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BULLETIN 21-16

To: All Interested Parties Including Insurers, Non-Profit Health Service Plans, Health Maintenance Organizations, Dental Plan Organizations, Pharmacy Benefit Managers, and Producers

Re: Summary of Insurance Laws Enacted in 2021

Date: June 8, 2021

The purpose of this Bulletin is to summarize laws enacted during the 2021 Session of the Maryland General Assembly that are enforced by the Maryland Insurance Administration (“MIA”). *The attached summary is intended only as notice of passage of the legislation and is not a representation of the MIA’s interpretation of the new laws, nor is it a representation of how the MIA may enforce these new provisions.* All regulated entities should refer to the Chapter Laws of Maryland for the 2021 Session for the complete text of these recently enacted laws. Regulated entities are advised that other bills passed by the General Assembly and not listed on the summary may also affect their business operations in Maryland.

You may obtain a copy of a specific law passed by the General Assembly during the 2021 Session by accessing the Maryland General Assembly’s web site at <http://mgaleg.maryland.gov> or by contacting the Department of Legislative Services at (410) 946-5400. You should refer to the House or Senate Bill number when searching for a law on the web site. You may also obtain a copy of “The 90 Day Report – A Review of the 2021 Legislative Session” on the Internet or from Library and Information Services, Office of Policy Analysis, Department of Legislative Services.

For additional information concerning the MIA’s summary of 2021 insurance legislation, please contact Michael Paddy at 410-245-6759 or michael.paddy@maryland.gov

PROPERTY & CASUALTY

SENATE BILL 110 (Chapter 103) - Private Passenger Motor Vehicle Liability Insurance - Notices - Alteration of Requirements

- Amends § 27-613 of the Insurance Articles and repeals the requirement that the 45-day notice required to be sent by an insurer that intends to cancel or fail to renew a policy or binder of private passenger motor vehicle liability insurance or reduce coverage under a policy or private passenger motor vehicle liability insurance be in triplicate;
- Amends § 27-614 of the Insurance Articles and repeals the requirement that the notice required to be sent by an insurer that intends to increase the total premium for a policy of private passenger motor vehicle liability insurance be in duplicate.

Effective Date: October 1, 2021

SENATE BILL 149 / HOUSE BILL 457 (Chapter 469 / Chapter 468) - Insurance - Application of Premium Tax - Continued Exclusion of Maryland Automobile Insurance Fund

- Amends § 6-101 of the Insurance Article and repeals the sunset provision that would have required the Maryland Automobile Insurance Fund (MAIF) to pay premium taxes. As a result of the bill, MAIF will continue to be exempt from the tax requirement.

Effective Date: October 1, 2021

LIFE & HEALTH

SENATE BILL 3 / HOUSE BILL 123 (Chapter 71 / Chapter 70) - Preserve Telehealth Access Act of 2021

- Makes several alterations within the Health-General Article relating to telehealth and amends § 15-139 of the Insurance Article. Requires health insurance carriers to provide coverage for services delivered through telehealth regardless of the location of the patient at the time the services are provided;
- Prohibits the exclusion from coverage for a behavioral health care service that is a covered benefit when provided in person solely because the behavioral health care service must also be provided through telehealth;
- Requires health insurance carriers, from July 1, 2021 to June 30, 2023, to reimburse health care services, with some specified exclusions, provided through telehealth on the same basis and at the same rate as if the health care service were delivered by the health care provider in person;
- Requires the MIA to study: (1) how telehealth can support efforts to ensure health care provider network sufficiency; and (2) the impact of changes in access to and coverage of telehealth services under health benefit plans offered by health insurance carriers on the ability to choose in-person care versus telehealth care as the modality of receiving a

covered service. The MIA is to provide the findings and recommendations from the study to the Maryland Health Care Commission for inclusion in a report;

- Requires the MIA to consider the requirements of the Act when proposing revisions to regulations relating to network adequacy.

