

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor



AL REDMER, JR.
Commissioner

NANCY GRODIN
Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2408 Fax: 410-468-2020
E-mail: Michael.paddy@maryland.gov
Toll Free: 1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

BULLETIN 19-05

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

Re: Summary of Insurance Laws Enacted in 2019

Date: May 29, 2019

The purpose of this Bulletin is to summarize laws enacted during the 2019 Session of the Maryland General Assembly that are enforced by the Maryland Insurance Administration (“MIA”). *The attached summary is intended only as notice of passage of the legislation and is not a representation of the MIA’s interpretation of the new laws, nor is it a representation of how the MIA may enforce these new provisions.* All regulated entities should refer to the Chapter Laws of Maryland for the 2019 Session for the complete text of these recently enacted laws. Regulated entities are advised that other bills passed by the General Assembly and not listed on the summary may also affect their business operations in Maryland.

You may obtain a copy of a specific law passed by the General Assembly during the 2019 Session by accessing the Maryland General Assembly’s web site at <http://mgaleg.maryland.gov> or by contacting the Department of Legislative Services at (410) 946-5400. You should refer to the House or Senate Bill number when searching for a law on the web site. You may also obtain a copy of “*The 90 Day Report – A Review of the 2019 Legislative Session*” on the Internet or from Library and Information Services, Office of Policy Analysis, Department of Legislative Services.

For additional information concerning the MIA’s summary of 2019 insurance legislation, please contact Michael Paddy at 410-468-2408 or michael.paddy@maryland.gov

2019 INSURANCE LEGISLATION

LIFE AND HEALTH

SENATE BILL 28 (Chapter 101) – Health Insurance – Coverage Requirements for Behavioral Health Disorders – Short-Term Limited Duration Insurance

- Alters the definition of “health benefit plan” as it applies to § 15-802 of the Insurance Article, Annotated Code of Maryland¹ (Benefits for treatment of mental illnesses, emotional disorders and alcohol misuse), to include short term limited duration health insurance.

Effective Date: October 1, 2019

SENATE BILL 46 (Chapter 107) – Long-Term Care Insurance - Contingent Benefit Upon Lapse - Application

- Alters the application of § 18-116.1, which requires a carrier to provide to an insured under a policy or contract of long-term care insurance a contingent benefit upon lapse.
- Modifies the statute to only apply to policies or contracts of long-term care insurance issued or delivered in the State before April 1, 2003, for which rate increase filings have been approved by the Maryland Insurance Commissioner on or after October 1, 2019.

Effective Date: October 1, 2019

SENATE BILL 47 (Chapter 108) – Health Insurance - Technical Correction and Required Conformity With Federal Law

- Repeals an obsolete provision of law relating to certification of creditable coverage in § 15-1202.
- Makes amendments to § 15-1208.2.
- Alters the definition of “full-time employee” in § 31-101 (e-1).

Effective Date: October 1, 2019

SENATE BILL 48 (Chapter 109) – Health Insurance - Referral to Specialists - Definition of Provider Panel

- Alters the definition of “provider panel” as pertaining to contracts between health care providers and carriers, or entities subcontracting on behalf of a carrier, to provide health care services to enrollees.

Effective Date: October 1, 2019

SENATE BILL 50 (Chapter 111) – Health Insurance - Form Filings - Review and Waiting

¹ Unless otherwise noted, all statutory citations are to the Insurance Article of the Annotated Code of Maryland.

2019 INSURANCE LEGISLATION

Period Extensions

- Authorizes the Maryland Insurance Commissioner to extend the review period for HMO rates for up to 30 additional days.

Effective Date: *October 1, 2019*

SENATE BILL 73 (Chapter 112) – Insurance - Life Insurance and Annuities - Record Retention

- Generally requires insurers to maintain records of insurance transactions related to individual or group life insurance and individual group annuity for a minimum of 7 years after an individual or a group policy of life insurance or an individual or a group annuity is no longer in effect.

Effective Date: *October 1, 2019*

SENATE BILL 178 / HOUSE BILL 570 (Chapter 275 / Chapter 274) – Outpatient Mental Health Centers – Medical Directors – Telehealth

- Requires that regulations adopted under Title 7.5., Subtitle 4 of the Health-General Article, regulating behavioral health programs include provisions authorizing a behavioral health program licensed as an outpatient mental health center to satisfy any regulatory requirement that a medical director be onsite through the use of telehealth by the director.

