PT11-02

STATE OF MARYLAND

DHMH

Office of Health Services
Medical Care Programs

Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201
Parris N. Glendening, Governor - Georges C. Benjamin, M.D., Secretary

**MARYLAND MEDICAL ASSISTANCE PROGRAM**
**Managed Care Organization Transmittal No. 27**
**December 14, 2001**

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.

Proposed Amendments to HealthChoice Regulations

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**ACTION:**
Proposed Regulations

**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

**EFFECTIVE DATE:**

**PROGRAM CONTACT PERSON:**
Division of HealthChoice Management
(410) 767-1482 or call
1-877-4MD-DHMH extension 6483

**COMMENT PERIOD EXPIRES: December 31, 2001**

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The Secretary of Health and Mental Hygiene proposes to amend Regulation **.01** under **COMAR 10.09.62 Maryland Medicaid Managed Care Program: Definitions**; to amend Regulations **.01, .02, .05,** and **.06** under **COMAR 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment**; to amend Regulations **.02, .03, .10, .11, .15, .17** and adopt new Regulations **.26 and .27** under **COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations**; to amend Regulation **.02 under COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access**; to amend Regulations **.04, .05, .12, .20, and .23 under COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits**; to

amend Regulation .03 under **COMAR 10.09.68 Maryland Medicaid Managed Care Program: School-Based Health Centers**; to adopt new Regulation .03 and change the title of **COMAR 10.09.73 Maryland Medicaid Managed Care Program: Sanctions.**

The proposed amendments will:

(1) Add incarceration as a reason for ineligibility and disenrollment from HealthChoice;

(2) Add language which requires the Managed Care Organization (MCO) to pay out-of network hospice providers;

(3) Add language regarding MCO's provider/subcontractor contract termination that affect more than fifty enrollees;

(4) Add the language in Inpatient Benefits regarding 30 continuous Long Term Care (LTC) days to Nursing Home Benefits;

(5) Remove the requirement that the enrollee handbook list the hours of operation for physician offices;

Add language that the enrollee may request a change of MCO to select any other family member's Primary Care Provider (PCP);

Change the billing time for School-based health centers;

Remove the language about Kids Count Program;

Add the requirement that the MCO offer an enrollee with HIV/AIDS one face-to-face meeting during initial assessment and document enrollee's acceptance or declination;

Remove the homebound requirement from home health services;

Add language regarding the requirements when the MCO is departing the program as set forth in Health General Article, §15-103(23), Annotated Code of Maryland;

(12) Remove occupational therapy, physical therapy, and speech therapy services from EPSDT services provided by the MCOs;

Add a new section to quality assurance regulations to reflect audit changes for CY 2001,

Establish the HealthChoice Performance Incentive fund;

Add vitamin D as an MCO covered item;

Add language regarding when an MCO may temporarily stop accepting new enrollees,

Add new language regarding the conditions for MCO contract termination;

Add new language requiring the MCO to have a newborn coordinator;

Define caller service level and caller abandonment rates, and require the MCO to submit ad hoc reports on these rates;

Remove certain language regarding enrollment and revise auto-assignment criteria;

Remove the language that the MCO is responsible for submitting the Hospital Report of Newborns, and add language requiring MCO to be responsible for newborn's health care; and

Add language revising the substance abuse screening instrument.

The proposed amendments, as published in the November 30, 2001 Maryland Register, are attached.

Attachment

*(h) If the trust owns an asset jointly with another, the ownership shall be as tenants in common, and the ownership agreement shall provide that, upon termination of the trust, the property shall either be sold for fair market value or the other owners shall purchase the trust's interest in the property for fair market value;*

*(i) Trust assets may not be held as an ongoing business or enterprise, or as investments in new or untried enterprises;*

*(j) Trust distributions may not be used to supplement Medical Assistance payments to any health care provider delivering goods or services to the beneficiary;*

*(k) Trust assets may not be used to compensate family members of the beneficiary for serving the beneficiary in any way, including caring for the beneficiary, accompanying the beneficiary on travel, providing companionship to the beneficiary, or serving as trustees or members of a trust advisory committee;*

*(l) Trust assets may not be used to purchase gifts;*

*(m) Trust assets may not be used to purchase a life insurance policy on the life of the beneficiary;*

*(n) Trust assets may only be used to purchase a life insurance policy on the life of someone other than the trust beneficiary if the trust is the only beneficiary of the life insurance policy;*

*(o) Trust assets may not be used to purchase an annuity on the life of the beneficiary unless the annuity provides that:*

*(i) The final payment to the trust shall be made before the beneficiary is 65 years old; and*

