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May 18, 2015

Administrative, Executive and Legislative Review (AELR) Committee
90 State Circle
Annapolis, MD 21401

Governor's Office
Attn: Mike Richard, Deputy Chief of Staff
State House
Annapolis, MD 21401

Division of State Documents
State House
Annapolis, MD 21401

State Publications Depository and Distribution Program
Attn: Brigid Sye-Jones
Enoch Pratt Free Library
400 Cathedral St.
Baltimore, MD 21201

Department of Legislative Services Library
90 State Circle
Annapolis, MD 21401

RE: Regulatory Review and Evaluation Act Evaluation Report-COMAR 31.10

Dear Sir or Madam:

I am filing the required number of copies of the attached Evaluation Report on behalf of the Maryland Insurance Administration as follows:

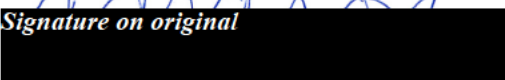
- AELR Committee-one copy
- Governor's Office (Mike Richard)-one copy
- Division of State Documents-one copy

- State Library Resource Center via State Publications Depository and Distribution Program (Brigid Sye-Jones)-sixteen copies
- Department of Legislative Services Library-five copies

If you have any questions, or require additional information, please contact me at the above-referenced telephone number and email address.

Sincerely,

Signature on original

A black rectangular redaction box covers the signature area. Above the box, there are faint blue ink scribbles that appear to be the start of a signature.

Catherine Grason, Esq.
Director of Regulatory Affairs, Office of the Commissioner

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.01

Chapter Name: Health Insurance

Authority: Insurance Article, §§2-109, 12-203, 12-205, 13-110(a), 13-111(b), 14-109(3)(iv), 14-126(a)(1), 14-405(b)(9), 14-410(c), 15-903, 15-904, 15-906--15-908, and 15-911; Health-General Article, §19-713; Annotated Code of Maryland

Date Originally Adopted or Last Amended: September 17, 2012

Purpose: This chapter sets forth the scope of COMAR Title 31, Subtitle 10, and sets forth form and rate filing requirements for certain health insurance forms.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

The federal government issued new regulations requiring at least 60 days' notice of renewal for individual grandfathered health benefit plans (45 C.F.R 148.122(i)) and requiring notice of renewal before the first day of the open enrollment period for individual non-grandfathered health benefit plans (45 CFR 147.106(f)(1)). Therefore, Regulation .03S, which requires a 45-day notice for all health insurance plans, is required to be amended comply with federal notice requirements.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to health insurance rate and form filing requirements being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to health insurance rate and form filing requirements requiring promulgation of regulations or amendments to COMAR 31.10.01.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose the following technical amendment to the enabling authority of this chapter:

- The MIA will propose to remove Health-General Article, §19-713, Annotated Code of Maryland from the list of enabling authority, as this chapter does not apply to HMOs.

The MIA will propose the following substantive amendments to Regulation .03S of this chapter:

- Amend this regulation to require at least 60 days’ notice of renewal for individual grandfathered health benefit plans; and
- Amend this regulation to require notice of renewal before the first day of the open enrollment period for individual non-grandfathered health benefit plans.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.02

Chapter Name: Health Insurance—Simplified Language

Authority: Insurance Article, §§2-109, 12-102-- 12-104, 12-107, 12-203-- 12-205, 12-209, 15-103, 15-201, 15-202, 15-402, 15-502, 15-916, 15-919, and 15-924, Annotated Code of Maryland

Date Originally Adopted or Last Amended: March 30, 1992

Purpose: This chapter sets forth minimum readability standards for certain health insurance forms.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
 - (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
 - (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

As required by §15-103(c) of the Insurance Article, these regulations are based on the National Association of Insurance Commissioner's Model Act entitled "Life and Health Insurance Policy Language Simplification Model Act" (MDL-575). The chapter is consistent with the Model Act.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to minimum readability standards for health insurance forms being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to minimum readability standards for health insurance forms requiring promulgation of regulations or amendments to COMAR 31.10.02.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No amendments are recommended at this time.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

COMAR 31.10.04

Chapter Name:

Health Insurance—Plan of Withdrawal

Authority:

Insurance Article, §§2-109, 27-601, 27-603, and 27-604, Annotated Code of Maryland.

Date Originally Adopted or Last Amended:

October 9, 1995

Purpose:

Consistent with Insurance Article §27-606, this chapter requires that a health insurer file a plan of withdrawal with the Commissioner when the insurer intends to cancel or not renew one or all of the insurer's health insurance products for all covered insureds in the state.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

These regulations were promulgated to implement a specific Maryland statute (§ 27-606, Insurance Article) and are consistent with that statute.

(8) Provide a summary of any other relevant information gathered.

Since the adoption of these regulations, new statutes were passed regarding the withdrawal of health benefit plans that are subject to the Health Insurance Portability and Accountability Act (“HIPAA”) and the Affordable Care Act (“ACA”). The HIPAA and ACA requirements for withdrawal are different than the requirements of this chapter and are set forth in Maryland statutes. This chapter remains applicable to other types of health insurance. Therefore, .01 B should be revised to indicate that the chapter does not apply to health benefit plans issued under Title 15, Subtitles 12, 13 or 14 of the Insurance Article.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the requirement that certain health insurers file a plan of withdrawal with the Commissioner when the insurer intends to cancel or not renew one or all of the insurer’s health insurance products being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the requirement that certain health insurers file a plan of withdrawal with the Commissioner when the insurer intends to cancel or not renew one or all of the insurer’s health insurance products requiring promulgation of regulations or amendments to COMAR 31.10.04.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

x amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose the following technical amendments to this chapter:

- Amend the authority line to omit Insurance Article, §§27-601, 27-603, and 27-604, Annotated Code of Maryland, as these statutes pertain to commercial lines and are unrelated to this chapter.
- Add Insurance Article, §27-606, Annotated Code of Maryland, to the authority line, as this statute addresses health insurance market withdrawals and non-renewals, and is the statute upon which this chapter is based.

