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Governor

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June 12, 2014

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

Governor's Office  
Attn: Peggy Watson  
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 31.12

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 (Peggy Watson)-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. The text "Signature on original" is printed in italics above the box.

Catherine Grason  
Director of Special Projects, Office of the Commissioner

cc: Therese Goldsmith, Insurance Commissioner  
Karen Stakem Hornig, Deputy Commissioner  
Katrina Lawhorn, Regulatory & Facilities Supervisor  
Brenda Wilson, Associate Commissioner, Life and Health Unit  
Christopher Buchanan, Associate Commissioner, Examination and Audit Unit

**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 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. There were no comments 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 MIA consulted the National Association of Insurance Commissioners' (NAIC) "Health Maintenance Organization Model Act" (Model 430) in reviewing this chapter. These regulations generally follow the NAIC model, which has been substantially adopted by 31 states and the District of Columbia.

(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 certificate of authority and fiscal requirements for health maintenance 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 certificate of authority and fiscal requirements for health maintenance organizations being applied or enforced requiring promulgation of regulations or amendments to COMAR 31.12.01.

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 are needed as guidance to health maintenance organizations on requirements to obtain certifications of authority to operate and guidance on actuarial and financial evaluations and determinations, consistent with §§19-707, 19-708, and 19-728 of the Health-General Article. Therefore, the MIA recommends no substantive amendments on this chapter at this time.

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

- §19-701(e) of the Health-General Article should be omitted from the list of enabling authority. This reference contains the statutory definition of “emergency services,” which is neither relevant nor a part of the enabling authority for this chapter. This definition was likely initially included with this chapter as enabling authority supporting COMAR 31.12.01.13, which set forth, among other things, HMO coverage requirements for certain emergency services. COMAR 31.12.01.13 was repealed effective October 10, 2005, therefore the enabling reference is no longer needed.
- §19-710(d) and (h) of the Health-General Article should be amended in the list of enabling authority to include §19-710 in its entirety. This statute in its entirety sets forth basic requirements for operation of a health maintenance organization, many of which COMAR 31.12.01 relies upon.
- §§19-707 and 19-708 of the Health-General Article should be added to the list of enabling authority. These statutes give the Commissioner the authority to develop a form for the application for certificate of authority for health maintenance organizations. The requirements for this application are detailed in COMAR 31.12.01.04.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of the  
Commissioner

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

Chapter Codification: COMAR 31.12.03

Chapter Name: Health Maintenance Organizations-Mandatory Point-of-Service Option

Authority: Health-General Article §§ 19-705(a)(2) and 19-710.2, Annotated Code of Maryland

Date Originally Adopted or Last Amended: November 4, 1996

Purpose: These rules set forth requirements for a consumer notice of a “point-of-service” option in certain health maintenance organization contracts, as required by Health-General Article §19-710.2.

**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 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. There were no comments 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 regulation, nor the regulations of other states are pertinent to this review, as these regulations are needed to implement a unique Maryland law, §19-710.1(b)(2) of the Health-General Article.



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

A review of the notice in Regulation .02C of this chapter revealed the following inaccuracies:

- The first sentence provides that, "Under Maryland law, your group member may purchase a point-of-service (POS) option as an additional benefit." This sentence is inaccurate, as ERISA preempts a state requirement that requires an employer to purchase a particular insurance plan. This paragraph goes on to indicate to the policyholder that, "You have the choice to either pay for this point-of-service option, pay a percentage of the cost of this option, or require your group members to pay for the entire cost of this option." This paragraph should be revised to clarify that the right to purchase a POS option as an additional benefit will apply to the group member only if the group policyholder selects this option.
- The last sentence of the first paragraph of the notice prompts a group policyholder to list in the policyholder's application "the group members who have chosen this point-of-service option." This requirement is not feasible because the employer would have no way of knowing at the time of application which employees, if any, would choose the POS option. Instead, if the employer elects the POS option, the employees then have the right to decide if they want this coverage. The reference to the employer including a list of employees selecting the POS option with the employer application should be deleted from the notice.
- The last sentence of the disclosure requires the group policyholder to certify that the policyholder has provided notice of the availability of the additional point-of-service benefit to eligible group members. Since the POS option is only available if the group policyholder agrees to purchase this additional benefit, the last sentence of the notice should be revised to indicate that the notice of the availability of the POS option will be provided to the employees only if the group policyholder elects to purchase this option.

The MIA will propose amendments to COMAR 31.12.03.02C to address these issues.

