**PROPOSAL**

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**Title 10  
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 67 MARYLAND HEALTHCHOICE PROGRAM**

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

Authority: Health-General Article, §§*15-101* and 15-103(b), Annotated Code of Maryland

**Notice of Proposed Action**

[20-181-P]

The Secretary of Health proposes to amend Regulation **.03** under **COMAR 10.67.04 Maryland Medicaid Managed Care Program: Managed Care Organizations**.

**Statement of Purpose**

The purpose of this action is to implement the CY 2021 MCO value-based purchasing (VBP) core performance measures.

**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 December 7, 2020. A public hearing has not been scheduled.

**.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)—(c) (text unchanged)

**[**(d) Effective January 1, 2014, the core performance measures are:

(i) Adolescent well care visits;

(ii) Adult Body Mass Index (BMI) assessment;

(iii) Ambulatory care for Supplemental Security Income (SSI) adults;

(iv) Ambulatory care for Supplemental Security Income (SSI) children;

(v) Breast cancer screening;

(vi) Childhood immunizations — Combo 3;

(vii) Comprehensive diabetes care — HbA1c testing;

(viii) Controlling high blood pressure;

(ix) Immunization for adolescents;

(x) Lead screening for children 12—23 months old;

(xi) Medication management for people with asthma — 75 percent grouping;

(xii) Postpartum care; and

(xiii) Well child visits, 3—6 years old;**]**

**[**(e)**]***(d*)—**[**(f)**]***(e)*(text unchanged)

*(f) Effective January 1, 2021, the core performance measures are:*

*(i) Adolescent well care visits;*

*(ii) Ambulatory care for SSI adults;*

*(iii) Ambulatory care for SSI children;*

*(iv) Asthma medication ratio;*

*(v) Breast cancer screening;*

*(vi) Comprehensive diabetes care — HbA1c control (<8.0%);*

*(vii) Controlling high blood pressure;*

*(viii) Lead screening for children 12 through 23 months old;*

*(ix) Postpartum care; and*

*(x) Well child visits in the first 15 months of life;*

**[**(g) Starting with the 2014 performance measures, the Department shall implement the following methodology for imposing penalties and incentives:

(i) There shall be three levels of performance;

(ii) Performance shall be evaluated separately for each measure, and each measure shall have equal weight;

(iii) On any of the measures in §B(3)(d)(i)—(xiii) of this regulation for which the MCO does not meet the minimum target, as determined by the Department, a penalty of 1/13 of 1 percent of the total capitation amount paid to the MCO during the measurement year shall be collected;

(iv) The total amount of the penalties as described in §B(3)(g)(iii) of this regulation may not exceed 1 percent of the total capitation amount paid to the MCO during the same measurement year;

(v) On any of the measures in §B(3)(d) of this regulation for which the MCO meets or exceeds the incentive target, as determined by the Department, the MCO shall be paid an incentive payment of up to 1/13 of 1 percent of the total capitation paid to the MCO during that measurement year;

(vi) The total amount of the incentive payments as described in §B(3)(g)(v) of this regulation paid to the MCOs each year may not exceed the total amount of the penalties as described in §B(3)(g)(iii) of this regulation collected from the MCOs in that same year, plus any additional funds allocated to the Department for a quality initiative; and

(vii) Any funds remaining after the payment of the incentives due under §B(3)(g)(v) of this regulation shall be distributed to the MCOs receiving the four highest normalized scores for Value Based Purchasing for all thirteen performance measures at a rate calculated by multiplying each MCO’s adjusted enrollment as of December 31 of the measurement year by a per enrollee amount;**]**

**[**(h)**]***(g)*(text unchanged)

*(h) Starting with the 2021 performance measures, the Department shall implement the following methodology for imposing penalties and incentives:*

*(i) There shall be three levels of performance;*

*(ii) Performance shall be evaluated separately for each measure, and each measure shall have equal weight;*

*(iii) On any of the measures in §B(3)(f) of this regulation for which the MCO does not meet the minimum target, as determined by the Department, a penalty of 1/10 of 1 percent of the total capitation amount paid to the MCO during the measurement year shall be collected if the conditions in §B(3)(h)(iv) of this regulation do not apply;*

*(iv) If the Department’s actuary determines that the MCO’s total capitation amount for the measurement year does not meet the actuarial soundness definition described in 42 CFR §438.4 after collection of the total penalty amount described in §B(3)(h)(iii) of this regulation, the Department’s actuary shall calculate the maximum penalty the Department shall apply that results in the MCO’s total capitation for the measurement year remaining actuarially sound;*

*(v) If the MCO’s penalty amount is reduced as described in §B(3)(h)(iv) of this regulation, the Department may impose any of the additional sanctions described in COMAR 10.67.10;*

*(vi) The total amount of the penalties as described in §B(3)(h)(iii) of this regulation may not exceed 1 percent of the total capitation amount paid to the MCO during the same measurement year;*

*(vii) On any of the measures in §B(3)(f) of this regulation for which the MCO meets or exceeds the incentive target, as determined by the Department, the MCO shall be paid an incentive payment of up to 1/10 of 1 percent of the total capitation paid to the MCO during that measurement year;*

*(viii) The total amount of the incentive payments as described in §B(3)(h)(vii) of this regulation shall be paid to the MCOs with total amount of the penalties as described in §B(3)(h)(iii) of this regulation collected from the MCOs in that same year, plus additional reserves in the HealthChoice Performance Incentive Fund if the total amount of the penalties collected is insufficient to pay the total amount of the incentive payments;*

*(ix) 40 percent of any funds remaining after the payment of the incentives due under §B(3)(h)(vii) of this regulation shall be distributed to the MCOs earning net incentives with the four highest normalized scores, at a rate calculated by multiplying each MCO’s adjusted enrollment as of December 31 of the measurement year by a per-enrollee amount;*

*(x) MCOs earning net disincentives are ineligible to receive the funds described in §B(3)(h)(ix) of this regulation;*

*(xi) 25 percent of any funds remaining after the payment of the incentives due under §B(3)(h)(vii) of this regulation shall be distributed to the MCOs that the Department determines have demonstrated performance improvement in the measurement year, provided that the MCOs use the funding to target performance improvement in areas defined by the Department;*

*(xii) 25 percent of any funds remaining after the payment of the incentives due under §B(3)(h)(vii) of this regulation shall be retained for health improvement programs under the Maryland Medicaid Managed Care Program;*

*(xiii) 10 percent of any funds remaining after the payment of the incentives due under §B(3)(h)(vii) of this regulation shall be used to establish a reserve in the HealthChoice Performance Incentive Fund, to be used in any calendar year when the amount of penalties collected is insufficient to pay incentives earned by MCOs; and*

*(xiv) If the amount in the HealthChoice Performance Incentive Fund exceeds $5,000,000, the Department shall equally allocate the remaining 10 percent of funds for use in items B(3)(h)(ix) —(xii);*

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

(4)—(7) (text unchanged)

C.— D. (text unchanged)

ROBERT R. NEALL  
Secretary of Health