The MIA will propose the following substantive amendments to this chapter:

- Amend Regulation .01B to clarify that this chapter does not apply to health benefit plans that are issued under Title 15, Subtitles 12, 13, or 14 of the Insurance Article.
- Amend Regulation .02 to add a definition of “health benefit plan.”

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

COMAR 31.10.09

Chapter Name:

Hospice Care Benefits

Authority:

Insurance Article, §§2-109, 12-204, 12-205, and 15-809; Health-General Article, §§19-703(c) and 19-901; Annotated Code of Maryland

Date Originally Adopted or Last Amended:

April 7, 1997

Purpose:

The purpose of this chapter is to establish the minimum hospice benefit that is required to be offered to policyholders to satisfy the optional hospice offering required by §15-809 of the Insurance Article.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

No relevant information was found. This chapter implements the requirements of a specific Maryland statute. The National Association of Insurance Commissioners has not published a Model Law or Regulation on this subject.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the requirement that carriers of certain health insurance policies offer policyholders the option of purchasing the minimum hospice care benefits required by this chapter when the policyholder applies for coverage being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the requirement that carriers of certain health insurance policies to offer policyholders the option of purchasing the minimum hospice care benefits required by this chapter when the policyholder applies for coverage requiring promulgation of regulations or amendments to COMAR 31.10.09.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No amendments are recommended at this time.

Person performing review:

Title:

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the consumer comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: One consumer requested that the MIA's legal authority be expanded, enabling the MIA to require the following: (1) mathematical accuracy in EOB forms; (2) the inclusion of "specific" and correct data in EOBs; (3) corrections in insurance company electronic and paper system processes that interfere with the acceptance and acknowledgement of EOBs and the proper and prompt payment of claims. The consumer suggested that the MIA needs more authority to evaluate systemic, repeated problems that go uncorrected by insurers.

RESPONSE: These comments regarding EOBs for individual claims are beyond the scope of this particular chapter, which is limited to the requirements for an annual summary EOB reflecting all claims paid for the entire year that involve an inpatient hospitalization or an outpatient surgery. This annual EOB summary requirement is found in §15-1007 of the Insurance Article. There are no requirements in Maryland law or regulations for EOBs used for individual claims. Further, an expansion of the MIA's authority in this area would first require legislative action.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

This chapter is unique to Maryland and was adopted to implement the requirements of §15-1007 of the Insurance Article. Accordingly, there is no corresponding Model Law or Model Regulation from the National Association of Insurance Commissioners.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to annual EOB summary requirements that are being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to annual EOB summary requirements requiring promulgation of regulations or amendments to COMAR 31.10.10.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

While one comment was received on this chapter, it was requesting a change that was beyond the authority of the implementing statute. Specifically, the comment dealt with information that the commenter would like to see on each individual EOB. There are no requirements in Maryland law or regulations for EOBs used for individual claims. This chapter deals with the requirements of an annual summary EOB and is limited to a summary of claims dealing with inpatient hospitalization and outpatient surgery, as required by §15-1007 of the Insurance Article.

No changes are recommended to this chapter at this time.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.11

Chapter Name: Uniform Claims Forms

Authority: Insurance Article, §§ 2-109, 15-701, 15-704, 15-706, 15-711, 15-712, and 15-1003-15-1005; Health-General Article, §§19-712.1 and 19-712.3; Health Occupations Article, §1-207 Annotated Code of Maryland.

Date Originally Adopted or Last Amended: March 17, 2014

NOTE: On February 25, 2014, the Insurance Commissioner adopted amendments to Regulation .10 under COMAR 31.10.11 Uniform Claims Forms, effective March 17, 2014. The amendments add a new sub-section (15) to COMAR 31.10.11.10A, which provides that a third-party payor may require a health care practitioner, hospital, or person entitled to reimbursement to include a treatment plan from a child's health care practitioner that includes one or more specific treatment goals if the claim is for habilitative services for a child diagnosed with autism or autism spectrum disorder as an attachment to a HCFA Form UB-92 or HCFA Form 1500, respectively, for a claim to qualify as a clean claim. Since this amendment was adopted after the MIA filed its work plan for this sub-title (10/1/12) and in any case, since this amendment did not "comprehensively" amend this chapter, the MIA did not claim an exemption for this chapter from regulatory review on the basis of this recent amendment.

Purpose: This chapter regulates the format of claims for reimbursement submitted to "third-party payors" and claims submitted by "health care practitioners," "hospitals," and other "persons entitled to reimbursement" as defined in this chapter; imposes requirements upon third-party payors upon receipt of a claim; and sets forth certain disclosure and claims data filing requirements applicable to third-party payors.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. One comment was received (The Maryland State Medical Society, “MedChi”).

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit’s website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comment noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority’s responses to those comments.

COMMENT: MedChi recommended that these regulations should be continued, particularly as they represent regulatory responses to existing Maryland law. The Uniform Claims Form is used widely in the medical community and there is no reason to believe that these regulations should not be continued.

RESPONSE: The Maryland Insurance Administration agrees that these regulations are required by law and should continue, with amendments as described in the summary below.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

(6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

This chapter and corresponding statutory authority appears to be a unique requirement for Maryland. The National Association of Insurance Commissioners has not passed a Model Act or Model Regulation on this subject.

(8) Provide a summary of any other relevant information gathered.

§§15-101.1 and 15-102.3 of the Insurance Article changed with regard to which laws in the Insurance Article apply to managed care organizations (MCOs). Since MCOs are not subject to §15-1003 of the Insurance Article, the references to MCOs in Regulation .02B(16) and (23) should be repealed.

New ICD-10-CM Codes will be used beginning October 1, 2015. Therefore, references in Regulation .02 to ICD-9-CM Codes need to be revised to refer to the new ICD-10-CM Codes.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to uniform claims forms that are being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to uniform claims forms requiring promulgation of regulations or amendments to COMAR 31.10.11.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- x amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary under §§15-1001 through 15-1005 of the Insurance Article.