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 a mandatory POS option for health maintenance 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 a mandatory POS option for health maintenance organizations being applied or enforced requiring promulgation of regulations or amendments to COMAR 31.12.03.

**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 are needed to implement the requirements of §19-710.2 of the Health-General Article.

The MIA will propose amendments to Regulation .02C to achieve the following objectives:

- To indicate that the right to purchase the POS option applies to group members only if the group policyholder selects the POS option;
- To delete references to the employer including a list of employees selecting the POS option with the employer application; and
- To clarify in the policyholder certification that the policyholder need only provide notice of the availability of the additional POS option to eligible group members if the policyholder elects to include the POS option.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of the  
Commissioner

**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. 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 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. There were no comments 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 National Association of Insurance Commissioners (NAIC) has not adopted any model regulations on what is required to appear in dental plan contracts. These regulations deal with dental plan contract requirements and are unique to Maryland.

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

Under the Affordable Care Act (“ACA”), a child dependent (up to age 19) may purchase a stand-alone dental plan providing the pediatric dental benefits considered to be essential health benefits under the ACA. For this reason, the definition of “Subscriber” in Regulation .02 needs to be revised to permit a child to be the subscriber.

When these regulations were originally adopted, dental plan organizations were all closed panel dental plans, where all services were received from dentists in the dental plan organization’s network of providers. Today, many dental plan organizations provide point-of-service options where the covered person may choose to receive services from an in-network or out-of-network dentist. For this reason, Regulation .04 sections I and J should be revised to clarify that these provisions only apply to closed panel dental plan organization contracts.

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:

There are no existing policy statements, guidelines, or standards pertaining to dental plan contracts being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. With the exception of the ACA, discussed in section B(8) above, there is no recent legislation pertaining to dental plan contracts being applied or enforced requiring promulgation of regulations or amendments to COMAR 31.12.04. Pursuant to the ACA, the MIA will propose amendments to the definition of “subscriber” in COMAR 31.12.04.02 to ensure that the definition includes dependent children under 19 who subscribe to pediatric dental insurance contracts.

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 substantive amendments to this chapter:

- Regulation .02B(13), the Subscriber definition, should be amended to permit a child dependent to be a subscriber;
- Regulation .04I and J should be amended so as to apply only to closed panel dental plan organization contracts.

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

- References to §§14-401, 14-403 and 14-405 of the Insurance Article as enabling authority should be repealed, as these cited sections of the Insurance Article are not directly related to the regulations.
- The reference to §15-112(b)(2)(ii) as enabling authority should be amended to refer to §15-112(b)(1), as §15-112(b)(2)(ii) does not exist.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of the  
Commissioner

**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. 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 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. There were no comments 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 regulation, nor the regulations of other states are pertinent to this review, as these regulations are needed to implement a unique Maryland law, § 15-114 of the Insurance Article.



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

A review of the notice in Regulation .02B of this chapter revealed the following inaccuracies:

- The first sentence of the first paragraph provides that, "Under Maryland law, your group member may purchase a dental point-of-service option as an additional benefit." This sentence is inaccurate, as ERISA preempts a state requirement that requires an employer to purchase a particular insurance plan. Paragraph two goes on to indicate to the policyholder that, "You have the choice to either pay for this point-of-service option, pay a percentage of the cost of this option, or require your group members to pay for the entire cost of this option." These paragraphs should be revised to clarify that the right to purchase a point-of-service (POS) option as an additional benefit will apply to the group member only if the group policyholder selects this option.
- The last sentence of the second paragraph of the disclosure prompts a group policyholder to list in the policyholder's application "the group members who have chosen this point-of-service option." This requirement is not feasible because the employer would have no way of knowing at the time of application which employees, if any, would choose the POS option. Instead, if the employer applies for the POS option, the employees then have the right to decide if they want this coverage. The reference to the employer including a list of employees selecting the POS option with the employer application should be deleted from the notice.
- The last sentence of the disclosure requires the group policyholder to certify that the policyholder has provided notice of the availability of the additional point-of-service benefit to eligible group members. Since the POS option is only available if the group policyholder agrees to purchase this additional benefit, the last sentence of the notice should be revised to indicate that the notice of the availability of the POS option will be provided to the employees only if the group policyholder elects to purchase this option.

The MIA will propose amendments to COMAR 31.12.05.02B to address these issues.

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 consumer notification of a POS option in certain dental benefit plan contracts being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Additionally, there is no recent legislation pertaining to consumer notification of a POS option in certain dental benefit plan contracts being applied or enforced requiring promulgation of regulations or amendments to COMAR 31.12.05.

**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 are needed to implement the requirements of §15-114 of the Insurance Article.

