
By: ~~Delegate Donoghue~~ Delegates Donoghue, Benson, Boutin, Elliott,
Goldwater, Hammen, Hurson, Mandel, McDonough, Murray,
Nathan-Pulliam, Pendergrass, Rosenberg, Rudolph, Smigiel, and
V. Turner

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CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Treatment of Morbid Obesity**

3 FOR the purpose of ~~altering the requirements that gastric bypass surgery or another~~
4 ~~surgical method must meet for coverage for treatment for morbid obesity to be~~
5 ~~provided by certain insurers, nonprofit health service plans, health~~
6 ~~maintenance organizations, and managed care organizations; authorizing an~~
7 ~~insurer, nonprofit health service plan, health maintenance organization, or~~
8 ~~managed care organization to require an insured or enrollee to satisfy certain~~
9 ~~criteria to qualify for coverage for this benefit~~ clarifying the circumstances
10 under which certain insurers, nonprofit health service plans, health
11 maintenance organizations, and managed care organizations must provide
12 coverage for the surgical treatment of morbid obesity; establishing a Task Force
13 to Study Utilization Review of the Surgical Treatment of Morbid Obesity;
14 providing for the membership, chairman, and duties of the Task Force; requiring
15 the Task Force to report its findings and recommendations to certain
16 committees of the General Assembly on or before a certain date; requiring the
17 Maryland Insurance Administration to report to certain committees of the
18 General Assembly certain information relating to complaints filed with the
19 Administration for denials of coverage for the surgical treatment of morbid
20 obesity; providing for the termination of this Act; and generally relating to the
21 treatment of morbid obesity under health insurance.

22 BY repealing and reenacting, with amendments,
23 Article - Insurance

1 Section 15-839
 2 Annotated Code of Maryland
 3 (2002 Replacement Volume and 2003 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Insurance**

7 15-839.

8 (a) (1) In this section the following words have the meanings indicated.

9 (2) "Body mass index" means a practical marker that is used to assess
 10 the degree of obesity and is calculated by dividing the weight in kilograms by the
 11 height in meters squared.

12 (3) "Morbid obesity" means a body mass index that is:

13 (i) greater than 40 kilograms per meter squared; or

14 (ii) equal to or greater than 35 kilograms per meter squared with a
 15 comorbid medical condition, including hypertension, a cardiopulmonary condition,
 16 sleep apnea, or diabetes.

17 (b) This section applies to:

18 (1) insurers and nonprofit health service plans that provide hospital,
 19 medical, or surgical benefits to individuals or groups on an expense-incurred basis
 20 under health insurance policies or contracts that are issued or delivered in the State;

21 (2) health maintenance organizations that provide hospital, medical, or
 22 surgical benefits to individuals or groups under contracts that are issued or delivered
 23 in the State; and

24 (3) managed care organizations, as defined in § 15-101 of the Health -
 25 General Article.

26 (c) An entity subject to this section shall provide coverage for the SURGICAL
 27 treatment of morbid obesity ~~through gastric bypass surgery or another surgical~~
 28 ~~method~~ that is:

29 (1) recognized by the National Institutes of Health as effective for the
 30 long-term reversal of morbid obesity; and

31 (2) consistent with ~~criteria~~ GUIDELINES approved by the National
 32 Institutes of Health.

1 (d) An entity subject to this section shall provide the benefits required under
2 this section to the same extent as for other medically necessary surgical procedures
3 under the enrollee's or insured's contract or policy with the entity.

4 ~~(E) AN ENTITY SUBJECT TO THIS SECTION MAY REQUIRE AN ENROLLEE OR~~
5 ~~INSURED TO SATISFY THE DEFINITION OF MORBID OBESITY AND OTHER~~
6 ~~GUIDELINES RECOGNIZED BY THE NATIONAL INSTITUTES OF HEALTH TO QUALIFY~~
7 ~~FOR COVERAGE FOR THIS BENEFIT.~~

8 SECTION 2. AND BE IT FURTHER ENACTED, That:

9 (a) There is a Task Force to Study Utilization Review of the Surgical
10 Treatment of Morbid Obesity.

11 (b) The Task Force consists of the following members:

12 (1) two representatives of the Maryland Hospital Association, appointed
13 by the Maryland Hospital Association;

14 (2) four members appointed by the Maryland Insurance Administration,
15 as follows:

16 (i) two representatives of health maintenance organizations in the
17 State;

18 (ii) one representative of a nonprofit health service plan in the
19 State; and

20 (iii) one representative of a health insurer in the State;

21 (3) five physicians appointed by the Department of Health and Mental
22 Hygiene, including:

23 (i) two endocrinologists or internists with special expertise in
24 bariatric medicine; and

25 (ii) one bariatric surgeon;

26 (4) one consumer appointed by the Maryland Weight Loss Surgery
27 Legislative Action Committee; and

28 (5) one representative of the Maryland Health Care Commission.

29 (c) The members of the Task Force shall appoint a chairman from among the
30 members.

31 (d) A member of the Task Force is not entitled to compensation or
32 reimbursement for expenses.

33 (e) The Task Force shall:

1 (1) review the utilization review procedures currently used by health
2 insurance carriers that provide surgical treatment for morbid obesity under § 15-839
3 of the Insurance Article;

4 (2) review the National Institutes of Health guidelines and any other
5 nationally recognized guidelines or criteria for the surgical treatment of morbid
6 obesity; and

7 (3) recommend a set of guidelines or criteria that are appropriate for the
8 utilization review of the surgical treatment of morbid obesity, and reasonable
9 procedures for documenting patient compliance with the guidelines or criteria.

10 (f) The Task Force shall report its findings and recommendations, in
11 accordance with § 2-1246 of the State Government Article, to the Senate Finance
12 Committee and the House Health and Government Operations Committee on or
13 before December 1, 2004.

14 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December
15 15, 2004, the Maryland Insurance Administration shall report, in accordance with §
16 2-1246 of the State Government Article, to the Senate Finance Committee and the
17 House Health and Government Operations Committee, for the period from June 1,
18 2004, through November 30, 2004, on:

19 (1) the number of complaints filed with the Administration relating to
20 the denial of coverage for the surgical treatment of morbid obesity;

21 (2) the health insurance carrier that denied coverage and the reason
22 given for the denial; and

23 (3) whether the Administration upheld or reversed the denial of coverage
24 and the basis of the decision.

25 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect June 1, 2004. It shall remain effective for a period of 1 year and, at the end of
27 May 31, 2005, with no further action required by the General Assembly, this Act shall
28 be abrogated and of no further force and effect.