The MIA will propose the following technical changes to this chapter:

- §§15-701, 15-704, 15-706, 15-711, and 15-712 of the Insurance Article should be deleted from the list of enabling authority, as these sections do not deal with the use of the uniform claims form.
- §19-712.1 of the Health-General Article should be deleted from the list of enabling authority, as this statute was repealed by Acts 1999, ch. 472, § 1, effective October 1, 1999.
- §19-712.3 of the Health-General Article should be deleted from the list of enabling authority, as this statute was repealed by Acts 2000, ch. 410, effective June 1, 2000.
- §1-207 of the Health-Occupations Article (“Notice explaining CDC guidelines on universal precautions”) should be deleted from the list of enabling authority and replaced with §1-208 of the Health-Occupations Article (“Uniform claims forms”).
- Regulation .01A(1) should be amended to strike the reference to Regulation .02B(22) and change it to .02B. The citation to subsection (22) is inaccurate since the definition of “third-party payor” is actually defined at subsection (23). This change will make this cross-reference less specific in the event that it is amended again.

The MIA will propose the following substantive changes to this chapter:

- Regulation .02B(16) and Regulation .02B(23)(d) should be repealed as the enabling legislation did not extend to managed care organizations. §15-101.1 of the Health-General Article states that “unless provided in this subtitle, a managed care organization is not subject to the requirements of the Insurance Article.” §15-102.3 of the Health-General Article specifies which laws in the Insurance Article apply to MCOs and does not include either §15-1003 nor §15-1004 in the list.
- The definition of ICD-9-CM Codes in Regulation .02 should be revised to include references to new ICD-10-CM Codes.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

COMAR 31.10.12

Chapter Name:

Uniform Consultation Referral

Authority:

Insurance Article, §§2-109 and 15-120, Annotated Code of Maryland

Date Originally Adopted or Last Amended:

January 13, 2011

Purpose:

This chapter sets forth a uniform consultation referral form for use by insurers, nonprofit health service plans, and health maintenance organizations that require insureds or subscribers to have a written referral to receive consultation services, and sets forth standards for the electronic transmission of the data elements contained in the uniform consultation referral form.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Two sets of comments were received, one from the Maryland State Medical Society ("MedChi"), and one from Kaiser Permanente.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: MedChi recommended that these regulations should be continued, particularly as they represent regulatory responses to existing Maryland law. The Uniform Consultation Referral Forms are used widely in the medical community and there is no reason to believe that these regulations should not be continued.

RESPONSE: The MIA agrees that these regulations should be continued.

COMMENT: Kaiser Permanente ("Kaiser") believes that the Form in COMAR 31.10.12.06B should be revised to provide "clarity and additional detail to ensure that it conveys accurate information." A copy of the current Form is attached for ease of reference. Specifically, Kaiser requests the following clarifications/modifications to the Form:

(1) "DATE OF REFERRAL" SECTION OF THE FORM

COMMENT: The current Form asks for a "Date of Referral." Kaiser believes that this is "ambiguous and causes confusion," and that the Form should clarify what specifically the date of referral represents. Kaiser recommends expanding the "Date of Referral" section of the Form to provide for three check boxes signifying whether the date provided refers to the date the referral is written, the date of the proposed planned service, or the date the service was rendered if it is a post service request.

(comments continue on next page)

RESPONSE: This uniform referral form has been in use since 1996 and the MIA has not received any questions or heard of any problems with this form. The date of referral is the date the provider completes the uniform referral form. COMAR 31.10.12.03D permits the carrier to include instructions on the back of the form, if the carrier believes that they are necessary. No change is recommended.

(2) FIELDS NOT UTILIZED BY CARRIERS

COMMENT: In the “Patient Information” section of the Form there is a field for “Site #.” Kaiser states that providers do not complete this part of the Form and, therefore, requests that it be stricken. Similarly, in the “Consultant/Facility Provider” section of the form there are boxes for “Provider ID #: 1” and “Provider ID#: 2.” Kaiser states that providers do not complete these parts of the Form and, as such, requests that they be stricken from the Form as well.

RESPONSE: This form was created with input from many carriers and providers. While Kaiser may not require this information, other carriers may need it. In accordance with COMAR 31.10.12.03D, Kaiser may provide directions on the back of the form indicating that these boxes do not need to be completed for them. No change is recommended.

(3) “REFERRAL INFORMATION” SECTION OF THE FORM

COMMENT: First, Kaiser recommends adding fields for “Diagnosis” and “ICD/CPT Codes” to the “Referral Information” section of the Form. Kaiser states that this will provide more clarity and detail for the reason for referral. It will ensure that the Form contains specific information that would minimize confusion in the referral process.

RESPONSE: The recommendation appears to be beyond the purpose of the form and requires more information than is necessary. This form is designed to be used when a carrier requires an individual to have a referral before receiving certain services. The provider writing the referral may not be knowledgeable about the CPT codes for services rendered by specialists or inpatient facilities. No change is recommended.

COMMENT: Second, the “Referral Information” section contains check boxes for “Place of Service.” Kaiser believes that this list is incomplete and does not take into account that place of service could also include an acute rehabilitation facility and home care, for example. Kaiser recommends that additional check boxes be included to indicate these options as a “Place of Service.”

RESPONSE: The current form contains an “Other” box that can be used for this purpose. No change is recommended.

COMMENT: Third, there is a box for “Authorization #” toward the end of this section. Kaiser is not clear as to what this represents and requests that it be stricken or clarified.

RESPONSE: This form was created with input from many carriers and providers. While Kaiser may not require this information, other carriers may need it. In accordance with COMAR 31.10.12.03D, Kaiser may provide directions on the back of the form indicating that these boxes do not need to be completed for them. No change is recommended.

(comments continue on next page)

COMMENT: Finally, Kaiser requests that a check box for Durable Medical Equipment (DME) be included in the "Service Desired" component of the "Referral Information" section. Kaiser states that DME is complex and that the requesting provider should define what piece of equipment the member needs and why they need it on the referral. Since all DME must be pre-approved, a referral is needed.