The MIA will propose amendments to Regulation .02B to achieve the following objectives:

- To indicate that the right to purchase the POS option applies to group members only if the group policyholder selects the POS option;
- To delete references to the employer including a list of employees selecting the POS option with the employer application; and
- To clarify in the policyholder certification that the policyholder need only provide notice of the availability of the additional POS option to eligible group members if the policyholder elects to include the POS option.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of the  
Commissioner

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

Chapter Codification:

COMAR 31.12.06

Chapter Name:

Managed Care Organizations—Financial Compliance Requirements

Authority:

Insurance Article, §§2-109 and 4-311(b)(2); Health-General Article, §§15-102, 15-102.4(d), and 15-102.6; Annotated Code of Maryland. Section 3, Chapter 331, Acts of 2000.

Date Originally Adopted or Last Amended:

May 24, 2004

Purpose:

This chapter sets forth financial compliance requirements for managed care 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. 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 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. There were no comments 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 MIA consulted the National Association of Insurance Commissioners' (NAIC) "Risk-Based Capital (RBC) for Health Organizations Model Act" (Model 315) in reviewing this chapter. According to the NAIC, over 30 U.S. insurance jurisdictions have adopted statutes, regulations or bulletins that are substantially similar to the NAIC Model Act 315. Maryland's regulations are generally consistent with the NAIC model.

- (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 financial compliance requirements for managed care 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 financial compliance requirements for managed care organizations being applied or enforced requiring promulgation of regulations or amendments to COMAR 31.12.06.

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 are needed as guidance to managed care organizations on financial compliance requirements, consistent with the Insurance and Health-General Articles. Therefore, the MIA recommends no substantive amendments on this chapter at this time.

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

- §15-102 of the Health-General Article should be omitted from the list of enabling authority. This statute sets forth requirements for the Department of Health and Mental Hygiene related to preventive and home care services and educational opportunities for indigent and medically indigent individuals. It is unrelated to financial compliance requirements for managed care organizations.
- §19-706.1 of the Health-General Article should be added to the list of enabling authority for this chapter. This statute sets forth requirements for the rehabilitation and liquidation of health maintenance organizations. COMAR 31.12.06.06 extends these statutory requirements to managed care organizations by reference.
- §15-102.3 of the Health-General Article should be added to the list of enabling authority for this chapter. This statute subjects managed care organizations to certain financial examination requirements.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of  
the Commissioner

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

Chapter Codification:

COMAR 31.12.07

Chapter Name:

Required Standard Provisions

Authority:

Insurance Article, § 12-203(g); Health-General Article, § 19-713(f); Annotated Code of Maryland

Date Originally Adopted or Last Amended:

October 18, 2010

Purpose:

These regulations set forth standards for required provisions for individual and group health maintenance organization contracts that will be issued or delivered in 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 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. There were no comments 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 National Association of Insurance Commissioners ("NAIC") has adopted a model regulation entitled *Model Regulation to Implement Rules Regarding Contracts and Services of Health Maintenance Organizations* (Model 432). The model regulation does not contain all of the standard provisions included in this chapter, but Section 6 of the model regulation includes requirements that are very similar to those in this chapter. One significant difference is in the reinstatement provisions in Section 6I of the model regulation and COMAR 31.12.07.05E. Reinstatement provisions generally set forth the terms in which an HMO contract may be restored by a late acceptance of renewal premium by the HMO, or by any agent authorized to accept the premium. The model regulation does not provide for any coverage exclusions after reinstatement, but COMAR 31.12.07.05E provides for exclusions of certain accidental injuries sustained prior to the reinstatement as well as loss due to sickness that begins ten days or less after the reinstatement.

In reviewing the reinstatement provision in COMAR 31.12.07.05E, the MIA also considered the federal Affordable Care Act (ACA) and corresponding federal regulations. The ACA prohibits the use of pre-existing condition limitations in health benefit plans. The current reinstatement provision would appear to allow the HMO 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 .05E 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 HMO 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 the 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 would not qualify the individual for those benefits.

Regulation .04M has not been enforced since the date these regulations were adopted because this regulation is preempted by ERISA. Therefore, the MIA will propose that regulation .04M 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 required standard provisions in HMO contracts 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 31.12.07 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

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 intends to propose the following amendments to this chapter:

- Amend Regulation .04L to permit an adjustment for benefits if the age is misstated;
- Repeal Regulation .04M; and
- Amend Regulation .05E 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.

Person performing review:

Catherine Grason

Title:

Director of Special  
Projects, Office of the  
Commissioner