

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Departmental

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By: **Leave Blank (By Request – Departmental – Maryland Insurance Administration)**

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Referral to Specialists – Definition of Provider Panel**

3 FOR the purpose of altering the definition of “provider panel” as it relates to certain
4 provisions of health insurance law pertaining to referrals to specialists; and
5 generally relating to provider panels and health insurance.

6 BY repealing and reenacting, with amendments,

7 Article – Insurance

8 Section 15–830

9 Annotated Code of Maryland

10 (2017 Replacement Volume and 2018 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

12 That the Laws of Maryland read as follows:

13 **Article – Insurance**

14 15–830.

15 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2) “Carrier” means:
- 2 (i) an insurer that offers health insurance other than long-term
3 care insurance or disability insurance;
- 4 (ii) a nonprofit health service plan;
- 5 (iii) a health maintenance organization;
- 6 (iv) a dental plan organization; or
- 7 (v) except for a managed care organization as defined in Title 15,
8 Subtitle 1 of the Health – General Article, any other person that provides health benefit
9 plans subject to State regulation.

10 (3) (i) “Member” means an individual entitled to health care benefits
11 under a policy or plan issued or delivered in the State by a carrier.

12 (ii) “Member” includes a subscriber.

13 (4) “Nonphysician specialist” means a health care provider who:

14 (i) is not a physician;

15 (ii) is licensed or certified under the Health Occupations Article; and

16 (iii) is certified or trained to treat or provide health care services for
17 a specified condition or disease in a manner that is within the scope of the license or
18 certification of the health care provider.

19 (5) **(I) “Provider panel” [has the meaning stated in § 15–112(a) of this
20 title] MEANS THE PROVIDERS THAT CONTRACT WITH A CARRIER EITHER DIRECTLY
21 OR THROUGH A SUBCONTRACTING ENTITY TO PROVIDE HEALTH CARE SERVICES TO
22 ENROLLEES OF THE CARRIER.**

23 **(II) “PROVIDER PANEL” DOES NOT INCLUDE AN ARRANGEMENT
24 IN WHICH ANY PROVIDER MAY PARTICIPATE SOLELY BY CONTRACTING WITH THE**

1 **CARRIER TO PROVIDE HEALTH CARE SERVICES AT A DISCOUNTED**
2 **FEE-FOR-SERVICE RATE.**

3 (6) "Specialist" means a physician who is certified or trained to practice in
4 a specified field of medicine and who is not designated as a primary care provider by the
5 carrier.

6 (b) (1) Each carrier that does not allow direct access to specialists shall
7 establish and implement a procedure by which a member may receive a standing referral
8 to a specialist in accordance with this subsection.

9 (2) The procedure shall provide for a standing referral to a specialist if:

10 (i) the primary care physician of the member determines, in
11 consultation with the specialist, that the member needs continuing care from the specialist;

12 (ii) the member has a condition or disease that:

13 1. is life threatening, degenerative, chronic, or disabling; and

14 2. requires specialized medical care; and

15 (iii) the specialist:

16 1. has expertise in treating the life-threatening,
17 degenerative, chronic, or disabling disease or condition; and

18 2. is part of the carrier's provider panel.

19 (3) Except as provided in subsection (c) of this section, a standing referral
20 shall be made in accordance with a written treatment plan for a covered service developed
21 by:

22 (i) the primary care physician;

23 (ii) the specialist; and

24 (iii) the member.

- 1 (4) A treatment plan may:
- 2 (i) limit the number of visits to the specialist;
- 3 (ii) limit the period of time in which visits to the specialist are
4 authorized; and
- 5 (iii) require the specialist to communicate regularly with the primary
6 care physician regarding the treatment and health status of the member.
- 7 (5) The procedure by which a member may receive a standing referral to a
8 specialist may not include a requirement that a member see a provider in addition to the
9 primary care physician before the standing referral is granted.
- 10 (c) (1) Notwithstanding any other provision of this section, a member who is
11 pregnant shall receive a standing referral to an obstetrician in accordance with this
12 subsection.
- 13 (2) After the member who is pregnant receives a standing referral to an
14 obstetrician, the obstetrician is responsible for the primary management of the member's
15 pregnancy, including the issuance of referrals in accordance with the carrier's policies and
16 procedures, through the postpartum period.
- 17 (3) A written treatment plan may not be required when a standing referral
18 is to an obstetrician under this subsection.
- 19 (d) (1) Each carrier shall establish and implement a procedure by which a
20 member may request a referral to a specialist or nonphysician specialist who is not part of
21 the carrier's provider panel in accordance with this subsection.
- 22 (2) The procedure shall provide for a referral to a specialist or nonphysician
23 specialist who is not part of the carrier's provider panel if:
- 24 (i) the member is diagnosed with a condition or disease that
25 requires specialized health care services or medical care; and

1 (ii) 1. the carrier does not have in its provider panel a specialist
2 or nonphysician specialist with the professional training and expertise to treat or provide
3 health care services for the condition or disease; or

4 2. the carrier cannot provide reasonable access to a specialist
5 or nonphysician specialist with the professional training and expertise to treat or provide
6 health care services for the condition or disease without unreasonable delay or travel.

7 (3) The procedure shall ensure that a request to obtain a referral to a
8 specialist or nonphysician specialist who is not part of the carrier's provider panel is
9 addressed in a timely manner that is:

10 (i) appropriate for the member's condition; and

11 (ii) in accordance with the timeliness requirements for
12 determinations made by private review agents under § 15-10B-06 of this title.

13 (4) The procedure may not be used by a carrier as a substitute for
14 establishing and maintaining a sufficient provider network in accordance with § 15-112 of
15 this title.

16 (5) Each carrier shall:

17 (i) have a system in place that documents all requests to obtain a
18 referral to receive a covered service from a specialist or nonphysician specialist who is not
19 part of the carrier's provider panel; and

20 (ii) provide the information documented under item (i) of this
21 paragraph to the Commissioner on request.

22 (e) For purposes of calculating any deductible, copayment amount, or coinsurance
23 payable by the member, a carrier shall treat services received in accordance with subsection
24 (d) of this section as if the service was provided by a provider on the carrier's provider panel.

25 (f) A decision by a carrier not to provide access to or coverage of treatment or
26 health care services by a specialist or nonphysician specialist in accordance with this
27 section constitutes an adverse decision as defined under Subtitle 10A of this title if the

1 decision is based on a finding that the proposed service is not medically necessary,
2 appropriate, or efficient.

3 (g) (1) Each carrier shall file with the Commissioner a copy of each of the
4 procedures required under this section, including:

5 (i) steps the carrier requires of a member to request a referral;

6 (ii) the carrier's timeline for decisions; and

7 (iii) the carrier's grievance procedures for denials.

8 (2) Each carrier shall make a copy of each of the procedures filed under
9 paragraph (1) of this subsection available to its members:

10 (i) in the carrier's online network directory required under
11 § 15-112(n)(1) of this title; and

12 (ii) on request.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2019.