*(ii) If the beneficiary dies before the final payments have been made, the remaining payments shall be paid directly to the State until the total Medical Assistance benefits paid on behalf of the beneficiary have been reimbursed;*

*(p) The trust may not loan trust assets without security, which may include an interest in real or personal property of at least equivalent value;*

*(q) The trust may only make loans if the loan agreement provides for immediate repayment in the event of the death of the beneficiary or termination of the trust for any other reason;*

*(r) The only real property in which the trust may invest is in a single home property, which is used as the residence of the beneficiary and is titled in the name of the trust;*

*(s) The trust may not disburse more than $100,000 for the purchase of property without the approval of the State circuit court in the jurisdiction in which the beneficiary resides;*

*(t) An annual accounting of the trust, including a listing of current assets, income, and itemized distributions during the previous year, shall be sent to the Maryland Medical Assistance Program, Division of Recoveries and Financial Services;*

*(u) Trust assets may not be used to pay funeral expenses of the beneficiary but may be used to purchase an irrevocable burial contract for the beneficiary to cover the beneficiary's funeral and burial expenses;*

*(v) The trust may not receive payments from an annuity or a structured settlement that may provide lump sum or periodic payments unless the annuity or settlement provides that:*

*(i) The final payment to the trust is received before the beneficiary is 65 years old; and*

*(ii) If the beneficiary dies before the annuity or settlement is fully paid, the balance shall be paid directly to the State until the total Medical Assistance benefits paid on behalf of the beneficiary have been reimbursed;*

*(10) If any amendments are made to the trust, the amendments shall comply with this section and a copy of the amendments shall be sent to the Division of Recoveries and Financial Services; and*

*(11) If the trust agreement fails to comply with any provision of this section, the full value of the assets of the trust shall be considered available resources of the trust beneficiary for Medical Assistance eligibility purposes.*

GEORGES C. BENJAMIN, M.D.
Secretary of Health and Mental Hygiene

## Subtitle 09 MEDICAL CARE PROGRAMS

### Notice of Proposed Action

[01-407-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .01 under **COMAR 10.09.62 Maryland Medicaid Managed Care Program: Definitions**; to amend Regulations .01, .02, .05, and .06 under **COMAR 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment**; to amend Regulations .02, .03, .10, .11, .15, .17, and adopt new Regulations .26 and .27 under **COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations**; to amend Regulation .02 under **COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access**; to amend Regulations .04, .05, .12, .20, and .23 under **COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits**; to amend Regulation .03 under **COMAR 10.09.68 Maryland Medicaid Managed Care Program: School-Based Health Centers**; to adopt new Regulation .03 and change the title of **COMAR 10.09.73 Maryland Medicaid Managed Care Program: Sanctions**.

### Statement of Purpose

The purposes of this action are to:

(1) Add incarceration as a reason for ineligibility and disenrollment from HealthChoice;

(2) Add language which requires the managed care organization (MCO) to pay out-of-network hospice providers;

(3) Add language regarding MCO's provider/subcontractor contract termination that affects more than 50 enrollees;

(4) Add the language in inpatient benefits regarding 30 continuous long-term care (LTC) days to nursing home benefits;

(5) Remove the requirement that the enrollee handbook list the hours of operation for physician offices;

(6) Add language that the enrollee may request a change of MCO to select any other family member's primary care provider (PCP);

(7) Change the billing time for school-based health centers;

(8) Remove the language about Kids Count Program;

(9) Add the requirement that the MCO offer an enrollee with HIV/AIDS one face-to-face meeting during the initial assessment and document enrollee's acceptance or declination;

(10) Remove the homebound requirement from home health services;

(11) Add language regarding the requirements when the MCO is departing the program as set forth in Health-General Article, §15-103(23), Annotated Code of Maryland;

(12) Remove occupational therapy, physical therapy, and speech therapy services from EPSDT services provided by the MCOs;

(13) Add a new section to the quality assurance regulations to reflect audit changes for CY 2001;

(14) Establish the HealthChoice Performance Incentive Fund.

(15) Add vitamin D as an MCO-covered item;

(16) Add language regarding when an MCO may temporarily stop accepting new enrollees;

(17) Add new language regarding the conditions for MCO contract termination;

(18) Add new language requiring the MCO to have a newborn coordinator;

(19) Define caller service level and caller abandonment rates, and average hold time, and require the MCO to submit ad hoc reports on these rates;

(20) Remove certain language regarding enrollment and revise autoassignment criteria;

(21) Remove the language that the MCO is responsible for submitting the hospital report of newborns, and add language requiring MCO to be responsible for newborn's health care; and

(22) Add language revising the substance abuse screening instrument.

