



STATE OF MARYLAND

DHMH

Office of Health Services
Medical Care ProgramsMaryland 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. 50

March 3, 2004

TO: Managed Care Organizations

FROM: 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.

RE: Emergency and Proposed Amendments to Regulation .19 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

ACTION:
Emergency Regulations
Proposed Regulations

EFFECTIVE DATE:
February 11, 2004

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
Quality Assurance
(410) 767-1482 or call
1-877-4MD-DHMH extension 1482

COMMENT PERIOD EXPIRES: March 22, 2004

The Maryland Medical Assistance Program is promulgating emergency and proposed amendments to Regulation .19 under **COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations**. This amendment requires Managed

Care Organizations to increase dental provider rates for certain restorative dental procedures. The emergency regulations, which were approved by the Administrative, Executive and Legislative Review (AELR) Committee, are in effect from February 11, 2004, to June 30, 2004.

A copy of these proposed amendments as published in the February 20, 2004 Maryland Register is attached to this transmittal.

Attachment

Proposed Action On Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Health-General Article, §§2-104(b) and 15-103(e),
Annotated Code of Maryland;
Ch. 202, Acts of 2003;

Notice of Proposed Action

[04-052-F]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .19 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations.

Statement of Purpose

The purpose of this action is to require Managed Care Organizations (MCOs) to increase dental provider rates for certain restorative dental procedures.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. House Bill 40 (2003 General Assembly session) required \$7,500,000 total funds in MCO payments to be restricted to increases in restorative dental funding. This was based on a University of Maryland Dental School analysis which assumed the increase would cost \$7,500,000 per year, \$3,500,000 for higher dental rates for certain restorative procedures and \$4,000,000 for higher dental utilization rates that would result from paying providers higher rates. While the General Assembly passed the bill, no money was allocated to the Department's budget to cover the higher rates or expected increase in dental utilization. The Department, therefore, will not be adjusting the managed care organizations' (MCOs) capitation rates to ensure they

are compensated for these new legislative requirements. Under current HealthChoice regulations, the Department is required to make interim rate adjustments when a change in benefits results in either an over-payment or under-payment of 0.2 percent, or greater. This amendment meets this threshold. The Department, therefore, is submitting regulations that require the MCOs to pay the enhanced dental rates without an adjustment to their capitation rates.

II. Types of Economic Impact.

	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$7,500,000
E. On other industries or trade groups:	(+)	\$7,500,000
F. Direct and indirect effects on public:	NONE	

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

D. House Bill 40 (2003 General Assembly session) required \$7,500,000 total funds in MCO payments to be restricted to increases in restorative dental funding. Of the \$7,500,000, \$3,500,000 is for higher dental rates for certain restorative procedures and \$4,000,000 is for higher dental utilization rates that would result from paying providers higher rates. MCOs would be required to increase dental provider rates without an adjustment to their capitation rates.

E. HealthChoice dental providers who provide restorative services would directly benefit from the increased rates. Local health departments may benefit from the rate increase to the extent that they have dental providers who provide restorative services.

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 West Preston Street, Room 521, 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 March 22, 2004.

.19 MCO Reimbursement.

- A. — C. (text unchanged)
- D. Interim Rates Adjustments.
 - (1) — (6) (text unchanged)
 - (7) MCOs shall pay dental providers at least at the 50th percentile payment rate for the South Atlantic Region as reported by the American Dental Association for the twelve procedure codes listed in the following table:

CDT-3 Procedure Code	Description	50th Percentile ADA Rate for South Atlantic Region
D2140	Amalgam-1surf	\$70
D2150	Amalgam-2surf	\$88
D2160	Amalgam-3surf	\$104
D2330	Resin-1surf, ant	\$84
D2331	Resin-2surf, ant	\$102
D2332	Resin-3surf, ant	\$125
D2335	Resin-4surf, incisal angle	\$151
D2380	Resin-1 surf, post	\$93
D2381	Resin-2 surf, post	\$120
D2382	Resin-3 surf, post	\$150
D2930	Prefab SSC-primary	\$154
D2931	Prefab SSC-permanent	\$180

(8) Notwithstanding §D(2) and (3) of this regulation, the Department may not make an adjustment to capitation rates for increases in restorative dental expenditures resulting from §D(7) of this regulation.

NELSON J. SABATINI
Secretary of Health and Mental Hygiene

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

10.37.10 Rate Application and Approval Procedures

Authority: Health-General Article, §§19-201, 19-219, and 19-222, Annotated Code of Maryland

Notice of Proposed Action

[04-051-P]

The Health Services Cost Review Commission proposes to amend Regulation .03 under COMAR 10.37.10 **Rate Application and Approval Procedures**. This action was considered and approved for promulgation by the Commission at a previously announced open meeting held on December 3, 2003, notice of which was given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland. If adopted, the proposed amendment will become effective on or about May 10, 2004.

Statement of Purpose

The purpose of this action is to allow hospitals to file partial rate applications in response to day limits established by Medicaid.

Comparison of Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action has a substantial impact.

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

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

D. The hospitals will benefit substantially as a result of the Commission's allowing for partial rate applications to recover those costs associated with increased uncompensated care due to Medicaid day limits.

E. Payers will be required to reimburse hospitals whose uncompensated care provision is increased to recover those costs associated with Medicaid Day Limits.

F. As a result of the Commission's allowing for partial rate applications in this instance, the public's access to needed hospital care will not be compromised.

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 Dennis N. Phelps, Associate Director, Audit and Compliance, 4160 Patterson Avenue, Baltimore, Maryland 21215, or call (410) 764-2605, or fax to (410) 358-6217, or email to dphelps@hsrc.state.md.us. The Health Services Cost Review Commission will consider written comments on the proposed amendment until March 22, 2004. A hearing may be held at the discretion of the Commission.

.03 Regular Rate Applications.

- A. — C. (text unchanged)
- D. *Uncompensated Care Policy — Medicaid Day Limits.*

(1) A hospital may request a change in its approved provision of uncompensated care by means of a partial rate application in response to action taken by the Secretary of Mental Health and Hygiene to establish hospital day limits under the Medical Assistance Program.

(2) In evaluating such a request, the Commission shall consider the following factors before deciding whether to approve, deny, or modify the hospital's request:

(a) The hospital's actual uncompensated care and estimated uncompensated care from the Commission's most recent uncompensated care regression analysis;