03 Quality Assessment and Improvement.

A. (text unchanged)

B. An MCO shall participate in all quality assessment activities required by the Department to determine if the MCO is providing medically necessary enrollee health care. These activities include but are not limited to:

(1)—(2) (text unchanged)

(3) The annual collection and evaluation of a set of performance measures with targets as determined by the Department as follows:

(a)—(h) (text unchanged)

(i) The adjusted enrollment amount in §§B(3)(g)(vii) and B(3)(h)(ix) of this regulation shall be calculated by:

(i)—(iii) (text unchanged)

(iv) Using the actual enrollment of the MCO with the fourth highest normalized score; [and]

(j) The per enrollee amount in §§B(3)(g)(vii) and B(3)(h)(ix) of this regulation shall be calculated by dividing the sum of the calculations in §B(3)(i)(i)—(iv) of this regulation into the funds remaining as described in §§B(3)(g)(vii) and B(3)(h)(ix) of this regulation; and

(k) *The methodology described in §B(3)(a)—(j) of this regulation shall remain in effect through December 31, 2021;*

(4)—(7) (text unchanged)

C.—D. (text unchanged)

.03-2 HealthChoice Population Health Incentive Program (PHIP).

A. *Effective January 1, 2022, the Department shall establish the HealthChoice Population Health Incentive Program (PHIP).*

B. *An MCO may be eligible for an incentive payment for the following performance measures:*

(1) *Ambulatory care visits for Supplemental Security Income (SSI) adults;*

(2) *Ambulatory care visits for Supplemental Security Income (SSI) children;*

(3) *HEDIS asthma medication ratio;*

(4) *HEDIS comprehensive diabetes care—HbA1c poor control (>9%);*

(5) *Lead screening measures:*

(a) *Lead screening measure for children 12—23 months old; and*

(b) *HEDIS lead screening in children;*

(6) *HEDIS postpartum care;*

(7) *HEDIS risk of continued opioid use—≥31 days covered; and*

(8) *HEDIS timeliness of prenatal care.*

C. *Each measure identified in §B of this regulation shall be valued equally at a proportional share of available incentive funds, except for measures §B(5)(a) and (b), which are each valued at half of the available incentive funds relative to one of the other measures.*

D. *There shall be two rounds of potential incentive payments an MCO may earn.*

E. *Subject to budget approval, total PHIP funding shall be determined prior to the measurement year and included in the MCO contract.*

F. *All PHIP payments shall be funded independently from and outside of MCO capitation payments during a given calendar year.*

G. *Each MCO shall be eligible for no more than 1 percent of the plan's measurement year capitation payments, excluding supplemental payments outside of capitation, as total payment from round one and round two.*

H. *If the Department determines that the score for any measure identified in §B of this regulation may not be comparable to the previous year's score due to alterations in measure specifications or other factors, the Department may exclude the measure from the PHIP and adjust the incentive valuation in accordance with the remaining performance measures.*

I. *Round One Incentives.*

(1) *An MCO may earn two types of incentives in round one:*

(a) *A performance incentive payment; and*

(b) *An improvement incentive payment.*

(2) *If an MCO does not report a performance measure or an MCO has a performance score of 0 percent, then the MCO is awarded no performance or improvement incentive payments for this measure.*

(3) *Performance Incentive Payments for Round One.*

(a) *Performance incentive payments shall be based on the following categories for each performance measure:*

(i) *Superlative performance, meaning the performance measure's score is at or above the 90th percentile of HEDIS Medicaid performance nationwide during the measurement year, or estimated 90th percentile among Maryland HealthChoice MCO performance for non-HEDIS performance measures;*

(ii) *Very strong performance, meaning the performance measure's score is between the 75th and 89th percentiles, inclusive, of HEDIS Medicaid performance nationwide during the measurement year, or between the estimated 75th and 89th percentiles, inclusive, among Maryland HealthChoice MCO performance for non-HEDIS performance measures; or*