Effective Date: *October 1, 2019*

SENATE BILL 239 / HOUSE BILL 258 (Chapter 598 / Chapter 597) – Health Insurance - Individual Market Stabilization - Provider Fee

- Clarifies that § 6-102.1 applies to managed care organizations; requires a managed care organization to pay the health insurance provider a fee under § 6-201.1 on a quarterly basis.
- Requires that insurers, nonprofit health service plans, health maintenance organizations, dental plan organizations, managed care organizations, and fraternal benefit organizations are subject to a new 1% assessment in years 2020 to 2023 (in addition to the 2.75% assessment in year 2019).
- Clarifies the method of calculating the assessment of § 6-102.1 by specifying which insurance products are subject to assessment.
- Includes a contingency for excluding stand-alone dental and vision carriers from assessment if the federal government confirms that to do so would not result in an impermissible health care-related tax (and a reduction in FFP, or Federal financial participation).

Effective Date: *October 1, 2019*

2019 INSURANCE LEGISLATION

SENATE BILL 405 / HOUSE BILL 435 (Chapter 504 / Chapter 503) – Health Insurance - Prescription Drugs - Formulary Changes

- Insurers, nonprofit health plans, and HMOs that provide coverage for prescription drugs and devices are required to provide members currently using the prescription drug or device with notice of a change in the drug formulary 30 days prior to moving a prescription drug or device to a tier with higher deductible, copayments, or coinsurance amounts.
- Requires that the notice contain information for members to request an exemption from the formulary change allowing the member to continue receiving the same cost sharing requirements or how the member can obtain a prescription drug or device that is removed from the formulary.

Effective Date: October 1, 2019

SENATE BILL 415 (Chapter 463) – Long-Term Care Insurance - Annual Notice

- Creates new § 18-117.1 and requires carriers to provide each insured under a policy or contract of long-term care insurance in the State an annual notice, in writing or electronically, containing the insured's policy form number and the carrier's customer service telephone number.

Effective Date: October 1, 2019

SENATE BILL 631 / HOUSE BILL 599 (Chapter 357 / Chapter 358) – Health Insurance – Coverage for Mental Health Benefits and Substance Use Disorder Benefits – Treatment Criteria

- Requires an insurer, nonprofit health service plan, or health maintenance organization to use ASAM criteria for all medical necessity and utilization management determinations for substance use disorder benefits.
- Repeals a limitation on the amount of copayment that an insurer, nonprofit health service plan, or health maintenance organization may charge for methadone maintenance treatment.

Effective Date: January 1, 2020

SENATE BILL 802 / HOUSE BILL 814 (Chapter 424 / Chapter 423) – Maryland Easy Enrollment Health Insurance Program

- Establishes the Maryland Easy Enrollment Health Insurance Program to improve data collection on uninsured individuals and to maximize enrollment of eligible uninsured individuals in affordable insurance programs.
- Requires the Maryland Health Benefit Exchange to establish a Maryland Easy Enrollment Health Insurance Program Advisory Workgroup.

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- Requires the Comptroller to include a certain checkoff, to indicate whether an individual is interested in obtaining minimum essential health coverage, on certain State income tax forms.

Effective Date: June 1, 2019

SENATE BILL 868 / HOUSE BILL 697 (Chapter 417 / Chapter 418) – Health Insurance – Consumer Protections and Maryland Health Insurance Coverage Protection Commission

- Requires the Maryland Health Insurance Coverage Protection Commission to establish a workgroup to carry out the finding and declaration of the General Assembly that it is in the public interest to ensure that the health care protections established by the federal Affordable Care Act (the ACA) continue to protect Maryland residents in light of continued threats to the ACA.
- Requires the workgroup to monitor certain court cases and the enforcement of the ACA.

