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BULLETIN 20-24

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 2020

Date: May 29, 2020

The purpose of this Bulletin is to summarize laws enacted during the 2020 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 2020 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 2020 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 2020 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 2020 insurance legislation, please contact Michael Paddy at 410-468-2408 or michael.paddy@maryland.gov

PROPERTY & CASUALTY

SENATE BILL 97 (Chapter 523) - Private Passenger Motor Vehicle Liability Insurance - Protests - Consumer Complaint Portal

- Amends §§ 27-613 and 27-614 of the Insurance Article and authorizes insureds to protest the cancelation, nonrenewal or reduction of coverage by insurers or an increase in premium, with respect to a policy of private passenger motor vehicle liability insurance or a binder of private passenger motor vehicle liability insurance, by filing the protest electronically through the consumer complaint portal on the MIA's website within 30 days after the mailing date on the notice of proposed action.

Effective Date: October 1, 2020

SENATE BILL 125 / HOUSE BILL 118 (Chapter 63 / Chapter 62) - Private Passenger Motor Vehicle Insurance - Prohibition on Cancellation Due to Towing or Emergency Roadside Coverage Claims

- Amends § 27-501 of the Insurance Article and prohibits an insurer from canceling, refusing to renew, or otherwise terminating coverage for a private passenger motor vehicle insurance policy based on claims made under the policy's towing or emergency roadside coverage.
- Authorizes an insurer to remove towing or emergency roadside service coverage from a certain policy at renewal based on the number of claims pursuant to the towing coverage.
- Authorizes an insurer to increase a premium of a private passenger motor vehicle insurance policy as a result of a towing or emergency roadside service claim in accordance with filed rates.

Effective Date: October 1, 2020

SENATE BILL 165 / HOUSE BILL 117 (Chapter 61 / Chapter 60) - Insurance - Industry Automobile Insurance Association - Board of Directors

- Amends § 20-403 of the Insurance Article and alters the nominating entity for four board members of the Industry Automobile Insurance Association to reflect the merger of the American Insurance Association and the Property Casualty Insurers Association of America into the American Property Casualty Insurance Association.

Effective Date: October 1, 2020

SENATE BILL 195 / HOUSE BILL 270 (Chapter 145 / Chapter 144) - Automobile Insurance – Usage-Based Insurance

- Amends §§ 11-318, 27-501 and 27-609 to permit insurers to utilize programs that measure the operation of insured motor vehicles, and specifies that such a program is not in violation of certain restrictions on classification for private passenger motor vehicle insurance.
- Amends § 27-614 to require that, when a premium increase is due to a program that measures the operation of an insured vehicle, the required notice of premium increase must state that this program has contributed to the premium increase, and must provide a specific description of the factors resulting in the increase.
- Prohibits an insurer from requiring a policyholder to participate in a usage-based program to obtain motor vehicle insurance.

Effective Date: October 1, 2020

HOUSE BILL 144 (Chapter 77) - Insurance - Uninsured or Enhanced Underinsured Motorist Coverage - Property Damage

- Amends §§ 19-509 and 19-509.1 to clarify that required uninsured or enhanced underinsured motorist coverage must contain coverage for property damage, and that such property damage coverage must include coverage for the loss of the insured vehicle.

Effective Date: October 1, 2020

SENATE BILL 470 (Chapter 558) - Motor Vehicle and Homeowner's Insurance - Use of Claim History in Rating Policies

- Amends § 27-501 to prohibit an insurer from increasing the renewal premium for a policy of private passenger motor vehicle insurance based on a homeowner's insurance claim.
- Amends § 27-501 to prohibit an insurer from increasing the renewal premium for a policy of homeowner's insurance based on a private passenger motor vehicle insurance claim.
- Provides that motor vehicle insurers may consider homeowners claims, and homeowners insurers may consider motor vehicle claims, when rating the policy at the time of initial application and issuance.

Effective Date: July 1, 2021

LIFE & HEALTH

SENATE BILL 98 (Chapter 524) - Health Insurance - Technical Correction and Required Conformity With Federal Law

- Amends § 15-1208.2 of the Insurance Article and requires health insurers, nonprofit health service plans and health maintenance organization and any other person that provides health benefit plans subject to State insurance regulation to provide an open enrollment period for eligible employees or dependents who gain access to new qualified health plan as a result of a permanent move and who had coverage for prenatal care or services or had medically needy coverage as described in certain federal regulations for 1 or more days during the 60 days before the date of the permanent move

Effective Date: October 1, 2020

SENATE BILL 99 (Chapter 525) - Health Insurance Benefit Cards, Prescription Benefit Cards, and Other Technology - Identification of Regulatory Agency

- Creates and amends several sections in Title 15 of the Insurance Article and requires health insurers, nonprofit health service plans, health maintenance organizations, and managed care organizations to provide to each insured, subscriber or enrollee of a policy or contract that meets the federal definition of minimum essential coverage a health insurance benefit card, prescription benefit card or other technology that states which State agency regulates the policy or contract offered by the entity.
- Applies to all policies or contracts issued, delivered, or renewed in the State on or after January 1, 2021.

Effective Date: January 1, 2021

SENATE BILL 111 (Chapter 527) - Insurance - Universal and Variable Life Insurance – Notice

- Creates new § 16-219 to the Insurance Article and requires life insurers to send a written notice to policyholders of universal or variable life insurance if the policy contains a provision that allows the policyholder to reduce the face amount of the policy.
- Requires that the notice state that the policy allows for a reduction of the face amount as an option to retain coverage and a certain amount to be paid.
- Requires that the notice be sent to the policyholder's last known address at the beginning of a certain grace period and at least 30 days before the termination of coverage.

Effective Date: January 1, 2021

SENATE BILL 124 / HOUSE BILL 196 (Chapter 104 / Chapter 105) - Maryland Health Benefit Exchange – Assessment Applicability and State-Based Individual Market Health Insurance Subsidies

- Amends § 6-102.1 of the Insurance Article and provides that the assessment to support the Health Insurance Subsidies Program applies to products in effect on December 1, 2019 and were subject to § 9010 of the Affordable Care Act.
- Requires the Exchange to study and report on funding for State-based subsidies before implementing the State-Based Health Insurance Subsidies Program, and the impact of the individual market on federal subsidies and if the State needs to amend its State Innovation Waiver.

Effective Date: July 1, 2020

SENATE BILL 186 / HOUSE BILL 141 (Chapter 74 / Chapter 73) - Life and Health Insurance Guaranty Corporation Act – Revisions

- Revises the Life and Health Insurance Guaranty Corporation Act.
- Incorporates the 2017 changes to the NAIC's Life & Health Guaranty Association Model Act (#520) whose purpose was to provide a mechanism to more fairly assess for receiverships involving long term care insurers.
- Includes health maintenance organizations (HMOs) as assessable "member insurers."
- Excludes coverage for a person who acquires rights to receive payments through a structured settlement factoring transaction.

Effective Dates: October 1, 2020

SENATE BILL 334 / HOUSE BILL 455 (Chapter 212 / Chapter 211) - Health Insurance – Mental Health Benefits and Substance Use Disorder Benefits – Reports on Non-quantitative Treatment Limitations and Data

- Amends § 15-144 of the Insurance Article and requires insurers, HMOs, nonprofit health service plans, and any other person that provides health benefit plans, to file a report , on or before March 1 each year, to the Maryland Insurance Commissioner to demonstrate the carrier's compliance with the federal Mental Health Parity and Addiction Equity Act.
- Requires a carrier's report include specific data.
- Requires carriers to make the report available to members.
- Requires the Commissioner to adopt regulations by December 31, 2021.
- Requires the Commissioner to adopt a form by December 31, 2021, that carriers will use to submit reports.

Effective Dates: October 1, 2020

HOUSE BILL 601 (Chapter 271) - Health Insurance – Provider Panels – Providers of Community–Based Health Services

- Amends § 15-112 of the Insurance Article and prohibits a carrier from rejecting a provider who provides community-based health services for an accredited program because the provider practices within the scope of the provider's license and is a registered psychology associate.
- Alters the reason for which a carrier is prohibited from rejecting a certain provider for participation on the carrier's provider panel.

Effective Date: October 1, 2020

SENATE BILL 931 / HOUSE BILL 652 (Chapter 615 / Chapter 614) - Maryland Medical Assistance Program and Health Insurance - Specialty Drugs - Definition

- Amends Sec. 15-847 of the Insurance Article and adds a new Sec. 15-847.1 of the Insurance Article. Adds new Sec. 15-118.1 of the Health-General Article.
- Prohibits the Secretary of Health from considering certain drugs to be specialty drugs for the purposes of providing services under the Maryland Medical Assistance Program.
- Alters the definition of "specialty drug" in Sec. 15-847 of the Insurance Article to:
 - Exclude from the definition, a prescription drug prescribed to treat diabetes, HIV, or AIDS.
 - Prohibit certain insurers, nonprofit health service plans, and health maintenance organizations from imposing a copayment or coinsurance requirement on a prescription drug prescribed to treat diabetes, HIV, or AIDS that exceeds \$150 for up to a 30-day supply, to be adjusted annually in accordance with the Consumer Price Index.
 - Exclude drugs used to treat diabetes, HIV or AIDS from the specialty drugs that an affected entity can require be obtained only through certain pharmacies or through the entity's managed care system.

Effective Date: May 8, 2020

SENATE BILL 988 / HOUSE BILL 781 (Chapter 325 / Chapter 324) - Health Insurance - In Vitro Fertilization – Revisions

- Amends Sec. 15-810 of the Insurance Article.
- Expands in vitro fertilization (IVF) coverage to both married and unmarried patients.
- Reduces from two years to one year the duration of time required to demonstrate infertility, before IVF must be covered.
- For same sex married patients and for unmarried patients, reduces from six attempts to three attempts the number of artificial inseminations failing to result in pregnancy, before IVF must be covered.
- Clarifies that, for married patients, IVF is covered if either the patient or the patient's spouse is infertile due to certain enumerated reasons.

Effective Dates: January 1, 2021

HOUSE BILL 1273 (Chapter 452) - Health Insurance – Audits of Pharmacies or Pharmacists – Authorization to Withdraw and Resubmit Claims

- Amends § 15-1629(d) of the Insurance Article and, consistent with the contract terms between a pharmacy benefits manager and a pharmacy, allows a pharmacy or pharmacist to withdraw and resubmit claims within 30 days after a preliminary audit report is delivered or 30 days after the

conclusion of an internal audit, including the related internal appeals process, if a pharmacy or pharmacist requests an internal audit.

Effective Date: October 1, 2020

HOUSE BILL 1307 (Chapter 455) - Pharmacy Benefits Managers – Credentialing and Reimbursement

- Amends §§ 15-1628, 15-1628.2, 15-1628.3 of the Insurance Article.
- Prohibits a pharmacy benefits manager from requiring a pharmacy or pharmacist to obtain recredentialing more frequently than every three years or to charge a fee for initial credentialing and recredentialing as a condition for participating in a pharmacy benefits manager’s or purchaser’s network.
- Repeals certain circumstances under which a pharmacy benefits manager or purchaser may reduce payment under a reconciliation process.

Effective Date: January 1, 2021

SENATE BILL 475 (Chapter 560) - Health Insurance - Pediatric Autoimmune Neuropsychiatric Disorders – Coverage

- Creates new § 15-855 and amends § 15-103 of the Insurance Article.
- Requires the Maryland Medical Assistance Program, beginning January 1, 2021, to provide services for pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute onset neuropsychiatric syndrome under subject to the State budget and consistent with federal law.
- Requires carriers to provide coverage for diagnosis, evaluation, and treatment of pediatric autoimmune neuropsychiatric disorders.
- Excludes a requirement to cover Rituximab unless the FDA approves treatment for these conditions with this medication.
- Applying the Act to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2021.

Effective Date: January 1, 2021

SENATE BILL 502 (Chapter 18) - Telehealth – Mental Health and Chronic Condition Management Services – Coverage and Pilot Program

- Amends Sec. 15-139 of the Insurance Article and Section 15-103 of the Health-General Article.
- Requires that the Maryland Medical Assistance Program provide, subject to the limitations of the state budget, mental health services appropriately delivered through telehealth to a patient in the patient's home setting.
- Alters the definition of telehealth in Sec. 15-139 of the Insurance Article to include the delivery of mental health care services to a patient in the patient’s home setting.

Effective Date: April 3, 2020

SENATE BILL 661 / HOUSE BILL 852 (Chapter 344 / Chapter 343) - Health Insurance - Prostate Cancer Screening Services - Prohibiting Cost-Sharing

- Amends § 15-825 and, subject to federal law, prohibits insurers, nonprofit health service plans, and health maintenance organizations from applying a deductible, a copayment, or coinsurance to coverage for certain preventive care screening services for prostate cancer.
- Applies the Act to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2021.

Effective Date: January 1, 2021

SENATE BILL 872 / HOUSE BILL 959 (Chapter 621 / Chapter 620) - Health Insurance - Consumer Protections

- Adds Subtitle 1A to Title 15, creating §§ 15-1A-01 – 15-1A-22 and repeals § 15-137.1 of the Insurance Article.
- Authorizes the Maryland Insurance Commissioner to enforce the new Subtitle and Title 1, Subtitles A, C, and D of the federal Affordable Care Act (ACA).
- Requires the Commissioner to adopt regulations establishing the criteria of a grandfathered plan and essential health benefits needed to be considered a health benefit plan, and to consult with MHBE to adopt regulation concerning the summary of benefits and coverage, and relating to medical loss ratio.
- Prohibits carriers from excluding or limiting benefits or denying coverage because a certain health condition was present before the effective date of coverage.

Effective Date: May 8, 2020

SENATE BILL 915 / HOUSE BILL 978 (Chapter 398 / Chapter 399) - Maryland Insurance Administration - Pharmacy Services Administrative Organizations – Regulation

- Adds Subtitle 20 to Title 15 of the Insurance Article, creating IN §§ 15-2006 through 15-2019.
- Requires, on or after July 1, 2021, pharmacy services administrative organizations to register with the Maryland Insurance Commissioner before negotiating on behalf of pharmacies or pharmacists with Purchasers in the State.
- Requires applicants to file an application on a form and pay a registration fee; providing for the expiration and renewal of a registration.
- Prohibits pharmacy services administrative organizations from entering into contracts with pharmacists or pharmacies.
- Provides that an approval notice from the Commissioner constitutes a waiver of the unexpired time in the filing period.

Effective Date: October 1, 2020

OTHER

SENATE BILL 93 (Chapter 520) - Insurance - Nonresident Insurance Producers – Cancellation

- Amends § 10-119 of the Insurance Article and requires the holder of a nonresident insurance producer license to be currently licensed as a resident insurance producer in the person’s home state. The
- Authorizes the Maryland Insurance Commissioner to cancel a nonresident producer license after receiving notification that the producer no longer has a home state license.

Effective Date: October 1, 2020

SENATE BILL 95 (Chapter 521) - Public Adjusters – Disbursement of Insurance Settlement Payments

- Obligates public adjusters to disburse insurance settlement payments received on behalf of the insured within 15 business days after the date of the payment from an insurer.

Effective Date: October 1, 2020

SENATE BILL 96 (Chapter 522) - Insurance – Third Party Administrators – Term and Reinstatement of Registration

- Alters the date on which a third party administrator's registration expires to 2 years from the date of issuance rather than every other June 30.
- Provides that in order for a renewal of registration to be considered made in a timely manner it must be postmarked on or before the date the registration expires.
- Increases the period of time during which a third party administrator may reinstate an expired registration from 3 months to 1 year.
- Increases the amount of the reinstatement fee for an expired registration to \$100.

Effective Date: October 1, 2020

SENATE BILL 167 / HOUSE BILL 189 (Chapter 101 / Chapter 100) - Insurance - Credit for Reinsurance Model Law – Revisions

- Revises the Credit for Reinsurance law in Title 5, Subtitle 9 of the Insurance Article, Annotated Code of Maryland.
- Incorporates changes required by the Bilateral Agreement between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance (“the Covered Agreement”) signed on September 22, 2017.
- Eliminates reinsurance collateral requirements for assuming insurers from Reciprocal Jurisdictions.
- Clarifies that the Maryland Insurance Commissioner has the discretion to defer to the insurance regulatory agency of a state accredited by the National Association of Insurance Commissioners (NAIC) or the NAIC committee process to designate an assuming reinsurer as a certified reinsurer in the State or to assign a rating to an assuming reinsurer or both.

Effective Date: October 1, 2020

SENATE BILL 1080 / HOUSE BILL 1663 (Chapter 13 / Chapter 14) - State Government – State of Emergency and Catastrophic Health Emergency – Authority of Governor and Unemployment Insurance Benefits (COVID–19 Public Health Emergency Protection Act of 2020)

- Authorizes the Governor to take certain actions as a result of the issuance by the Governor on March 5, 2020, of the proclamation declaring a state of emergency and the existence of a catastrophic health emergency or any other proclamation issued under Title 14 of the Public Safety Article; and terminating the Act after April 30, 2021.

Effective Date: March 19, 2020