Effective Date: July 1, 2021

SENATE BILL 84 / HOUSE BILL 135 (Chapter 758 / Chapter 757) - Pharmacists – Administration of Self-Administered Medications and Maintenance Injectable Medications (Christopher King Access to Treatment Act)

- Adds a definition of “maintenance injectable medication” to § 12-101 of the Health-Occupations Article;
- Authorizes a pharmacist who meets the requirements of Board of Pharmacy regulations to administer prescribed maintenance injectable medications (“MIMs”) that are not a biological product to a patient in accordance with an authorized public health official’s standing order or in accordance with certain protocols;
- Prohibits a pharmacist from administering an initial dose of a MIM product without written approval from the prescriber;
- Requires that the State Board of Pharmacy, on or before September 1, 2021, and in consultation with the State Board of Physicians and the State Board of Nursing, adopt regulations establishing standard procedures for pharmacists to provide notices, communicate with prescribers, and administer MIMs; and establishing training program requirements;
- Requires that the Maryland Medical Assistance Program and the Maryland Children’s Health Program provide coverage for the administering of self-administered medications and MIMs by a licensed pharmacist to the same extent as the services rendered by any other licensed health care practitioner;
- Requires that insurers, nonprofit health service plans, and HMOs that provide coverage under individual group or blanket health insurance policies for patient assessment regarding, and administration of self-administered medications and MIMS, provide that coverage if the services are rendered by a licensed pharmacist, to the same extent as the services rendered by any other licensed health care practitioner.

Effective Date: June 1, 2021

SENATE BILL 638 / HOUSE BILL 919 (Chapter 152 / Chapter 151) - Maryland Insurance Commissioner - Specialty Mental Health Services and Payment of Claims – Enforcement

- Requires that the Maryland Insurance Commissioner (the Commissioner) enforce § 15-103(b)(21)(vi) of the Health-General Article, and provides that § 15-1005 of the Insurance Article applies to administrative services organizations (ASOs) that administer delivery systems for managed care organizations (MCO) specialty mental health services;

- Prohibits ASOs that administer delivery systems for MCO specialty mental health services from using State funds or otherwise passing expenses onto the State that they incur in an examination made under § 2-205 of the Insurance Article;
- Requires that ASOs that administer delivery systems for MCO specialty mental health services pay interest to claimants for late claim payments, and be subject to the fines and penalties under the provisions of § 15-1005 (h) of the Insurance Article for violations of § 15-1005 of the Insurance Article;
- Establishes that ASOs that administer delivery systems for MCO specialty mental health services are subject to Title 2, Subtitle 2 of the Insurance Article in connection with investigations or examinations of potential violations of § 15-1005 of the Insurance Article;
- Prohibits the Commissioner from requiring the payment of interest under § 15-1005 of the Insurance Article or imposing fines or other monetary penalties, if the ASO will use State funds or otherwise pass on the cost to the State;
- Requires that the Commissioner turn over to the Maryland Department of Health, any findings of an investigation that an ASO that administers delivery systems for MCO specialty mental health services violated § 15-103(b)(21) of the Health-General Article;
- Requires that the Commissioner submit examination reports of ASOs that administer delivery systems for MCO specialty mental health services to the Senate Finance and Budget, and Senate Taxation Committees, and the House Health and Government Operations and House Appropriations Committees.

Effective Date: May 18, 2021 and effective for two years from enactment.

SENATE BILL 729 / HOUSE BILL 780 (Chapter 778 / Chapter 777) - Maryland Health Benefit Exchange – State-Based Young Adult Health Insurance Subsidies Pilot Program

- Alters the purpose of the Maryland Health Benefit Exchange (MHBE) Fund to include funding for the establishment and operation of the State-Based Young Adult Health Insurance Subsidies Pilot Program (the Pilot Program);
- Provides that the operation and administration of the Pilot Program may include functions delegated to third parties under law or by contract;
- Requires that the Board of Trustees of the MHBE maintain a separate account within the Fund for the Pilot Program;
- Clarifies that pass-through funds received from the federal government under a § 1332 ACA waiver (for the purpose of providing reinsurance to carriers that offer individual health benefit plans in Maryland) may be used only to fund the State Reinsurance Program;
- Requires that the MHBE, in consultation with the Insurance Commissioner and as approved by the MHBE Board, establish and implement a Pilot Program for the purpose of providing subsidies to young adults for the purchase of health benefit plans in the individual health insurance market;
- Requires that the Pilot Program be designed to reduce the amount that young adults pay for individual health benefit plans and to target young adults who are not directly impacted by the State Reinsurance Program;

- Requires that the MHBE, in consultation with the Insurance Commissioner and as approved by the MHBE Board, establish subsidy eligibility and payment parameters for the Pilot Program for 2022 and 2023; considering certain age and income factors;
- Subject to available funds in 2022 through 2024, authorizes the MHBE to designate, up to \$20 million in annual Pilot Program subsidies for young adults eligible for the subsidies;
- Requires that the MHBE adopt implementation regulations on or before January 1, 2022;
- Requires that the MHBE track subsidy expenditures on a monthly basis, and track the impact the Pilot Program has on rates in the individual insurance market, and post the information on a the MHBE website, and include the information in an annual report.