Effective Date: June 1, 2019

HOUSE BILL 127 (Chapter 355) – Health Insurance – Health Benefit Plans – Special Enrollment Period for Pregnancy

- Requires carriers that provide health benefit plans to small employers or individual plans provide a special enrollment period during which eligible employees and individuals who become pregnant may obtain coverage outside the annual enrollment period.
- Establishes the date of coverage as the first date of the month a health care provider confirms pregnancy.
- Establishes the special enrollment period is 90 days after a health care provider confirms pregnancy.
- Requires the Maryland Health Benefit Exchange to submit a report to certain committees of the General Assembly.

Effective Date: July 1, 2019

HOUSE BILL 193 (Chapter 533) – Life Insurance - Life of a Minor - Statement on Disclosure

- Alters § 16-119(a)(3) and requires a life insurer to include a statement on an application or an endorsement for a policy of life insurance on the life of a minor to allow the life insurer the option of including the statement on a disclosure provided to the applicant at the time of application.
- Applies the Act to policies of life insurance on the life of a minor issued or delivered in the State on or after January 1, 2020.

Effective Date: January 1, 2020

HOUSE BILL 589 (Chapter 534) – Maryland Medical Assistance Program and Managed

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Care Organizations That Use Pharmacy Benefits Managers – Audit and Professional Dispensing Fees

- Requires the Maryland Medical Assistance Program to enter into a contract with an independent auditor as soon as practicable to audit pharmacy benefit managers and determine the amount of Medicaid funds used to reimburse managed care organizations.
- Provides the auditor with access to documents relating to reimbursement, claims data, and other information requested by the auditor via a questionnaire.
- Requires the Program to provide the results of the audit to the General Assembly on or before a certain date.
- Requires the Maryland Department of Health, in consultation with the Maryland Insurance Administration, to develop and report to the General Assembly on or before January 1, 2020, recommendations for establishing an appeal process for managed care organizations.
- Authorizes the Maryland Department of Health to apply to the Centers for Medicare and Medicaid Services for certain authority as soon as practicable but not later than a certain date.
- Provides for the termination of certain provisions of this Act.

Effective Date: May 13, 2019

HOUSE BILL 751 (Chapter 549) – Health Insurance – Prior Authorization – Requirements

- Requires insurers, nonprofit health service plans, and health maintenance organizations that provide coverage for prescription drugs, to allow a health care provider to indicate whether a prescription drug is for a chronic condition.
- Prohibits an entity from requesting a reauthorization for a repeat prescription for a certain period of time under certain circumstances.

Effective Date: January 1, 2020

HOUSE BILL 754 (Chapter 400) – Health Insurance and Pharmacy Benefits Managers - Cost Pricing and Reimbursement

- Provides that a contract with a managed care organization, a pharmacy benefits manager or purchaser may not directly or indirectly hold pharmacies responsible for a fee or performance-based reimbursement unless specifically identified at the time of claim processing or on the initial remittance advice of the claim.
- Requires that a contract or amendment between a pharmacy benefit manager and a pharmacy, a pharmacy services administration organization and a pharmacy, and a Group Purchasing Organization and a pharmacy must be filed with the Commissioner 30 days prior to the effective date.
- Clarifies that a pharmacy benefits manager provide contact information on its website about the appeal process.
- Provides that a pharmacy benefits manager provide the mathematical calculation used to determine the maximum allowable cost for the reimbursement of a claim.

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- Requires the Commissioner to take certain actions if a designee of the contracted pharmacy files a complaint.
- Requires a pharmacy benefits manager to provide the Commissioner with the mathematical calculations, accounts, records, documents, files, logs, correspondence, or other necessary information to review a complaint filed by a contracted pharmacy or its designee.
- Repeals the authority of a pharmacy benefits manager to retroactively deny or modify reimbursement to a pharmacy or pharmacist for an approved claim that caused monetary loss.
- Prohibits pharmacy benefits managers and certain purchasers from directly or indirectly charging a contracted pharmacy, or holding a contracted pharmacy responsible for, fees or reimbursements related to the adjudication of certain claims.
- Provides that misrepresentations of facts or policy provisions, a refusal to pay a claim for an arbitrary or capricious reason, failure to settle a claim when liability is reasonably clear in an effort to influence settlements of other policies or contracts, or the lack of good faith is a violation of Title 15, Subtitle 16.

Effective Date: May 13, 2019

HOUSE BILL 759 (Chapter 550) – Pharmacy Benefits Managers - Pharmacy Choice

- Except for a specialty drug, prohibits a pharmacy benefits manager from requiring that a beneficiary use a specific pharmacy or entity to fill a prescription if the pharmacy benefits manager or a corporate affiliate manager has an ownership interest in the pharmacy or entity or if the pharmacy or entity has an ownership interest in the pharmacy benefits manager or a corporate affiliate.

Effective Date: June 1, 2019

HOUSE BILL 829 (Chapter 551) – Health Insurance - Provider Panels - Graduate Providers

- Amends § 15-112 and prohibits a carrier from rejecting a provider who provides community-based health services for an accredited program solely because the provider is a licensed graduate social worker, licensed master social worker, licensed graduate alcohol and drug counselor, licensed graduate marriage and family therapist, licensed graduate professional art therapist, or licensed graduate professional counselor.

Effective Date: October 1, 2019

HOUSE BILL 1098 (Chapter 401) – Health Insurance - Maryland Health Benefit Exchange - Small Business Tax Credit Subsidy

- Alters the contents of the Maryland Health Benefit Exchange Fund to include federal funds received in accordance with § 13-121 for the administration of small business tax credits.
- Authorizes the Maryland Health Benefit Exchange to submit a State Innovation Waiver

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application under § 1332 of the Affordable Care Act to allow the State to administer the federal small business health care tax credit to small businesses for monthly premium payments.

- Requires the Exchange to determine whether it needs to apply for a waiver in order to distribute the federal small business health care tax credit on a monthly basis.

Effective Date: *July 1, 2019*

HOUSE BILL 1284 (Chapter 402) – Organ Donation - Prohibition on Discrimination by Insurer and Unpaid Leave

- Amends § 27-501 and prohibits an insurer from discriminating against an applicant or insured who is an organ donor with respect to life insurance, disability and long-term care insurance.
- Prohibits insurers from prohibiting an applicant or individual from donating an organ as a condition of life insurance, long term care or disability insurance.
- Creates new Title 3, subtitle 14 of the Labor and Employment Article and provides that certain employees are entitled to up to 60 business days of unpaid organ donation leave in a 12-month period under circumstances.

Effective Date: *October 1, 2019; January 1, 2020*

PROPERTY AND CASUALTY

SENATE BILL 45 (Chapter 106) – Health Care Provider Malpractice Insurance - Authorization to Settle - Clarification

- Amends § 19-104 and alters the settlement provision required to be included in policies of health care malpractice insurance to clarify that the insurer is authorized, without restriction, to negotiate and effect a compromise of claims unless the settlement amount exceeds the limits of the insurer's liability.

Effective Date: *October 1, 2019*

SENATE BILL 436 / HOUSE BILL 1003 (Chapter 472 / Chapter 471) – Vehicle Laws - Rental Vehicles - Security

- Amends the security requirements for rental vehicles in the Transportation Article.
- Provides that security maintained by the owner of a rental vehicle or replacement vehicle is primary under certain circumstances.
- Requires the owner of a rental vehicle to provide a notice to the renter of the rental vehicle.

Effective Date: *January 1, 2020*

SENATE BILL 607 (Chapter 331) – Homeowner's Insurance - Discrimination in

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Underwriting and Rating - Status as Surviving Spouse

- Amends § 27-501 and prohibits an insurer, with respect to homeowner's insurance, from increasing the premium for an insured who becomes a surviving spouse based solely on the insured's change in marital status.

Effective Date: January 1, 2020

HOUSE BILL 162 (Chapter 113) – Medical Professional Liability Insurance Policies - Mandated Deductible Levels - Limitation

- Amends § 19-114 and limits the requirement that insurers that issue or deliver medical professional liability insurance policies in the State offer, in addition to the basic policy, additional policies with deductibles to insurers that issue or deliver a policy with an annual premium of a \$ 5,000 or more.

Effective Date: October 1, 2019

HOUSE BILL 379 (Chapter 114) – Maryland Automobile Insurance Fund - Commercial Policies - Notice and Quotes

- Creates new § 20-305 and requires the Maryland Automobile Insurance Fund (MAIF) to provide each commercial policyholder with a notice stating the expiration date of the current policy at least 45 days before the expiration date of the policy expiration date of certain policies to commercial policyholders at least 45 days before the expiration date.
- Requires MAIF to provide a commercial policyholder's Fund Producer with a rewritten policy quote within 7 days after MAIF has received information from the Fund Producer when a commercial policyholder requests a rewritten policy.

Effective Date: October 1, 2019

HOUSE BILL 1072 (Chapter 226) – Transportation Network Companies - Insurance

- Amends § 17-103 of the Transportation Article and authorizes the Motor Vehicle Administration to accept security from a transportation network company in place of an insurance policy if the other form of security adequately provides certain benefits and if the transportation network company is an affiliate of a company that provides taxicab services and has no fewer than 26 nor more than 300 operators.
- Amends § 10-405 of the Public Utilities Article and requires transportation network companies to provide evidence of certain security to the Public Service Commission consistent with the changes to § 17-103 of the Transportation Article.

Effective Date: June 1, 2019

OTHER

2019 INSURANCE LEGISLATION

SENATE BILL 22 (Chapter 100) – Insurance Regulation – Third Party Administrators – Life Insurance

- Requires regulation of third party administrators of plans for life insurance and administrators that act on behalf of life insurers.

Effective Date: October 1, 2019

SENATE BILL 29 (Chapter 102) – Insurance - Licensure of Insurance Producers and Public Adjusters - Continuing Education Requirements

- Amends § 10-116 and § 10-408 and requires insurance producers and public adjusters to complete required continuing education not later than 15 days for producers and 30 days for public adjusters before the expiration of the license.
- Requires the Commissioner to study and report on the adequacy and effectiveness of course offerings for insurance producer continuing education to the General Assembly on or before December 31, 2019.

Effective Date: June 1, 2019/ January 1, 2020

SENATE BILL 30 (Chapter 103) – Insurance - Breach of Security of a Computer System - Notification Requirement

- Creates new § 4-406 and requires insurance carriers to notify the Commissioner of the occurrence of a breach of the security of a system consistent with the carrier's obligations under § 14-504 of the Commercial Law Article.

Effective Date: October 1, 2019

SENATE BILL 31 (Chapter 104) – Insurance - Insurance Holding Company Model Act

- Authorizes the Maryland Insurance Commissioner to act as the group-wide supervisor for an internationally active insurance group.
- Authorizes the Commissioner to acknowledge another regulatory official as the group-wide supervisor for a certain internationally active insurance group.
- Authorizes a certain insurance holding company system to request that the Commissioner make a certain determination or acknowledgment of a group-wide supervisor for the system.

Effective Date: October 1, 2019

SENATE BILL 44 (Chapter 105) – Insurance - Corporate Governance Annual Disclosure Act

- Requires certain insurers and insurance groups to submit to the Maryland Insurance Commissioner a certain Corporate Governance Annual Disclosure (CGAD) by June 1 each calendar year beginning in 2020.

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- Provides for the confidentiality and privilege of certain documents and information contained in and relating to a CGAD.
- Authorizing the sharing of documents and information relating to a CGAD under certain circumstances.

Effective Date: July 1, 2019

SENATE BILL 227 (Chapter 245) – Insurance - Principle-Based Reserves

- Removes the principle-based reserve “small company exemption” that is currently in § 5-317(c).
- Adopts a reference to the “small company exemption” that is in the NAIC’s Valuation Manual.

Effective Date: October 1, 2019

SENATE BILL 532 (Chapter 234) – Insurance - Formation of Domestic Insurers - Number of Directors

- Reduces to 5 the minimum number of members of the board of directors that a domestic financial guaranty insurance company that is prohibited from issuing new policies must have on its board of directors.

Effective Date: October 1, 2019

HOUSE BILL 602 (Chapter 229) – Insurance - Investments of Insurers Other Than Life Insurers - Real Estate

- Authorizes certain additional reserve investments in real estate for insurers other than life insurers.
- Authorizes reserve investments that include fee-simple or improved leasehold real estate or interests in limited partnerships formed for the development or ownership of fee-simple or improved leasehold real estate, only if the investments meet certain requirements.
- Limits the cost of each parcel of real estate not to exceed 1% of the admitted assets of the insurer and the value of all of the real estate acquired not to exceed 10% of the admitted assets of the insurer.

Effective Date: October 1, 2019