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### **BULLETIN 18-12**

**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 2018**

**Date: July 3, 2018**

The purpose of this Bulletin is to summarize laws enacted during the 2018 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 2018 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 2018 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 2018 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 2018 insurance legislation, please contact Catherine Grason at 410-468-2201 or [catherine.grason@maryland.gov](mailto:catherine.grason@maryland.gov).

# 2018 INSURANCE LEGISLATION

## LIFE AND HEALTH

### **HOUSE BILL 27 / SENATE BILL 168 (Chapter 430 / Chapter 431) – Life Insurance – Life of a Minor – Underwriting Standards and Procedures**

- Authorizes a life insurer to refuse an application for a policy of life insurance on the life of a minor only under certain circumstances.
- Requires an application for a policy of life insurance on the life of a minor to include a certain statement, and the signature of the parent or legal guardian with whom the minor resides, if the minor is neither emancipated nor married.
- Requires a life insurer to take certain actions, document certain responses, and maintain certain records, as part of the insurer's written standards and procedures for policy application and acceptance.

*Effective Date: January 1, 2019*

### **HOUSE BILL 86 / SENATE BILL 656 (Chapter 432 / Chapter 433) – Health Insurance – Coverage for Elevated or Impaired Blood Glucose Levels, Prediabetes, and Obesity Treatment**

- Authorizes certain insurers, nonprofit health service plans, and health maintenance organizations (“HMO”) to provide reimbursement for certain services of a licensed dietitian or nutritionist under certain circumstances for the treatment of prediabetes and obesity.
- Requires certain insurers, nonprofit health service plans, and HMOs to provide coverage for certain equipment, supplies, training, and services for the treatment of elevated or impaired blood glucose levels induced by pregnancy or prediabetes.
- This law generally applies to contracts issued by an insurer, nonprofit health service plan, or HMO if the contract provides hospital, medical, or surgical benefits on an expense-incurred basis. However, it does not apply to non-grandfathered individual health benefit plans, non-grandfathered small group health benefit plans, and grandfathered small group health benefit plans.

*Effective Date: January 1, 2019*

### **HOUSE BILL 135 / SENATE BILL 137 (Chapter 64 / Chapter 65) – Health Insurance – Coverage for Male Sterilization – High-Deductible Health Plans**

- Allows carriers that issue high-deductible health plans to subject male sterilization benefits to the deductible requirement of the high-deductible health plan.

*Effective Date: April 10, 2018*

## **2018 INSURANCE LEGISLATION**

### **HOUSE BILL 249 / SENATE BILL 33 (Chapter 437 / Chapter 438) – Health Insurance – Coverage for Fertility Awareness-Based Methods**

- Requires insurers, nonprofit health service plans, and HMOs to provide coverage for instruction by a licensed health care provider on pregnancy avoidance-based methods.
- Prohibits insurers, nonprofit health service plans, and HMOs from applying a copayment, coinsurance requirement, or deductible to coverage for the instruction on fertility awareness-based methods, except with respect to a certain exception for grandfathered plans.
- This law generally applies to any contract issued by an insurer, nonprofit health service plan, or HMO if the contract provides hospital, medical, or surgical benefits on an expense-incurred basis. However, the mandate does not apply to non-grandfathered individual health benefit plans, non-grandfathered small group health benefit plans, and grandfathered small group health benefit plans.
- NOTE: Although new § 15-826.3 is not applicable to non-grandfathered individual and small group contracts, the ACA already requires those contracts to cover the same benefits that are described in § 15-826.3 as part of the general women’s preventive care mandate.

*Effective Date: January 1, 2019*

### **HOUSE BILL 412 / SENATE BILL 207 (Chapter 201 / Chapter 202) – Health Insurance – Medical Stop-Loss Insurance – Repeal of Sunset**

- Repeals the termination date of the 2015 amendments to § 15-129 of the Insurance Article relating to medical stop-loss insurance.

*Effective Date: June 1, 2018*

### **HOUSE BILL 736 / SENATE BILL 576 (Chapter 217 / CHAPTER 218) – Pharmacy Benefits Managers – Pharmacies and Pharmacists – Information on Sales of Prescription Drugs**

- Prohibits a pharmacy benefits manager (“PBM”) from prohibiting a pharmacy or pharmacist from providing a beneficiary with information regarding the retail price of a prescription drug or the amount of the cost share for a prescription drug for which beneficiary is responsible.
- Prohibits a PBM from prohibiting a pharmacy or pharmacist from discussing with a beneficiary the retail price for a prescription drug or the cost share for which the beneficiary is responsible for a prescription drug.
- Prohibits a PBM from prohibiting a pharmacy or pharmacist from selling a more affordable alternative to the beneficiary, if a more affordable drug is available than one on the purchaser’s formulary and under certain circumstances.

*Effective Date: October 1, 2018*

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### **HOUSE BILL 847 (Chapter 471) – Health Insurance – Coverage for Lymphedema Diagnosis, Evaluation, and Treatment**

- Requires insurers, nonprofit health service plans, and HMOs that provide health insurance benefits under insurance policies or contracts to provide coverage for the medically necessary diagnosis, evaluation, and treatment of lymphedema, including equipment, supplies, complex decongestive therapy, gradient compression garments, and self-management training and education.
- This law generally applies to any contract issued by an insurer, nonprofit health service plan, or HMO if the contract provides hospital, medical, or surgical benefits on an expense-incurred basis. However, it does not apply to non-grandfathered individual health benefit plans, non-grandfathered small group health benefit plans, and grandfathered small group health benefit plans.

*Effective Date: January 1, 2019*

### **HOUSE BILL 908 / SENATE BILL 271 (Chapter 715 / Chapter 716) – Health Insurance – Coverage of Fertility preservation Procedures for Iatrogenic Infertility**

- Requires insurers, nonprofit health service plans, and HMOs that provide benefits under health insurance policies or contracts to provide coverage for certain fertility preservation procedures.
- Provides an exception for a religious organization that requests and receives an exclusion from in vitro fertilization coverage.
- This law generally applies to any contract issued by an insurer, nonprofit health service plan, or HMO if the contract provides hospital, medical, or surgical benefits on an expense-incurred basis. However, it does not apply to non-grandfathered individual health benefit plans, non-grandfathered small group health benefit plans, and grandfathered small group health benefit plans.
- Applies the Act to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2019.

*Effective Date: January 1, 2019*

### **HOUSE BILL 946 (Chapter 508) – Long-Term Care Insurance – Contingent Benefit Upon Lapse**

- Requires a carrier to provide to an insured under a policy or contract of long-term care insurance a certain contingent benefit upon lapse if the carrier increases the premium rate for the insured and the insured has maintained the policy or contract of long-term care through the carrier for at least 20 years and the insured terminates the policy within 120 days after the date the premium rate became effective.
- Provides that certain benefits of a policy or contract of long-term care insurance shall remain unchanged and may not be increased after the date of lapse of the policy or contract.

*Effective Date: October 1, 2018*

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### **HOUSE BILL 1132 / SENATE BILL 858 (Chapter 487 / Chapter 488) – Health Insurance – Access to Local Health Departments**

- Requires a carrier that is an insurer, a nonprofit health service plan, or a HMO, except for a group model HMO, to ensure in certain standards that enrollees have access to local health departments and services provided through local health departments to the extent that local health departments are willing to participate on a carrier's provider panel.
- Applies the Act to all policies and contracts issued, delivered, or renewed in the State on or after January 1, 2019.