Effective Date: July 1, 2021

HOUSE BILL 601 (Chapter 358) - Pharmacy Benefits Managers - Revisions

- Amends Provisions of Title 15, Subtitle 16 relating to the regulation of Pharmacy Benefit Managers by the Maryland Insurance Commissioner;
- Alters the definition of “purchaser” by removing regulated entities and adding them to the definition of “carrier.”
- Defines “carrier” for the purpose of the Subtitle when carriers provide prescription drug coverage and enter into agreements with pharmacy benefits managers (PBM);
- Prohibits a carrier from entering into an agreement with a PBM that has not registered with the Insurance Commissioner;
- Provides that certain provisions of State insurance law governing PBMs apply only to PBMs that provide pharmacy benefits management services on behalf of a carrier;
- Alters the pharmacy and therapeutics committees that are required to meet the requirements of certain provisions of State insurance law governing pharmacy and therapeutics committees;
- Requires carriers comply with credentialing of pharmacies or pharmacists;
- Requires a PBM, and not a PSAO or GPO, to file contract forms and amendments to the contract forms to contracts with the Commissioner;
- Repeals the requirement that the Commissioner adopt regulations on the disapproval of contract forms;
- Provides that the Commissioner is not required to review and evaluate informational filings at the time it is filed;
- Authorizes the Commissioner to review and disapprove certain forms that have been submitted to the Commissioner at any time;
- Prohibits carriers, rather than a purchaser, from charging a pharmacy, or holding a pharmacy responsible for a fee or reimbursement;
- Prohibits carriers, rather than a purchaser, from making or allowing certain reductions in payments for pharmacy services;
- Requires the MIA to report on or before December 31, 2021, to the State Finance Committee and the House Health & Government Operations Committee on the US

Supreme Court decision in Rutledge and the application of the opinion to Title 15, Subtitle 16.

Effective Dates: January 1, 2022

HOUSE BILL 1002 (Chapter 49) - Unemployment - Insurance Revisions and Special Enrollment Period for Health Benefits

- Among other things, amends § 31-108 of the Insurance Article and requires the Maryland Health Benefit Exchange to open a special enrollment period for an individual who has filed a claim for benefits who consents to share information through a system implemented by the Department of Labor;
- Establishes requirements for the special enrollment period;
- Authorizes the Maryland Health Benefit Exchange to conduct outreach;
- Requires the Maryland Department of Labor to begin implementing a system through which claimants may consent to the sharing of information with the Maryland Health Benefit Exchange and the Maryland Department of Health for the purpose of determining eligibility for health insurance;

Effective Date: April 4, 2021

OTHER

SENATE BILL 226 (Chapter 105) - Maryland Insurance Administration - Delivery of Notices and Other Communications by Electronic Means

- Creates new §2-116 of the Insurance Article and authorizes the Maryland Insurance Commissioner to send notices and communications by electronic means under specified circumstances;
- Authorizes, but does not require, a person who is not licensed, certified or otherwise regulated by the Commissioner to send to the Commissioner notices and communications by electronic means approved by the Commissioner;
- Authorizes the Commissioner to require a person who is licensed, certified or otherwise regulated by the Commissioner to send notices and communications by electronic means;
- Provides that notices and communications sent electronically are to be presumed to have been received in the ordinary course, subject to the provisions of the Maryland Uniform Electronic Transactions Act.

Effective Date: October 1, 2021

SENATE BILL 120 (Chapter 104) - Insurance - Credit for Reinsurance Model Law – Revisions

- Amends § 5-916 of the Insurance Article and authorizes the Maryland Insurance Commissioner to adopt rules and regulations applicable to reinsurance arrangements.

Effective Date: October 1, 2021

SENATE BILL 458 / HOUSE BILL 504 (Chapter 766 / Chapter 765) - Insurance - Impaired Entities - Delinquency Proceedings

- Amends provisions of Title 9, Subtitle 2 of the Insurance Article relating to the priority of a Federal Home Loan Bank in a delinquency proceeding.

Effective Date: June 1, 2021