### Comparison to Federal Standards

There is no corresponding federal standard to this proposed regulation.

### Estimate of Economic Impact

**I. Summary of Economic Impact.** These amendments will have a minimal negative economic impact on the MCOs, except one regulation that may have a positive impact. These amendments also will have a positive impact on the MCO subcontracted providers.

| II. Types of Economic Impacts. | 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: | | |
| Managed care organizations except for incentive pay | (+/−) | Undetermined |
| E. On other industries or trade groups: | | |
| MCO subcontracted providers | (+) | Undetermined |
| F. Direct and indirect effects on public: | NONE | |

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

D. There may be a positive economic impact on the MCOs due to receiving incentive payments for meeting or exceeding performance targets. However, there may be a negative economic impact on the MCOs due to the following regulation changes that require the MCOs to:

(1) Pay the out-of-network hospice providers;

(2) Collect and report caller service level and caller abandonment rates to the Department;

(3) Have a newborn coordinator; and

(4) Handle increased billing submissions due to extended billing time for school based health centers.

E. There will be a positive impact on the providers as follows:

(1) There will be positive impact on the out-of-network hospice providers since the MCOs are now required to pay them; and

(2) School based health centers are impacted positively due to the extension of their billing time period.

### 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@dhmh.state.md.us, or call (410) 767-6499, or 1-877-4MD-DHMH, extension 6499. These comments must be received by December 31, 2001.

## 10.09.62 Maryland Medicaid Managed Care Program: Definitions

Authority: Health-General Article, [Title 15, Subtitle 1] *§15-101*, Annotated Code of Maryland

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (20) (text unchanged)

*(20-1) "Caller abandonment rates" means the percentage of calls terminated by callers without speaking to a live operator.*

*(20-2) "Caller average hold time" means an average amount of time a call is on hold after being answered.*

*(20-3) "Caller service level" means the speed of answering the telephone.*

(21) — (89) (text unchanged)

*(89-1) "Inmate" means an individual who is serving time for a criminal offense or confined involuntarily in State or federal prisons, jail, detention centers, or other penal facilities.*

(90) — (161) (text unchanged)

*(161-1) "Public institution" has the meaning stated in COMAR 10.09.24.02.*

(162) — (206) (text unchanged)

## 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment

Authority: Health-General Article, Annotated Code of Maryland

| Regulations | Sections |
|---|---|
| .01 | 15-103(b)(3), (4), (6) |
| .02 | 15-103(b)(16) |
| .05 | 15-103(b)(23) |
| .06 | 15-103(b)(8), (23) |

**.01 Eligibility.**

A. (text unchanged)

B. A recipient is not eligible for the Maryland Medicaid Managed Care Program if the recipient:

(1) — (2) (text unchanged)

(3) Is enrolled in:

(a) Home Care for Disabled Children under a Model Waiver, pursuant to COMAR 10.09.27[.]*; or*

(b) The Family Planning Waiver Program pursuant to COMAR 10.09.58[, or];

[(c) The Maryland Kids Count Program pursuant to COMAR 10.09.56;]

(4) (text unchanged)

(5) Is a child under State supervision receiving adoption subsidy who lives outside of the State; [or]

(6) Is a child in an out-of-State placement[.]; *or*

*(7) Is an enrollee who is an inmate of a public institution, including a State operated institution or facility.*

C. (text unchanged)

**.02 Enrollment.**

A. — B. (text unchanged)

C. [The Department shall enroll waiver-eligible recipients as follows:

(1) Except as provided in §C(2), (3), and (4) of this regulation, 1/5 of the waiver-eligible recipients shall be selected on a random basis and enrolled each month beginning with the first month of the Maryland Medicaid Managed Care Program;

(2) Recipients who, during the first 6 months of the Waiver Program, are receiving case management services under a voluntary program administered by the Program for individuals at risk of high medical expenses shall be enrolled during the sixth month of the Maryland Medicaid Managed Care Program;

(3) A waiver-eligible recipient may volunteer to be enrolled before the recipient's mandatory enrollment date, beginning with the first month of the Maryland Medicaid Managed Care Program; and

(4)] Individuals who are new waiver-eligible recipients shall be enrolled in an MCO within 1 month of the Department's receipt of notice of the individual's Medical Assistance eligibility.

