

Chapter 598

(Senate Bill 723)

AN ACT concerning

Health Insurance – Clinically Integrated Organizations

FOR the purpose of authorizing ~~certain health insurance carriers to pay a clinically integrated organization or its members for services associated with the coordination of certain covered medical services to certain qualifying individuals; authorizing the carriers to pay a clinically integrated organization or its members certain incentives for a certain purpose~~ a contract between certain health insurance carriers and certain clinically integrated organizations to include certain payment provisions; authorizing the Maryland Insurance Commissioner to adopt certain regulations; requiring certain carriers to file a certain contract with the Commissioner; requiring the Commissioner to provide a copy of a certain contract to the executive director of the Maryland Health Care Commission; providing that copies of certain contracts are confidential and privileged, are not subject to certain provisions of law, subpoena, or discovery, and are not admissible in evidence in a certain action; requiring ~~the~~ certain health insurance carriers to share medical information about a qualifying individual with a clinically integrated organization and its members under certain circumstances; defining certain terms; ~~requiring a clinically integrated organization to notify the Maryland Health Care Commission of a certain agreement and to provide a certain report to the Commission under certain circumstances~~ requiring certain clinically integrated organizations to submit a certain evaluation to the Commission at a certain time; requiring the clinically integrated organizations to discuss the parameters and analytical methods of the evaluation with the Commission before submitting the evaluation; requiring the Commission to submit a summary of the evaluation to certain committees of the General Assembly; applying certain provisions of this Act to health maintenance organizations ~~and managed care organizations~~; and generally relating to payments to and sharing medical information with clinically integrated organizations.

BY adding to

Article – Health – General
Section ~~15-102.8~~ and 19-706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to

Article – Insurance

Section 15–1801 through 15–1803 to be under the new subtitle “Subtitle 18. Clinically Integrated Organizations”
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Health – General

~~15-102.8.~~

~~THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO MANAGED CARE ORGANIZATIONS.~~

19–706.

(CCCC) THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

SUBTITLE 18. CLINICALLY INTEGRATED ORGANIZATIONS.

15–1801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CARRIER” MEANS:

- (1) AN INSURER;
- (2) A NONPROFIT HEALTH SERVICE PLAN; OR
- (3) A HEALTH MAINTENANCE ORGANIZATION; ~~OR~~

~~(4) A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15-101 OF THE HEALTH GENERAL ARTICLE.~~

(C) “CLINICALLY INTEGRATED ORGANIZATION” MEANS ~~AN ALTERNATIVE HEALTH CARE SYSTEM, AS DEFINED IN § 1-401 OF THE HEALTH OCCUPATIONS ARTICLE, IN WHICH HEALTH CARE PROVIDERS PARTICIPATE IN PROGRAMS DESIGNED TO:~~

(1) A JOINT VENTURE BETWEEN A HOSPITAL AND PHYSICIANS
THAT:

(I) HAS RECEIVED AN ADVISORY OPINION FROM THE
FEDERAL TRADE COMMISSION OR ITS STAFF; AND

(II) HAS BEEN ESTABLISHED TO:

1. EVALUATE AND IMPROVE THE PRACTICE
PATTERNS OF THE HEALTH CARE PROVIDERS; AND

~~**(2)**~~ **2. CREATE A HIGH DEGREE OF COOPERATION,**
COLLABORATION, AND MUTUAL INTERDEPENDENCE AMONG THE HEALTH CARE
PROVIDERS WHO PARTICIPATE IN THE ~~ALTERNATIVE HEALTH CARE SYSTEM~~
JOINT VENTURE IN ORDER TO PROMOTE THE EFFICIENT, MEDICALLY
APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES; OR

(2) A JOINT VENTURE BETWEEN A HOSPITAL AND PHYSICIANS
THAT:

(I) IS ACCOUNTABLE FOR TOTAL SPENDING AND QUALITY;
AND

(II) THE COMMISSIONER DETERMINES MEETS THE
CRITERIA ESTABLISHED BY THE FEDERAL DEPARTMENT OF HEALTH AND
HUMAN SERVICES FOR AN ACCOUNTABLE CARE ORGANIZATION.

(D) “COVERED MEDICAL SERVICES” MEANS THE HEALTH CARE
SERVICES THAT ARE INCLUDED AS BENEFITS UNDER A HEALTH BENEFIT PLAN
ISSUED BY A CARRIER.

(E) ~~(1)~~ “HEALTH BENEFIT PLAN” HAS THE MEANING STATED IN
§ 15-1301 OF THIS TITLE.

~~**(2) “HEALTH BENEFIT PLAN” INCLUDES COVERAGE PROVIDED**~~
~~**TO ENROLLEES OF A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15-101**~~
~~**OF THE HEALTH GENERAL ARTICLE.**~~

(F) “QUALIFYING INDIVIDUAL” MEANS AN INDIVIDUAL COVERED
UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER.