RESPONSE: This is a consultation referral form. It is not a form to be used for preauthorization of services. The "Other" box in the Service Desired area of the form can be used for the DME services. No change is recommended.

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

(6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A. This form is unique to Maryland and was developed to comply with the unique requirements of §15-120 of the Insurance Article. Accordingly, there is no comparable Model Law or Model Regulation adopted by the National Association of Insurance Commissioners.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to uniform consultation referral forms that are being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining uniform consultation referral forms requiring promulgation of regulations or amendments to COMAR 31.10.12.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary for compliance with §15-120 of the Insurance Article.

No changes are recommended to this chapter at this time.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

31.10.12.06

INSURANCE

Maryland Uniform Consultation Referral Form

Date of Referral:		Carrier Information:	
Patient Information:		Name:	
Name: (Last, First, MI)		Address:	
Date of Birth: (MM/DD/YY)	Phone:	Phone Number: ()	
	{ }	Facsimile/Data #: ()	
Member #:			
Site #:			
Primary or Requesting Provider:			
Name: (Last, First, MI)		Specialty:	
Institution/Group Name:	Provider ID #: 1	Provider ID #: 2 (If Required)	
Address : (Street #, City, State, Zip)			
Phone Number: ()		Facsimile/Data Number: ()	
Consultant/Facility Provider:			
Name: (Last, First, MI)		Specialty:	
Institution/Group Name:	Provider ID #: 1	Provider ID #: 2 (If Required)	
Address: (Street #, City, State, Zip)			
Phone Number: ()		Facsimile/Data Number: ()	
Referral Information:			
Reason for Referral:			
Brief History, Diagnosis, and Test Results:			
Services Desired: Provide Care as Indicated:		Place of Service:	
<input type="checkbox"/> Initial Consultation Only:		<input type="checkbox"/> Office	
<input type="checkbox"/> Diagnostic Test: (specify) _____		<input type="checkbox"/> Outpatient Medical/Surgical Center *	
<input type="checkbox"/> Consultation With Specific Procedures:(specify) _____		<input type="checkbox"/> Radiology <input type="checkbox"/> Laboratory	
<input type="checkbox"/> Specific Treatment: _____		<input type="checkbox"/> Inpatient Hospital *	
<input type="checkbox"/> Global OB Care & Delivery		<input type="checkbox"/> Extended Care Facility *	
<input type="checkbox"/> Other: (Explain) _____		<input type="checkbox"/> Other: (Explain) _____	
Number of Visits : _____		Referral is Valid Until:(Date) _____	
If Blank, 1 Visit is Assumed.		(See Carrier Instructions)	
Authorization #:			
(If Required)			
Signature: (Individual Completing This Form)		Authorizing Signature: (If Required)	

Referral certification is not a guarantee of payment. Payment of benefits is subject to a member's eligibility on the date that the service is rendered and to any other contractual provisions of the plan/carrier.

White: Carrier; Yellow: Primary or Requesting Provider; Pink: Consultant/Facility Provider; Goldenrod: Patient

See Carrier/Plan Manual for Specific Instructions.

01, 2011

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

COMAR 31.10.13

Chapter Name:

Return of Premium, Cash Surrender or other Nonforfeiture Benefits in Health Insurance Policies

Authority:

Insurance Article, §§2-109 and 12-203-12-205, Annotated Code of Maryland

Date Originally Adopted or Last Amended:

August 10, 1979

Purpose:

The purpose of this chapter is to serve the interests of continuing policyholders of individual health insurance products and to afford reasonable protection to the interests of those policyholders of individual health insurance products who are forced to discontinue their policies prematurely by regulating the design of the policies in a manner which is equitable to the policyholder and which provides benefits reasonable in relation to the premium charged and which provides benefits of economic value to the insured.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to return of premium being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to return of premium requirements requiring promulgation of regulations or amendments to COMAR 31.10.13.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.
No action is recommended at this time.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.14

Chapter Name: Minimum Loss Ratio with Respect to Specified Disease Policies

Authority: Insurance Article, §§2-109, 12-203--12-205, and 15-109, Annotated Code of Maryland

Date Originally Adopted or Last Amended: September 21, 2009

Purpose: The purpose of this chapter is to establish minimum loss ratios with respect to specified disease policies in order to assure that the benefits provided in those policies are reasonable in relation to the premium charged and may be approved under the requirements of Insurance Article, §§12-203--12-205, and 15-109, Annotated Code of Maryland.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A. This chapter was promulgated in accordance with the requirements of §15-109 of the Insurance Article. There is no National Association of Insurance Commissioners Model Law or Model Regulation that is comparable to this chapter.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining minimum loss ratios for specified disease policies being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to minimum loss ratios for specified disease policies requiring promulgation of regulations or amendments to COMAR 31.10.14.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

No action is recommended at this time.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Three stakeholders submitted comments: The Maryland State Medical Society (MedChi), CareFirst BlueCross BlueShield (CareFirst), and UHC-Mid-Atlantic Health Plan (UHC).

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: MedChi commented that COMAR 31.10.16 should be continued, particularly as it represents a regulatory response to existing Maryland Law. This regulation is a response to the passage of the Patient Access Act in 1995 and explicates the process by which a doctor may apply to be on an insurance panel.

RESPONSE: The MIA agrees with this comment.

COMMENT: CareFirst commented that COMAR 31.10.16.03 contains requirements for an application log that are not feasible for online applications such as CAQH (a product offered by the Council for Affordable Quality Healthcare). For example, COMAR 31.10.16.03D requests the following information:

- (2) Date the provider requested an application;
- (3) Date the application is sent or delivered to the provider;
- (4) Date the application is received from the provider.

If a provider uses CAQH online, that provider does not request an application from the carrier, and in turn does not send it back to the carrier. The carrier does not have these dates to log. CareFirst finds that approximately 75% of its provider panel applications are received through the CAQH online system. CareFirst suggests that these requirements be removed or amended to specify that they are only applicable to paper applications. Relatedly, UHC "strongly suggests" that COMAR 31.10.16.03D-E be eliminated in its entirety. These sections require that a carrier maintain a provider application log that is available for inspection by the Commissioner. UHC states that it uses the industry-standard CAQH application and very closely monitors turnaround time, thus, there is no value added in maintaining a separate log.