D. (text unchanged)

E. Children.

(1) A newborn shall be automatically enrolled from birth in its biological mother's MCO. [The MCO shall be responsible for submitting the Hospital Report of Newborns DHMH 1184 report to the Department within 30 business days after a child's birth.] *The MCO is responsible for the newborn's health care from birth until the newborn enrolls into another MCO, except if the newborn is hospitalized at the time of enrollment into the new MCO, in which case the original MCO is responsible for the hospitalization.*

(2) (text unchanged)

F. — G. (text unchanged)

H. Automatic Assignment Criteria.

(1) Children in Foster and Kinship Care. An eligible recipient who is a child in foster care or kinship care, and who fails to elect an MCO within 60 days of the Department's mailing of eligibility notification shall be assigned to an MCO with available capacity *that accepts new enrollees* in accordance with the procedures specified in §H(2) of this regulation.

(2) Except as provided in §H(1) of this regulation, an eligible recipient who fails to elect an MCO within 21 days of the Department's mailing of eligibility notification shall be assigned to [a] *an* MCO with available capacity *that accepts new enrollees* as follows:

[(a) If the recipient has a current preestablished relationship with a PMP pursuant to the Medicaid program that participates in more than one MCO in the local access area, the recipient shall be randomly assigned to an MCO in the local access area whose provider panel includes that provider and that provides adult dental benefits, or, if there are none, then randomly to any MCO in the local access area whose provider panel includes that provider;

(b) If the recipient has a current preestablished relationship with a PMP pursuant to the Medicaid program who participates in one MCO in the recipient's local access area, the recipient shall be assigned to the MCO in the local access area whose provider panel includes that provider;

(c) If the recipient is enrolled in a Medicaid HMO, the recipient shall be assigned to the successor MCO, assuming the HMO has qualified as an MCO;

(d) If the recipient has a current preestablished relationship with a FQHC and is enrolled in a Medicaid HMO that has not qualified as an MCO, the recipient shall be assigned to an MCO in the local access area whose provider panel includes the FQHC;]

[(e)] *(a)* Unless inconsistent with assigning household members to the same MCO pursuant to [§H(2)(f)] *§H(2)(b)* of this regulation, [if the recipient meets none of the conditions specified in §H(2)(a) — (d) of this regulation,] the Department shall randomly assign the recipient to an MCO in the local access area that provides adult dental benefits, or, if there are none, then randomly to any MCO in the local access area; or

[(f)] *(b)* [If the recipient meets none of the conditions specified in §H(2)(a) — (d) of this regulation, the] *The* Department shall, in addition to assigning the recipient to an MCO pursuant to [§H(2)(e)] *§H(2)(a) of this* regulation, assign to the same MCO all the recipient's family members who:

(i) Are *simultaneously* eligible for enrollment in the Maryland Medicaid Managed Care Program[,]*; and*

(ii) Live in the same household as the recipient[, and

(iii) Meet none of the conditions specified in §H(2)(a) — (d) of this regulation].

I. — L. (text unchanged)

**.05 Reassignment.**

A. — C. (text unchanged)

D. The Department shall reassign into the same MCO from which the recipient was last enrolled any recipient disenrolled from an MCO who, within [3 months] *120 days* of disenrollment, regains:

(1) — (2) (text unchanged)

*E. The MCO shall assign the recipient to the primary care provider of record at the time of the recipient's disenrollment.*

[E.] *F.* — [F.] *G.* (text unchanged)

**.06 Disenrollment.**

A. Enrollee-Initiated Disenrollment for Cause.

(1) An enrollee may disenroll from an MCO and enroll into another MCO if:

(a) — (b) (text unchanged)

*(c) The enrollee requests enrollment into the MCO that contracts with the PCP of any other family member who is not a HealthChoice enrollee;*

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

[(e)] *(f)* The MCO terminates its contract with the Department in which case [the disenrollment shall occur in the following manner]:

*(i) The MCO shall provide written notice to the recipient at least 60 days before the date on which the MCO will exit the HealthChoice Program;*

*(ii) The MCO shall include in the notice the name and provider number of the PCP assigned to the recipient and the telephone number of the enrollment broker;*

[(i)] *(iii)* — [(iii)] *(v)* (text unchanged)

[(f)] *(g)* The MCO is acquired by another entity in which case [the disenrollment shall occur in the following manner]:

*(i) The MCO shall provide written notice to the recipient at least 60 days before the date on which the MCO will exit the HealthChoice Program;*

*(ii) The MCO shall include in the notice the name and provider number of the PCP assigned to the recipient and the telephone number of the enrollment broker;*

[(i)] *(iii)* — [(iv)] *(vi)* (text unchanged)

(2) — (4) (text unchanged)

[(5) The Department shall interpret cause liberally in determining whether to permit disenrollment of a member of a special needs population during the first year of the Maryland Medicaid Managed Care Program.]