15-1802.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH – GENERAL ARTICLE, A ~~CARRIER MAY CONTRACT BETWEEN A CARRIER AND A CLINICALLY INTEGRATED ORGANIZATION MAY INCLUDE A PROVISION TO PAY:~~

(1) ~~PAY A CLINICALLY INTEGRATED ORGANIZATION OR ITS MEMBERS~~ FOR SERVICES ASSOCIATED WITH THE COORDINATION OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS; AND

(2) ~~PAY A CLINICALLY INTEGRATED ORGANIZATION OR ITS MEMBERS~~ A BONUS, FEE-BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES TO PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS.

(B) THE COMMISSIONER, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, MAY ADOPT REGULATIONS SPECIFYING THE TYPES OF PAYMENTS AND INCENTIVES PERMISSIBLE UNDER THIS SECTION.

(C) (1) A CARRIER SHALL FILE A COPY OF A CONTRACT BETWEEN THE CARRIER AND A CLINICALLY INTEGRATED ORGANIZATION WITH THE COMMISSIONER.

(2) IF THE CONTRACT INCLUDES A PROVISION TO PAY A BONUS OR OTHER INCENTIVE THAT DOES NOT COMPLY WITH § 15-113 OF THIS TITLE, THE COMMISSIONER SHALL PROVIDE A COPY OF THE CONTRACT TO THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COPY OF A CONTRACT FILED WITH THE COMMISSIONER OR PROVIDED BY THE COMMISSIONER TO THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION UNDER THIS SUBSECTION, IS:

(I) CONFIDENTIAL AND PRIVILEGED;

(II) NOT SUBJECT TO:

1. TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE;

2. SUBPOENA; OR

3. DISCOVERY; AND

(III) NOT ADMISSIBLE IN EVIDENCE IN ANY PRIVATE ACTION.

15-1803.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH - GENERAL ARTICLE, A CARRIER SHALL SHARE MEDICAL INFORMATION ABOUT A QUALIFYING INDIVIDUAL WITH A CLINICALLY INTEGRATED ORGANIZATION AND ITS MEMBERS IF:

(1) THE CARRIER HAS A WRITTEN AGREEMENT WITH THE CLINICALLY INTEGRATED ORGANIZATION SPECIFYING THE TYPE AND PROPOSED USE OF MEDICAL INFORMATION TO BE SHARED;

~~(2) THE MEDICAL INFORMATION IS NOT USED BY THE CLINICALLY INTEGRATED ORGANIZATION TO APPROVE OR DENY CLAIMS; AND~~

~~(3)~~ (2) THE MEDICAL INFORMATION IS USED BY THE CLINICALLY INTEGRATED ORGANIZATION TO:

(I) PROMOTE THE EFFICIENT, MEDICALLY APPROPRIATE DELIVERY OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS;

(II) COORDINATE CARE, INCLUDING EFFORTS TO COORDINATE, PLAN, DEVELOP, MONITOR, SHARE INFORMATION RELATED TO, AND OTHERWISE INITIATE A TREATMENT PLAN FOR A QUALIFYING INDIVIDUAL;

(III) PERFORM THE FUNCTIONS OF A MEDICAL REVIEW COMMITTEE AS DESCRIBED IN § 1-401(C) OF THE HEALTH OCCUPATIONS ARTICLE; OR

(IV) OFFER OR PROVIDE COVERED MEDICAL SERVICES OR SEEK PAYMENT FOR OR EVALUATE COVERED MEDICAL SERVICES PROVIDED BY THE MEMBERS OF THE CLINICALLY INTEGRATED ORGANIZATION; AND

(3) THE CLINICALLY INTEGRATED ORGANIZATION OR THE CARRIER IMPLEMENTS PROCEDURES FOR DISCLOSING TO QUALIFYING INDIVIDUALS HOW THE CLINICALLY INTEGRATED ORGANIZATION AND THE CARRIER SHARE MEDICAL INFORMATION TO DELIVER MORE COORDINATED, HIGHER QUALITY CARE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on entering into an agreement with a carrier for incentive payments of the type authorized under § 15-1802 of the Insurance Article, as enacted by Section 1 of this Act, a clinically integrated organization:~~

~~(1) shall notify the Maryland Health Care Commission of the existence of the agreement; and~~

~~(2) on request of the Commission, shall provide a report to the Commission that describes any incentive payments received by the clinically integrated organization under the agreement during the prior calendar year.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) A clinically integrated organization that enters into an agreement authorized under § 15-1802 of the Insurance Article, as enacted by Section 1 of this Act, within 3 years after the date the agreement takes effect, shall submit an evaluation of its clinical integration program to the Maryland Health Care Commission.

(2) Before submitting the evaluation required under this subsection, the clinically integrated organization shall discuss the parameters of the evaluation and its analytical methods with the Commission.

(b) On receipt of the evaluation required under subsection (a) of this section, the Maryland Health Care Commission shall prepare a summary of the evaluation, including any recommendations for legislative action, and, in accordance with § 2-1246 of the State Government Article, submit the summary to the House Health and Government Operations Committee and the Senate Finance Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.