(iii) *Strong performance, meaning the performance measure's score is between the 50th and 74th percentiles, inclusive, of HEDIS Medicaid performance nationwide during the measurement year, or between the estimated 50th and 74th percentiles, inclusive, among Maryland HealthChoice MCO performance for non-HEDIS performance measures.*

(b) *Payments for round one performance incentives shall be allocated as follows:*

(i) *For superlative performance, an MCO may earn 100 percent of the incentive allocation for the performance measure;*

(ii) *For very strong performance, an MCO may earn 66.6 percent of the incentive allocation for the performance measure;*

(iii) *For strong performance, an MCO may earn 33.3 percent of the incentive allocation for the performance measure;*
and

(iv) *Any MCO earning a performance measure score below the 50th percentile of HEDIS Medicaid performance nationwide during the measurement year on a HEDIS-based measure, or below the calculated 50th percentile among Maryland HealthChoice MCO performance for a non-HEDIS measure, shall be ineligible for a round one performance incentive payment.*

(4) *Round One Improvement Incentive Payments.*

(a) *An MCO may earn an improvement incentive payment for any performance measure if the following conditions are met:*

(i) *The MCO demonstrates improvement of at least 0.5 percentage points in the measure compared to the previous measurement year; and*

(ii) *The performance measure score is at or above the 50th percentile of HEDIS Medicaid performance nationwide on a HEDIS-based measure, or the 50th percentile of Maryland HealthChoice MCO performance for a non-HEDIS measure.*

(b) *An MCO earning a superlative performance incentive payment for a performance measure is ineligible for an improvement incentive payment for the same measure.*

(c) *For any performance measures in which a lower score indicates stronger performance, year-over-year improvement is demonstrated by a reduction in the score for that measure.*

(d) *If an MCO is missing or zero-valued for a performance measure in the previous year, then no improvement incentive will be awarded in the measurement year.*

J. Round Two Incentive Payments.

(1) *An MCO may qualify for payments under round two if the following conditions are met:*

(a) *The MCO earned above 80 percent of possible round one incentives; and*

(b) *The MCO did not have penalties applied during the measurement year for failure to meet the HEDIS MCO Performance Monitoring Policy included in the MCO contract.*

(2) *Any remaining funds that were unallocated during round one may be awarded to eligible MCOs in round two for a maximum incentive award of up to 1 percent of its total capitation payment during the PHIP measurement year, excluding supplemental payments outside of capitation.*

(3) *If any remaining funds that were unallocated during round one are not sufficient to settle all qualifying MCOs up to 1 percent of capitation in round two, then the leftover funds will be awarded proportionally among qualifying MCOs based on enrollment.*

K. If additional funds remain after both round one and round two, the Department may, within its discretion, allocate the funding as follows:

(1) *Make additional payments to MCOs that are below 1 percent of capitation based on improvement or performance; or*

(2) *Place remaining funds into a nonlapsing pool.*

.19 MCO Reimbursement.

A. (text unchanged)

B. **Capitation Rate-Setting Methodology.**

(1)—(3) (text unchanged)

(4) *Except to the extent of adjustments required by §D of this regulation or by Regulations .19-1—[.19-4] .19-3 of this chapter, the Department shall make payments monthly at the rates specified in the following tables:*

(a)—(i) (text unchanged)

(5) *Consistent with the terms set forth in Regulation [.19-5] .19-4 of this chapter, the Department may, in consultation with the Commissioner, adjust the capitation payment of an MCO if it determines that the MCO's loss ratio, not including any rebate received by the MCO is less than 85 percent.*

C.—D. (text unchanged)

10.67.05 Maryland Medicaid Managed Care Program: Access

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

.05-1 Access Standards: Specialty Provider Network.

A.—B. (text unchanged)

C. If an MCO fails to meet the requirements established by this regulation, the Department may suspend the automatic assignment to the MCO of recipients who live in the affected local access area. A suspension of automatic assignments may affect the MCO's ability to qualify for the Statewide supplemental payments specified under COMAR [10.67.04.19-3] *10.67.04.03-1*.

DENNIS R. SCHRADER
Secretary of Health