B. Department-Initiated Disenrollment. The Department shall disenroll from an MCO an enrollee:

(1) — (7) (text unchanged)

(8) Who has not been validly enrolled in the MCO*;* [or]

(9) Who is 65 years old or older[.]*; or*

*(10) Who is an inmate of a public institution, including a State operated institution or facility.*

C. — E. (text unchanged)

F. Effective Date of Disenrollment.

(1) (text unchanged)

(2) An enrollee's disenrollment shall take effect:

(a) (text unchanged)

(b) From the first day of the month the Department receives notice through the CARES system of lost Medicaid eligibility; [or]

(c) Immediately when the enrollee relocates outside of the State[.]*; or*

*(d) For incarceration, on the date that the enrollee's Medicaid eligibility is terminated.*

(3) — (6) (text unchanged)

## 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Health-General Article,
Annotated Code of Maryland

| Regulations | Sections |
|---|---|
| .02 | 15-102.4(a)(i) |
| .03 | 15-103(b) |
| .10 — .11 | 15-103(b)(10) |
| .15 | 15-103(b)(9)(ii)(xiii) |
| .17 | 15-102.1, 15-103(b)(5)(iii) & (b)(17) |
| .26 | 15-103(f)(5)(i)(2), A., C.(3) |
| .27 | 15-103(b)(10) |

### .02 Conditions for Participation.

A. — J. (text unchanged)

*K. When an MCO decides to temporarily stop accepting new enrollees, the MCO shall:*

*(1) Provide the Department with written notice at least 60 days before the day it will stop accepting new enrollees;*

*(2) Continue to accept enrollees who regain eligibility within 120 days of becoming ineligible for the Program;*

*(3) Accept newborns if the mother is an MCO member at the time of birth; and*

*(4) Accept the family members of enrollees enrolled with the MCO before the effective date that the MCO stopped accepting new enrollees.*

[K.] *L.* — [V.] *W.* (text unchanged)

### .03 Quality Assurance and Improvement Systems.

A. — S. (text unchanged)

*T. Notwithstanding §§E, M, and N of this regulation, the following shall be in effect for the annual external audit performed for the calendar year 2001:*

*(1) An MCO shall participate in a systems performance review that assesses the quality assurance operations measuring compliance by reviewing:*

*(a) The following HCQIS standards:*

*(i) Systematic Process of Quality Assessment and Improvement;*

*(ii) Accountability to Governing Body;*

*(iii) Credentialing and Recredentialing;*

*(iv) Enrollee Rights;*

*(v) Availability and Access;*

*(vi) Utilization Review;*

*(vii) Continuity of Care;*

*(viii) QA plan documentation; and*

*(ix) Coordination of QA Activities with other management activities; and*

*(b) The following State standards:*

*(i) Health education as described in §C of this regulation; and*

*(ii) Outreach as described in COMAR 10.09.65.25;*

*(2) An MCO shall participate in clinical care reviews focused on:*

*(a) Diabetes care;*

*(b) Prenatal and postpartum care;*

*(c) Immunizations at age 2 years old; and*

*(d) EPSDT services; and*

*(3) An MCO shall, at a minimum, meet the following standards:*

*(a) Except for the new review areas, added in CY 2001, 100 percent compliance for each standard in the systems performance reviews; and*

*(b) In the CY 2001 clinical care review:*

*(i) 80 percent compliance rating; or*

*(ii) If 80 percent is not achieved, a demonstration of meaningful improvement over CY 2000 scores by achieving a minimum of 10 percent reduction in the percentage of the review that fails to meet minimum standards.*

### .10 Special Needs Populations — Individuals with HIV/AIDS.

A. (text unchanged)

B. AIDS Case Management Services.

(1) An MCO shall ensure that an enrollee with HIV/AIDS receives case management services that:

(a) — (d) (text unchanged)

(e) Include, but are not limited to:

(i) Initial and ongoing assessment of the enrollee's needs and personal support systems, *including the MCO offering an enrollee one face-to-face meeting during the initial assessment and documenting the enrollee's acceptance or declination of the face to face meeting;*

(ii) — (vi) (text unchanged)

(2) (text unchanged)

C. — E. (text unchanged)

### .11 Special Needs Populations — Individuals in Need of Substance Abuse Treatment.

A. — C. (text unchanged)

D. An MCO [shall use a screening instrument comparable to the Michigan Addiction Screening Test (MAST) or C.A.G.E. The MCO] shall screen an enrollee for substance abuse:

(1) — (4) (text unchanged)