RESPONSE: At this time, the MIA disagrees with UHC that provider log requirements should be eliminated. Carriers must adhere to the time frames outlined in §15-112(d)(3) and (4) of the Insurance Article, and the logs are helpful in showing compliance with these guidelines. The MIA agrees with CareFirst that 31.10.16.03D should be amended to clarify that certain information is required only "if applicable." The MIA will propose amendments to subsections (1)-(3)

COMMENT: UHC suggests that the State recognize National Committee for Quality Assurance (NCQA) Accredited Health Plans as deemed to be compliant with COMAR 31.10.16.03A, which provides that, “A carrier that utilizes a provider panel shall establish written procedures for reviewing applications for participation in the provider panel.”

RESPONSE: If the carrier can demonstrate that it is an NCQA Accredited Health Plan, it would be considered compliant with COMAR 31.10.16.03A. NCQA requires accredited health plans to have written procedures for credentialing the health plan's providers.

COMMENT: UHC commented that COMAR 31.10.16.03C(1)-(2) “adds no value.” COMAR 31.10.16.03C(1)-(2) provides that the form of a provider application for participation in a carrier’s provider panel:

- (1) Shall include instructions for completion of the application;
- (2) Shall provide a specifically designated space for dating the receipt of the application by the carrier...

UHC states that it utilizes the industry standard CAQH application.

RESPONSE: The MIA respectfully disagrees that the information required adds no value. This information is helpful to the MIA in assessing compliance with §15-112 of the Insurance Article.

COMMENT: UHC suggests that COMAR 31.10.16.04 (Application Fees), which gives carriers discretion to charge “a reasonable fee for any application that a provider submits to the carrier” be deleted in its entirety. UHC states that it is not industry-standard for Health Plans to charge for provider applications.

RESPONSE: The MIA disagrees that this section should be deleted. Charging a “reasonable fee” is at the carrier’s discretion, thus carriers can elect not to charge for provider applications if they elect to do so.

COMMENT: UHC suggests that COMAR 31.10.16.05 (Document Retention), which requires a carrier to “maintain its provider application log for a minimum of 3 years or until its next market conduct examination, whichever occurs last,” be deleted in its entirety. UHC states that the provider application log is of no added value given the electronic nature of the CAQH application.

RESPONSE: The MIA disagrees with UHC. Carriers must adhere to the time frames outlined in §15-112(d)(3) and (4) of the Insurance Article, and as noted above, the provider application logs are helpful to the MIA in assessing carrier compliance with these guidelines.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the application process for carrier provider panels being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the application process for carrier provider panels requiring promulgation of regulations or amendments to COMAR 31.10.16.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary for compliance with §15-112(k) of the Insurance Article.

The MIA agrees with CareFirst that 31.10.16.03D should be amended to clarify that certain information is required only “if applicable.” The MIA will propose amendments to subsections (1)-(3) accordingly. The MIA disagrees that subsection (4) should be amended.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.17

Chapter Name: Health Care Consumer Information and Education Act

Authority: Insurance Article, §§2-109 and 15-121; Health-General Article, §19-706, Annotated Code of Maryland

Date Originally Adopted or Last Amended: July 12, 1998

Purpose: The purpose of this chapter is to establish requirements for certain disclosures regarding reimbursement methodologies and distribution of premium dollars that carriers must include in their enrollment sales materials as required by §15-121 of the Insurance Article, Annotated Code of Maryland.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. One stakeholder, UHC-Mid-Atlantic Health Plan (UHC), submitted comments.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: UHC commented on the disclosure statement on carrier reimbursement methodologies required by COMAR 31.10.17.04A(1), stating that "contracting with providers is changing rapidly to value-based contracting and this regulatory language does not take into consideration changes in the market place." UHC states that it supports transparency to its members, but provider contracting is complex and proprietary, and UHC questions whether there is true value added to members by disclosing complicated payment methodologies. UHC states that its certificates of coverage provide good general information about incentives to providers and payment arrangements, and that this language is compliant with COMAR 31.10.17.03A(1). UHC suggests that such language is sufficient to satisfy member transparency concerns.

RESPONSE: The disclosure statement in COMAR 31.10.17.04A(1) is required by Maryland Law, Insurance Article, 15-121(c). The requested change would first require an act of the legislature, thus no change is recommended at this time.

COMMENT: UHC commented on the disclosure on carrier distribution of premium dollars required by COMAR 31.10.17.05A, stating that in light of health care reform transparency requirements, this provision appears to be obsolete.

RESPONSE: The disclosure at COMAR 31.10.17.05A is required by Maryland Law, Insurance Article, 15-121(d). This requested change would first require an act of the legislature, thus no change is recommended at this time.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A. This chapter is based upon a unique Maryland law and is designed to comply with the requirements of §15-121 of the Insurance Article.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to carrier disclosure requirements regarding reimbursement methodologies and distribution of premium dollars being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to carrier disclosure requirements regarding reimbursement methodologies and distribution of premium dollars requiring promulgation of regulations or amendments to COMAR 31.10.17.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary for compliance with §15-121 of the Insurance Article.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

COMAR 31.10.19

Chapter Name:

Independent Review Organizations and Medical Experts

Authority:

Insurance Article, §§2-109, 15-10A-05, and 15-10A-09, Annotated Code of Maryland;
Chapter 112, Acts of 1998

Date Originally Adopted or Last Amended:

April 16, 2012

*Note: This Chapter was comprehensively amended subsequent to the MIA's filing of a Work Plan for this Subtitle. Accordingly, the MIA did not claim an exemption from Regulatory Review for this Chapter in its Work Plan.

Purpose:

The purpose of this chapter is to establish requirements regarding: (1) independent review organizations that enter into contracts with the Commissioner for the evaluation of adverse decisions, as provided for in §15-10A-05 of the Insurance Article; and (2) medical experts used by independent review organizations.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Two stakeholders submitted comments: The Maryland State Medical Society (MedChi) and CareFirst BlueCross BlueShield (CareFirst).