*Effective Date: January 1, 2019*

### **HOUSE BILL 1282 / SENATE BILL 619 (Chapter 448 / Chapter 449) – Health Maintenance Organizations – Certificate of Need Requirements - Modification**

- Repeals the requirement that a HMO or health care facility have a certificate of need before it can operate an ambulatory surgical facility or center.
- Alters the conditions under which a HMO or a health care facility is required to have a certificate of need before taking certain actions to establish a health care project.

*Effective Date: October 1, 2018*

### **HOUSE BILL 1283 (Chapter 450) – Health Insurance – Prescription Contraceptives – Coverage for Single Dispensing**

- Alters, from a 6-month to a 12-month period, the length for which an insurer, nonprofit health service plan, and a HMO is required to provide coverage for a single dispensing of a supply of prescription contraceptives.
- Provides that the Act may not be construed to require a provider to prescribe, furnish, or dispense contraceptives for 12 months at one time.

*Effective Date: January 1, 2020*

### **HOUSE BILL 1310 (Chapter 247) – Health Insurance – Provider Panels – Credentialing Practices**

- Prohibits a carrier from imposing a limit on the number of behavioral health providers at a health care facility that may be credentialed to participate on a provider panel.

*Effective Date: June 1, 2018*

### **HOUSE BILL 1349 (Chapter 451) – Pharmacy Benefits Managers - Revisions**

- Authorizes the Commissioner to require any additional information from a pharmacy benefits manager (“PBM”) that may be reasonably necessary to verify information in the PBM’s application for registration.

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- Requires a PBM to establish a reasonable process by which a contracted pharmacy has access to the current and applicable maximum allowable cost price lists in an electronic format.
- Prohibits a PBM from reimbursing a pharmacy or pharmacist for a pharmaceutical product or pharmacist service in an amount less than the PBM reimburses itself or an affiliate for providing the same product or service except in certain circumstances.
- Amends the appeal process between a PBM and a contracted pharmacy.
- Establishes a complaint process for the Commissioner to review contracted pharmacy complaints against PBMs.
- Applies the Act to all contracts between a PBM and a pharmacy entered into or in effect on or after January 1, 2019.

*Effective Date: June 1, 2018*

### **HOUSE BILL 1400 (Chapter 307) – State Employee and Retiree Health and Welfare Benefits Program – Employees of Qualifying Organizations**

- Authorizes an employee of a county board to participate in the State Employee and Retiree Health and Welfare Benefits Program.
- Establishes the Task Force to Study Cooperative Purchasing for Health Insurance.
- Requires the Task Force to report its findings and recommendations to the Governor and the General Assembly by January 1, 2020.

*Effective Date: October 1, 2018*

### **HOUSE BILL 1558 (Chapter 461) – Pharmacists – Dispensing of Prescription Drugs – Single Dispensing of Dosage Units**

- Authorizes, with a certain exception, a pharmacist to dispense, in a single dispensing and exercising the pharmacist's professional judgment, a quantity of a prescription drug that is up to a certain number of authorized dosage units and does not exceed a 90-day supply of the prescription drug or for a contraceptive dispensed on or after January 1, 2020, a 12 month supply of a contraceptive prescription.
- Provides that the Act does not apply to a certain controlled dangerous substance or certain prescriptions that an authorized prescriber prescribes for a patient.

*Effective Date: October 1, 2018*

### **HOUSE BILL 1782 / SENATE BILL 387 (Chapter 37 / Chapter 38) – Health Insurance – Individual Market Stabilization (Maryland Health Care Access Act of 2018)**

- Requires certain insurers, nonprofit health service plans, HMOs, dental plan organizations, fraternal benefit organizations, managed care organizations, and certain other persons that provide a certain product to be subject to a certain 2.75% assessment in calendar year 2019.
- Establishes that the purpose of the assessment is to recoup an aggregate amount of the health insurance provider fee for certain purposes.

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- Requires distribution of the assessment to the Maryland Health Benefit Exchange Fund.