*E. An MCO shall use a formal substance abuse screening instrument that is:*

*(1) Appropriate for the detection of both alcohol and drug abuse; and*

*(2) Recommended by the Substance Abuse and Mental Health Services Administration (SAMSA) of the U.S. Department of Health and Human Services, and appropriate for the age of the patient.*

[E.] *F.* — [I.] *J.* (text unchanged)

**.15 Data Collection and Reporting.**

A. — G. (text unchanged)

*H. Unless the MCO is exempt for good cause, an MCO shall submit to the Department when requested the following reports for its enrollee/member services and provider/authorization/preauthorization lines:*

*(1) Caller abandonment rates;*

*(2) Caller service level rates; and*

*(3) Caller average hold time.*

*I. If the MCO exits the HealthChoice Program for any reason, including those listed in COMAR 10.09.63.06A(1)(e) and (f):*

*(1) The MCO shall provide the Department with a list of enrollees and the name of each enrollee's PCP, at least 30 days before exiting the program; and*

*(2) On receiving the list provided by the MCO, the Department shall provide the list to:*

*(a) The enrollment broker to assist and provide outreach to recipients in selecting an MCO; and*

*(b) If permitted by State and federal law, the remaining MCOs for the purpose of linking recipients with a PCP.*

[H.] *J.* — [J.] *L.* (text unchanged)

**.17 Subcontractual Relationships.**

A. (text unchanged)

B. Subcontractual Relations Reporting Requirements.

(1) — (2) (text unchanged)

*(3) When an MCO and provider terminate their contract:*

*(a) The MCO shall provide the Department with a written notice regarding the termination of care or services if more than 50 enrollees are affected within the following time frames:*

*(i) Within a minimum of 30 days before the effective date of termination; or*

*(ii) If less than 30 days, within 5 days after receipt of notice from the terminating provider or subcontractor; and*

*(b) The notice shall contain the:*

*(i) Date of termination;*

*(ii) Name or names of providers or subcontractors terminating;*

*(iii) Number of enrollees affected; and*

*(iv) MCO's plan for transitioning enrollees to other providers.*

C. — E. (text unchanged)

***.26 Time Period for Termination of Provider Agreement.***

*A. An MCO may terminate its provider agreement with the State after providing the Department with written notice of its intent to terminate, at least 120 days before the intended date of termination.*

*B. An MCO may terminate its provider agreement with the State after providing the Department 90 days notice before the intended date of termination if the notice is provided by October 1.*

***.27 Newborn Coordinator.***

*A. An MCO shall identify a newborn coordinator who shall be available to providers during the MCO's business hours as a contact for concerns related to eligibility and provision of services to newborns.*

*B. The newborn coordinator shall provide services for a newborn:*

*(1) Whose mother is enrolled in the MCO on the date of the newborn's birth; and*

*(2) Who is enrolled or who is autoassigned to the MCO after birth.*

*C. The newborn coordinator shall:*

*(1) Research and confirm the assignment of an eligible newborn to a managed care organization;*

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

*(3) Facilitate and confirm the selection of a primary care provider for an eligible newborn;*

*(4) Request an MCO ID card for a newborn when necessary;*

*(5) Make retroactive PCP enrollments when necessary;*

*(6) Facilitate the resolution of claims for services provided to an eligible newborn;*

*(7) Provide general guidance to providers and their office staff on newborn-related issues;*

*(8) Coordinate with ancillary care providers to facilitate appropriate delivery of care and payment of claims; and*

*(9) Coordinate and authorize in-network care when the newborn does not yet appear in EVS or the MCO's system, or out-of-network care when the MCO cannot offer an appropriate in-network provider.*

## 10.09.66 Maryland Medicaid Managed Care Program: Access

Authority: Health-General Article, [Title 15, Subtitle 1] *§15-103(b)*, Annotated Code of Maryland

**.02 Access Standards: Enrollee Handbook.**

A. (text unchanged)

B. An MCO shall, at the time of enrollment and annually thereafter at the time of reassignment, furnish each enrollee with a copy of the MCO's enrollee handbook that includes the following current information pertaining to the county in which the enrollee resides:

(1) — (6) (text unchanged)

(7) Information about the MCO, including its primary care service locations [and hours of operation];

(8) A listing of the MCO's hospital providers, of both inpatient and outpatient services, in the enrollee's county, their addresses [and hours of operation], and services provided;

(9) A listing of the MCO's pharmacy providers in the enrollee's county[,] *and* their addresses [and hours of operation];

(10) A listing of the individual practitioners who are the MCO's primary and specialty care providers in the enrollee's county, grouped by medical specialty, giving:

(a) — (c) (text unchanged)

[(d) Hours of availability at each location,]

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

(11) — (14) (text unchanged)

## 10.09.67 Maryland Medicaid Managed Care Program: Benefits

Authority: Health-General Article, [Title 15, Subtitle 1] Annotated Code of Maryland

| Regulations | Sections |
|---|---|
| .04, .05, .12 | 15-103(b)(2)(i) |
| .20 | 15-103(b)(2)(i) |
| .23 | 15-103(b)(2)(i), (23)(i), (f)(4), (5) |

**.04 Benefits — Pharmacy Services.**

A. An MCO shall provide to its enrollees all medically necessary and appropriate pharmaceutical services and pharmaceutical counseling, including but not limited to:

(1) — (9) (text unchanged)

(10) Medical supplies or equipment used in the administration or monitoring of medication prescribed or ordered for an enrollee by a qualifying provider as specified in §B of this regulation; [and]

(11) Latex condoms[.]; *and*

*(12) Nonlegend ergocalciferol liquid (Vitamin D).*

B. — F. (text unchanged)

**.05 Benefits — Home Health Services.**

A. (text unchanged)

B. An MCO shall provide the home health services specified in §A of this regulation that are:

(1) Certified by the enrollee's PCP or by the enrollee's attending physician to be required on a part-time, intermittent basis [by an enrollee who is homebound]; and

(2) (text unchanged)

**.12 Benefits — Nursing Facility Services.**

A. An MCO shall provide to its enrollees medically necessary and appropriate nursing facility services for:

(1) (text unchanged)

(2) Any days following the first 30 continuous days of an admission until the date the MCO has obtained the Department's determination that the admission is medically necessary and appropriate as specified in [§B] *§C* of this regulation.

*B. Acute care services provided within the first 30 days following an enrollee's admission to a long-term care facility do not constitute a break in calculating the 30 continuous day requirement if the enrollee is discharged from the hospital back to the long-term care facility.*

[B.] *C.* (text unchanged)

[C.] *D.* The Department shall render a determination with respect to the medical necessity and appropriateness of a stay in a nursing facility as specified in [§B] *§C* of this regulation within 3 business days of receipt of a complete application from the MCO.

[D.] *E.* (text unchanged)

**.20 Benefits — EPSDT Services.**

A. (text unchanged)

B. The health care services described in §A(3) of this regulation shall include, at a minimum, all services described in this chapter, and the following:

(1) — (3) (text unchanged)

[(4) Examination, fitting, and purchase of hearing aids, including hearing aid accessories and supplies;]

[(5)] *(4)* Private duty nursing services including:

(a) An initial assessment and development of a plan of care by a registered nurse[,]; and

(b) On-going private duty nursing services delivered by a licensed practical nurse or a registered nurse; *and*

[(6)] *(5)* Durable medical equipment, including assistive communication devices[; and].

[(7) Occupational therapy, physical therapy, and speech therapy services, for either habilitative or rehabilitative treatment if the services are not:

(a) Specified in the enrollee's individualized education plan (IEP), or

(b) Specified in the enrollee's individualized family service plan (IFSP) and delivered in the schools or through Children's Medical Services community-based providers.]

C. (text unchanged)

**.23 Benefits — Hospice Care Services.**

A. An MCO shall include in its benefits package medically necessary and appropriate hospice care services to enrollees who are terminally ill[, when appropriately requested by the enrollee].

*B. The Department shall allow an enrollee to disenroll from an MCO and choose a new MCO if:*

*(1) The enrollee was auto-assigned to the MCO; and*

*(2) The enrollee's hospice provider does not contract with the enrollee's assigned MCO.*

*C. If an enrollee who is in a hospice that does not contract with the enrollee's MCO and the enrollee will not voluntarily choose a new MCO, the enrollee's current MCO:*

*(1) Shall authorize and pay the out-of-network hospice provider at the established Medicaid rate, to ensure continuity of care; and*

*(2) May not require the hospice care enrollee to change their out-of-network hospice provider to an in-network hospice provider.*

## 10.09.68 Maryland Medicaid Managed Care Program: School-Based Health Centers

Authority: Health-General Article, [Title 15, Subtitle 1], *§15-103(b)(19)(i)*, Annotated Code of Maryland

**.03 Conditions for Reimbursement for Self-Referred Services.**

A. — C. (text unchanged)

D. Required Timeliness of Reports to MCO.

(1) To receive reimbursement for self-referred school-based health center services, the school-based health center shall transmit to the MCO, within [60 days] *6 months* of performing the services, encounter data and billing information using the HCFA 1500 format.