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: MedChi commented that COMAR 31.10.19 is an outgrowth of the Appeal and Grievance legislation which was the first such bill passed in the country, and remains an important part of Maryland's protection of health consumers. These regulations should be continued.

RESPONSE: The Maryland Insurance Administration agrees with these comments and that the chapter should be continued.

COMMENT: CareFirst commented that COMAR 31.10.19.03D currently provides that "an expert reviewer assigned by an independent review organization or a medical expert selected by the Commissioner may not have a material professional, familial, or financial conflict of interest with any of the following..." [emphasis added]. It expressed a concern over the use of the term "material" in this regulation, noting that the term is undefined and, as such, provides an exemption from or a defense against compliance with the requirement of the regulation. CareFirst suggests the term "material" be removed from the regulation.

RESPONSE: The use of the term "material" in this regulation mirrors its use in the enabling statutory authority for this regulation, §15-10A-05(f) of the Insurance Article. CareFirst's suggested change would first require an amendment to the enabling statute. Also, note that the mechanism for determining whether a conflict of interest is "material" in the context of this regulation is the "Commissioner's discretion." COMAR 31.10.19.04C states that "the Commissioner shall have the discretion to determine whether a material conflict of interest exists for the expert reviewer of an independent review organization or the medical experts subject to this regulation and as provided by Insurance Article, §15-10A-05, Annotated Code of Maryland" [emphasis added].

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

(6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A. This chapter was promulgated in response to a specific, unique Maryland law.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to independent review organizations and medical experts being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to independent review organizations and medical experts requiring promulgation of regulations or amendments to COMAR 31.10.19.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

x amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary for compliance with §15-10A-05 of the Insurance Article. It is recommended that no substantive changes be made to this chapter at this time.

The MIA will propose a technical amendment to remove Chapter 112 of the Acts of 1998 from the list of enabling authority. This reference to chapter law is no longer necessary since the pertinent statutes have taken effect.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.20

Chapter Name: Certification of Health Maintenance Organization (HMO) Medical Directors

Authority: Insurance Article, §§ 2-109 and 15-10C-02, Annotated Code of Maryland Chapter 112, Acts of 1998

Date Originally Adopted or Last Amended: March 22, 1999

Purpose: In accordance with the Insurance Article §15-10C-02, Annotated Code of Maryland, the purpose of this chapter is to establish regulation standards for: (1) the certification of HMO medical directors; (2) the renewal, suspension, and revocation of a certificate to act as an HMO medical director; and (3) the issuance of a temporary certificate to act as an HMO medical director.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. No comments were received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A. This chapter was promulgated to implement the requirements of Title 15, Subtitle 10C of the Insurance Article. This law is unique to Maryland.

(8) Provide a summary of any other relevant information gathered.

Regulation .02 is no longer needed. This Regulation provided a transition for those physicians who were acting as medical directors for HMOs before the effective date of this chapter. Since Regulation .02 applied only to physicians who were acting as medical directors before December 31, 1998, this regulation is no longer needed and should be repealed.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the certification of HMO Medical Directors being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to HMO Medical Directors requiring promulgation of regulations or amendments to COMAR 31.10.20.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. The only recommended change is the repeal of Regulation .02, as it is no longer necessary.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

COMAR 31.10.22

Chapter Name:

Provider-Sponsored Organizations

Authority:

Health-General Article, Title 19, Subtitle 7A, Annotated Code of Maryland.

Date Originally Adopted or Last Amended:

May 15, 2000

Purpose:

In accordance with the §19-7A of the Health General Article, Annotated Code of Maryland, the purpose of this chapter is to establish regulations governing provider-sponsored organizations operating for the purpose of providing health care services to Medicare beneficiaries under the federal Medicare + Choice program.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. No comments were received on this chapter.

- (5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

The states are charged with the responsibility to license and, except where preempted by federal law, regulate Medicare and Medicare Choice organizations as risk-bearing entities, as referenced under 42 CFR Part 422.

The licensing and solvency regulations in this chapter are substantially similar to the licensing and solvency provisions in the National Association of Insurance Commissioners' (NAIC) "Health Maintenance Organization Model Act" (Model Law #430-1).

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to provider-sponsored organizations being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to provider-sponsored organizations requiring promulgation of regulations or amendments to COMAR 31.10.22.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No changes are recommended at this time.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.23

Chapter Name: Penalties for Failure to Make Prompt Payment of Claims

Authority: Health-General Article, §§19-729 and 19-730; Insurance Article, §§4-113 and 15-1005
Annotated Code of Maryland

Date Originally Adopted or Last Amended: December 13, 2009

Purpose: The purpose of this chapter is to clarify the types of violations under §15-1005 of the Insurance Article that would subject an insurer, nonprofit health service plan, or health maintenance organization to the financial penalties described in §15-1005(g) of the Insurance Article.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. One stakeholder, The Maryland State Medical Society (MedChi), submitted comments.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: MedChi commented that under COMAR 31.10.23, a single violation would be punished by a fine of \$500 but the penalty for such violations committed "...with the frequency to indicate a general business practice..." may be as low as \$100 with a maximum of \$125,000. MedChi suggests that the lower portion of this range should be increased particularly given the \$500 single violation penalty for an unintentional violation. MedChi suggests that a more appropriate lower range for violations committed "...with the frequency to indicate a general business practice..." would be \$10,000.

RESPONSE: Adopting a change in the range of penalties "with the frequency to indicate a general business practice" would require a statutory amendment. The penalty range for violations of this regulation "with the frequency to indicate a general business practice" are set forth in COMAR 31.10.23.01B(2) by a cross reference to §4-113(d) of the Insurance Article, as also found in §15-1005(g) of the Insurance Article, the enabling statute for this chapter. This statute provides for financial penalties that the Commissioner may impose "instead of or in addition to suspending or revoking a certificate of authority."