*Effective Date:*        *April 10, 2018*

### **HOUSE BILL 1795 / SENATE BILL 1267 (Chapter 6 / Chapter 7) – Maryland Health Benefit Exchange – Establishment of a Reinsurance Program**

- Alters the purposes of the Maryland Health Benefit Exchange Fund to include the operation and establishment of the State Reinsurance Program.

*Effective Date:*        *April 5, 2018*

### **SENATE BILL 52 (Chapter 664) – Insurance – Medicare Supplement Policy Plans – Conformity to Federal Law**

- Alters references to certain Medicare supplement policy plans to conform with federal law.

*Effective Date:*        *January 1, 2020*

### **SENATE BILL 54 (Chapter 665) – Health Insurance – Technical Corrections and Required Conformity with Federal Law**

- Corrects certain incorrect cross-references for purposes of certain provisions of law relating to accountable care organizations, incentive-based compensation, and the renewal of certain health benefit plans.
- Alters the triggering events for which certain carriers are required to provide an open enrollment period.
- Alters the definition of "small employer" for purposes of health benefit plans to clarify that it means an employer that, during the preceding calendar year, employed an average of not more than 50 employees..

*Effective Date:*        *October 1, 2018*

### **SENATE BILL 111 (Chapter 663) – Maryland Health Benefit Exchange – Criminal History Records Checks – Contractors With Access to Federal Tax Information**

- Authorizes the Maryland Health Benefit Exchange to perform a criminal background check on a contractor to determine the suitability of the contractor to access confidential or sensitive federal tax information.

*Effective Date:*        *June 1, 2018*

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## **PROPERTY AND CASUALTY**

### **HOUSE BILL 979 / SENATE BILL 652 (Chapter 197 / Chapter 198) – Property and Casualty Insurance – Travel Insurance – Regulation**

- Specifies the amount of premium tax an insurer that offers or sells a travel insurance policy is required to pay.
- Establishes a new subtitle relating to travel insurance premium rating review.
- Creates a new subtitle relating to Travel Insurance.

*Effective Date:           October 1, 2018*

### **HOUSE BILL 1161 / SENATE BILL 856 (Chapter 195 / Chapter 196) – Maryland Automobile Insurance Fund – Uninsured Division – Uninsured Motorists**

- Establishes legislative findings and declarations related to uninsured motorists.
- Establishes, within the Maryland Automobile Insurance Fund (MAIF or Maryland Auto), a new Uninsured Motorist Education and Enforcement Fund to provide funding for the education of drivers about the security requirements for motor vehicles in the State.
- Establishes within MAIF's Uninsured Division a Program to Incentivize and Enable Uninsured Vehicle Owners to Be Insured in order to reduce the number of uninsured vehicles in the State.
- Provides the circumstances under which an individual is eligible to participate in the Program.
- Allows individuals with outstanding uninsured motor vehicle penalties to receive a waiver of a portion of these penalties in exchange for participation in the Program.

*Effective Date:           July 1, 2018*

### **HOUSE BILL 1499 (Chapter 533) – Workers' Compensation – Self-Insured Employers – Suspected Fraud Reporting**

- Provides that certain provisions of law governing the reporting and investigation of workers' compensation insurance fraud claims apply to employers who participate in a governmental self-insurance group for workers' compensation and to employers who self-insure or participate in a self-insurance group for workers' compensation.
- Provides that certain provisions of law governing fraudulent insurance acts that apply to insurers also apply to governmental self-insurance groups and employers who self-insure or participate in a self-insurance group.

*Effective Date           October 1, 2018*



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### **SENATE BILL 57 (Chapter 666) – Insurance – Medical Professional Liability Insurance Policies – Technical Correction**

- Corrects an erroneous cross-reference relating to the notice requirements to which a medical professional liability insurer that cancels a policy for nonpayment of a deductible is subject.

*Effective Date:*            *October 1, 2018*

### **SENATE BILL 453 (Chapter 192) – Insurance Article – References to Vehicles and Automobiles - Consistency**

- Alters certain references to vehicles and certain automobiles in certain provisions of the Insurance Article for the purpose of consistency.

*Effective Date*            *October 1, 2018*

### **SENATE BILL 743 (Chapter 852) – Peer-to-Peer Car Sharing Programs**

- Amends the collision damage waiver provisions of the Commercial Law Article to include peer-to-peer car sharing programs.
- Creates new § 19-520 of the Insurance Article which establishes statutory requirements relating to peer-to-peer car sharing programs.
- Creates a limited lines producer license relating to the sale of insurance by a peer-to-peer car sharing program.

*Effective Date*            *July 1, 2018*

### **SENATE BILL 1131 (Chapter 624) – Motor Vehicle Insurance – Commercial Policies – Insurance Identification Card**

- Allows insurance identification cards for motor vehicle liability insurance policies to be issued for a period of 12 months for a 12-month commercial motor vehicle insurance policy covering three or more vehicles even if the payment by the insured is for a period of less than 12 months.

*Effective Date:*            *October 1, 2018*

## **OTHER**

### **HOUSE BILL 1078 (Chapter 513) – Commercial Insurance – Insurance Producers - Commissions**

- Provides that an insurer is not prohibited from paying commissions to licensed insurance producers on a variable basis under commercial insurance policies issued to qualified

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exempt commercial policyholders if the payment results in a lower total cost to the policyholder and the producer has agreed to the specific level of commission.

*Effective Date*            *October 1, 2018*

### **HOUSE BILL 1083 / SENATE BILL 673 (Chapter 485 / Chapter 486) – Insurance – Contracts and Policies – Educational and Promotional Materials and Articles of Merchandise**

- Increases to \$50 the maximum cost of educational and promotional materials and articles of merchandise that a person may offer, promise, or give as valuable consideration not specified in a contract of insurance.
- Prohibits a person from making receipt of any educational materials, promotional materials, or articles of merchandise offered, proposed or given.

*Effective Date:*            *October 1, 2018*

### **HOUSE BILL 1127 / SENATE BILL 876 (Chapter 193 / Chapter 194) – Insurance – Commercial Lines – Exemptions From Filings**

- Alters the criteria to qualify as an exempt commercial policyholder.
- Expands the exemption applicable to exempt commercial policyholders for filing policy forms to also include rates and supplementary rate information.
- Eliminates the need for exempt commercial policyholders to certify to the Commissioner that they meet the criteria necessary for the exemption, though the requirement that the policyholder certify in writing on a form approved by the Commissioner to the insurer that they meet the criteria remains.

*Effective Date*            *October 1, 2018*

### **SENATE BILL 59 (Chapter 42) – Insurance – Antifraud Plan Requirement - Application**

- Limits the application of § 27-803 of the Insurance Article relating to antifraud plans to authorized insurers that have in force policies or certificates of insurance in the State.

*Effective Date*            *October 1, 2018*

### **SENATE BILL 71 (Chapter 43) – Insurance – Certificates of Qualification for Surplus Lines Brokers – Suspensions and Revocations**

- Corrects an erroneous reference in § 3-317 of the Insurance Article authorizing the Commissioner to suspend or revoke the certificate of qualification of a surplus lines broker if the surplus lines broker fails to file the report required by §3-325 of the Insurance Article.

*Effective Date*            *October 1, 2018*

## **2018 INSURANCE LEGISLATION**

### **SENATE BILL 78 (Chapter 667) – Insurance – Risk Retention Groups - Revisions**

- Requires domestic risk retention groups to implement certain governance standards.
- Requires the boards of directors of risk retention groups to have a majority of independent directors.
- Establishes standards concerning whether a director is independent.
- Provides that a person is deemed to have a material relationship with a certain risk retention group under certain circumstances.
- Provides that certain persons are not considered independent until after certain events.

*Effective Date*            *October 1, 2018*