(2) (text unchanged)

E. — F. (text unchanged)

## 10.09.73 Maryland Medicaid Managed Care Program: Sanctions

Authority: Health-General Article, [Title 15, Subtitle 1] *§15-103(b)(9)*, Annotated Code of Maryland

***.03 Incentives.***

*A. All monies collected from the MCOs as a result of the imposition of a financial sanction shall be deposited in the HealthChoice Performance Incentive Fund.*

*B. This nonlapsing fund shall include all sanctions imposed on the MCOs starting in calendar year 1999.*

*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.*

GEORGES C. BENJAMIN, M.D.
Secretary of Health and Mental Hygiene

## Subtitle 10 LABORATORIES

### Notice of Proposed Action

[01-411-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .03 under **COMAR 10.10.01 General**, and amend Regulations .03 and .06, repeal existing Regulation .04, and adopt new Regulations .04 and .10 under **COMAR 10.10.10 Job-Related Alcohol and Controlled Dangerous Substances Testing**.

### Statement of Purpose

The purpose of this action is to set forth the standards and requirements that an employer or agent of the employer is required to meet to register and perform preliminary screenings of job applicants for controlled dangerous substances. The proposed action will add or amend certain definitions, expand the Secretary's responsibilities to register certain employers and conduct on-site inspections, set specific standards for employers or their agents who perform preliminary screenings, and identify sanctions that may be imposed upon an employer or agent of an employer that is not in compliance with regulatory requirements and standards. These standards cover registration, single-use test devices, operator training, training records, quality assurance, notice and independent testing, voluntary disclosure, and surveys and complaint investigations.

### Comparison to Federal Standards

There is no corresponding federal standard to this proposed regulation.

### Estimate of Economic Impact

**I. Summary of Economic Impact.** The standards and requirements in the proposed regulations will have little or no economic impact on the regulated industry or issuing agency.

| II. Types of Economi Impacts. | Revenue (R+/R−) Expenditure (E+/E−) | Magnitude |
|---|---|---|
| A. On i suing agency: | (R+) | Unquantifiable |
| B. On other State agencies: | NONE | |
| C. On local governments: | NONE | |
| | **Benefit (+) Cost (−)** | **Magnitude** |
| D. On regulated industries or trade groups: | (+/−) | Unquantifiable |
| E. On other industries or trade groups: | NONE | |
| F. Direct and indirect effects on public: | (+) | Unquantifiable |

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

A. The Department would charge $50 per employer every 2 years for a letter of registration. The number of first-year letters of registration that could be issued is unknown and could range from a dozen to several hundred. The fee for a letter of registration is expected to offset the ongoing costs of carrying out this regulatory program even though the fees would go into the State's general fund.

D. The cost to an employer who chooses to participate in this program would be $50 for the first 2-year registration period and $50 for subsequent 2-year registration periods. The number of employers that will choose to obtain a letter of registration is unknown. These regulations should produce a positive fiscal effect on the regulated industry by reducing the number of work-hours and productivity lost to drug abuse by employees. The magnitude of these savings cannot be determined.

F. These regulations are expected to contribute to an overall reduction in drug abuse among Maryland citizens. The magnitude of reduced costs associated with this reduction cannot be determined.

### 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@dhmh.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by December 31, 2001.

## 10.10.01 General

Authority: Health-General Article, *§17-214*, Annotated Code of Maryland

**.03 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (65) (text unchanged)

*(66) "Single-use test device for forensic testing" means the reagent-containing unit of a test system that:*

*(a) Is in the form of a sealed container or cartridge possessing a validity check;*

*(b) Possesses a nonresealable closure or an evidentiary tape to ensure detection of tampering;*

*(c) Is self-contained and individually packaged;*

*(d) Is discarded after each test; and*

*(e) Does not allow any test component or constituent of a test system to interact from test to test.*

[(66)] *(67)* "Single-use test device *for nonforensic testing*" means the reagent-containing unit of a test system in the form of a cartridge, test pack, or other container that:

(a) — (d) (text unchanged)

[(67)] *(68)* — [(83)] *(84)* (text unchanged)

## 10.10.10 Job-Related Alcohol and Controlled Dangerous Substances Testing

Authority: Health-General Article, §§17-202 and 17-214, Annotated Code of Maryland

**.03 Definitions.**

A. (text unchanged)

B. Terms Defined.

*(1) "Agent of the employer" means a person other than the employer or a licensed medical laboratory that employs individuals who perform preliminary screening of job applicants for controlled dangerous substances on behalf of the employer.*

[(1)] *(2)* — [(5)] *(6)* (text unchanged)