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

(6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A. This chapter is unique to Maryland as it clarifies a unique Maryland statute.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to penalties for failure to make prompt payment of claims being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to penalties for failure to make prompt payment of claims requiring promulgation of regulations or amendments to COMAR 31.10.23.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary for compliance with §15-1005 of the Insurance Article. No changes are recommended at this time.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

COMAR 31.10.24

Chapter Name:

Discount Medical Plan Organizations and Discount Drug Plan Organizations

Authority:

Health-General Article, §19-706(jjj); Insurance Article, §2-109 and Title 14, Subtitle 6;
Annotated Code of Maryland.

Date Originally Adopted or Last Amended:

January 26, 2009

Purpose:

The purpose of this chapter is to establish regulations consistent with Title 14, Subtitle 6 of the Insurance Article, which applies to certain entities that sell, market, or solicit a discount medical plan or discount drug plan in the State.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. No comments were received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards being applied or enforced pertaining to discount medical plan organizations and discount drug plan organizations which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to discount medical plan organizations and discount drug plan organizations requiring promulgation of regulations or amendments to COMAR 31.10.24.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose a technical amendment to the enacting authority for this chapter. Currently, Health-General Article, §19-706(jjj) is cited as the statute subjecting HMOs to Title 14, Subtitle 6 of the Insurance Article; however, §19-706 of the Health-General Article has been amended and this cite is no longer necessary. Previously, §19-706 specified that a law within the Insurance Article did not apply to HMOs, unless mentioned in the Health-General Article. Now §19-706 indicates that HMOs are subject to the Insurance Article, if specifically mentioned in the Insurance Article. Since §14-602 of the Insurance Article expressly applies to HMOs, there is no reason to list the Health-General Article as authority to apply these regulations to HMOs.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
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Chapter Codification:

COMAR 31.10.25

Chapter Name:

Required Standard Provisions for Individual Nonprofit Health Service Plan Contracts

Authority:

Insurance Article, §12-203(g), Annotated Code of Maryland

Date Originally Adopted or Last Amended:

November 7, 2005

Purpose:

The purpose of this chapter is to establish the language and format for standard provisions for contracts and policies issued by individual nonprofit health service plans under §12-102(a) of the Insurance Article, as required by §12-203 of the Insurance Article.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. One stakeholder, CareFirst BlueCross BlueShield (CareFirst), submitted comments.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: CareFirst commented that COMAR 31.10.25.04B(1), which deals with rescissions under Preferred Provider contracts (PPO), recognizes fraud as a reason for rescission after two (2) years. CareFirst suggests that COMAR 31.12.07.05C, which applies to HMOs, should be revised to recognize fraud as a reason for rescission after two (2) years, consistent with COMAR 31.10.25.04B(1).

RESPONSE: CareFirst is requesting a change to COMAR 31.12.07, which is outside the scope of this regulation.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

In reviewing the standard provisions in COMAR 31.10.25.04, the MIA also considered the federal Affordable Care Act (ACA) and corresponding federal regulations and found the following inconsistencies:

1. The Grace Period provision found in COMAR 31.10.25.04C contradicts the Grace Period provision required for those individuals who are receiving advance payment of premium tax credits under the ACA. The required Grace Period for individuals receiving advance payment of premium taxes appears in §15-1315 of the Insurance Article. To correct his inconsistency, the MIA will propose an amendment to the Grace Period provision in Regulation .04C to indicate that the current required text shall apply only to individuals who are not receiving advance payment of premium tax credits and that contracts subject to the ACA shall also contain the Grace Period in §15-1315 of the Insurance Article for those individuals who are receiving advance payment of premium tax credits.

2. The Reinstatement provision in COMAR 31.10.25.04D contradicts portions of the ACA. The ACA prohibits the use of pre-existing condition limitations in health benefit plans. The current Reinstatement provision would appear to allow the carrier to deny claims after a reinstatement if the claim is due to an accident occurring prior to the reinstatement or due to a sickness that began prior to 10 days after the reinstatement. To ensure compliance with the ACA, the MIA will propose an amendment to the Reinstatement provision in Regulation .04D to remove these pre-existing condition limitations.

(8) Provide a summary of any other relevant information gathered.

Regulation .04L deals with misstatement of age. Currently, this regulation permits the carrier to adjust the premium if there is a misstatement of age. The MIA will propose amendments to this regulation to also permit an adjustment for benefits if the age is misstated. Under new ACA contracts, some benefits are available only at certain ages, such as pediatric dental benefits, pediatric vision benefits, and unlimited habilitative services benefits. The HMO should have the option to adjust the benefits paid if there is a misstatement in age that impacts whether the individual qualifies for those benefits.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to standard contract provisions for individual nonprofit health service plans being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. As discussed in sections B(7) and B(8) of this report, the MIA will propose several amendments to COMAR 31.10.25 to comply with the ACA.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA intends to propose the following amendments to this chapter:

- Amend Regulation .04C to indicate that the current required text shall apply only to individuals who are not receiving advance payment of premium tax credits and that contracts subject to the ACA shall also contain the Grace Period in §15-1315 of the Insurance Article for those individuals who are receiving advance payment of premium tax credits.
- Amend Regulation .04D so as to prohibit an exclusion for an accident that occurs prior to reinstatement or a sickness that begins prior to 10 days after reinstatement; and
- Amend Regulation .04L to permit an adjustment for benefits if the age is misstated.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
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Chapter Codification:

COMAR 31.10.27

Chapter Name:

Health Insurance--Notice of the Maryland Health Insurance Plan

Authority:

Insurance Article, §§2-109, 14-501, and 15-1303(c), Annotated Code of Maryland

Date Originally Adopted or Last Amended:

January 1, 2005

Purpose:

This regulation sets forth notice requirements for each carrier that offers a medically underwritten health benefit plan in the nongroup market in the State, as formerly required by §15-1303(c) of the Insurance Article.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. No comments were received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Neither a National Association of Insurance Commissioners (NAIC) model law or regulation, nor the regulations of any other state is applicable to this chapter, as the Maryland Health Insurance Plan is unique to Maryland.

- (8) Provide a summary of any other relevant information gathered.

These regulations are no longer needed. The authority for these regulations was repealed by Senate Bill 96, Chapter 23, Acts of 2014. Since the Maryland Health Insurance Plan is no longer accepting members, the requirement for notice to the uninsured is no longer applicable. It is recommended that this chapter be repealed.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

amendment

X repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter will be repealed. The chapter was promulgated to provide rules for the provision of notices to individuals who were denied coverage due to medical underwriting. The Affordable Care Act provides for guaranteed issuance of health insurance to individuals, eliminating the need for this notice. Furthermore, the Maryland Health Insurance Plan is no longer accepting applicants, and the authority for these regulations was repealed by Senate Bill 96, Chapter 23, Acts of 2014.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
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Chapter Codification: COMAR 31.10.28

Chapter Name: Individual Health Insurance Contracts—Standard Provisions and Exclusions

Authority: Insurance Article, 2-109, 12-203(g), and 12-209(4), Annotated Code of Maryland

Date Originally Adopted or Last Amended: October 27, 2003

Purpose: The purpose of these regulations is to establish standard provisions that will appear in individual health insurance contracts.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. No comments were received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A. These regulations are unique to Maryland. They add standard provisions that protect Maryland residents from inequitable provisions in an individual health insurance contract.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to standard provisions in individual health insurance contracts being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to standard provisions in individual health insurance contracts requiring promulgation of regulations or amendments to COMAR 31.10.28.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose a technical amendment to the enacting authority for this chapter. The reference to §12-209 will be repealed, as it does not pertain to the subject matter of the chapter. §12-205(b)(4) of the Insurance Article will be added as authority, as this is the provision of the law that permits the Commissioner to disapprove an insurance contract if the contract contains “ an inequitable provision of insurance without substantial benefit to the policyholder.”

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
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Chapter Codification:

COMAR 31.10.29

Chapter Name:

Complaint Process for Coverage Decisions

Authority:

Insurance Article, §§15-10D-02(d) and 15-10D-04, Annotated Code of Maryland

Date Originally Adopted or Last Amended:

April 16, 2012

Purpose:

The purpose of this chapter is to define the term “urgent medical condition” as required by §15-10D-02(d) of the Insurance Article. The statute provides that an individual is required to exhaust the carrier’s internal complaint process before filing a complaint with the Commissioner. An exception to the exhaustion requirement is permitted if the coverage decision involves an urgent medical condition. The regulations also specify that retrospective denials are not considered to be urgent medical conditions.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. No comments were received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

The requirements of these regulations are consistent with the requirements for urgent care found in the National Association of Insurance Commissioners' Utilization Review and Benefit Determination Model Act (MDL 173).

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the exhaustion of a carrier's internal complaint process for health benefit plan coverage decisions being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to standards for the exhaustion of a carrier's internal complaint process for health benefit plan coverage decisions requiring promulgation of regulations or amendments to COMAR 31.10.29.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No changes are recommended.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
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Chapter Codification: COMAR 31.10.37

Chapter Name: Delivery of Policy or Certificate

Authority: Health-General Article, §§19-705(a)(2), 19-713, and 19-729 Insurance Article, §§2-109(a)(1), 4-113, 12-107, 12-203, 12-209, 15-201, 15-412, 15-413, and 27-303 Annotated Code of Maryland

Date Originally Adopted or Last Amended: January 14, 2010

Purpose: The purpose of this chapter is to establish time frames in which carriers are required to provide: A. Health insurance contracts, nonprofit health service plan contracts, health maintenance organization contracts, and dental plan organization contracts to individual contract holders and group contract holders; and B. Health insurance certificates, nonprofit health service plan certificates, health maintenance organization certificates, and dental plan organization certificates to certificate holders.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. No comments were received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Not applicable. These regulations are unique to Maryland. They were adopted in response to a problem where certain carriers were not issuing contracts or certificates in a timely manner, thereby not letting covered persons know their benefits or their rights under the contracts.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the time frames in which carriers are required to provide contracts to contract holders and certificates to certificate holders being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the time frames in which carriers are required to provide contracts to contract holders and certificates to certificate holders requiring promulgation of regulations or amendments to COMAR 31.10.37.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose a technical amendment to the enacting authority for this chapter. The references to §19-713 of the Health-General Article and §§12-107, 12-209, 15-201, 15-412, 15-413, and 27-303 of the Insurance Article will be removed. §27-102 of the Insurance Article will be added. §27-102 prohibits a person from engaging in a trade practice that is determined to be “an unfair method of competition, or an unfair or deceptive act or practice in the business of insurance.” Failure to provide a copy of a contract to a policyholder or failure to provide a certificate to a certificateholder falls within this prohibition.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.10.39

Chapter Name: Utilization Review of Treatment for Autism and Autism Spectrum Disorders

Date Originally Adopted or Last Amended: March 17, 2014

The Insurance Commissioner originally adopted COMAR 31.10.39, Utilization Review of Treatment for Autism and Autism Spectrum Disorders, effective March 17, 2014. The adoption of this chapter included a thorough public review process, and in 2013, sixteen sets of stakeholder comments were received and considered prior to final adoption of this chapter.

Since these regulations were added as a new chapter of COMAR 31.10 after the MIA filed its work plan for this sub-title (10/1/12), the MIA did not claim an exemption for this chapter in its work plan for this chapter. Nonetheless, an Evaluation Report for this chapter would not be effective or cost-effective at this time, given the recent comprehensive review of this chapter in 2014. Certification and written justification for this exemption is provided below.

I. Exemptions Claimed Regulations that are exempt from regulatory review under State Government Article, §10-132.1(b), Annotated Code of Maryland (implementing a federally mandated or federally approved program or a regulation that was amended or adopted during the preceding eight years).

Chapter Number	Justification for Exemption: amended or adopted during preceding 8 years/date
31.10.39	COMAR 31.10.39.01-31.10.39.04 was adopted effective March 17, 2014.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs