

Emergency Action on Regulations

Symbol Key

- Roman type indicates text existing before emergency status was granted.
- *Italic type* indicates new text.
- [Single brackets] indicate deleted text.

Emergency Regulations

Under State Government Article, §10-111(b), Annotated Code of Maryland, an agency may petition the Joint Committee on Administrative, Executive, and Legislative Review (AELR), asking that the usual procedures for adopting regulations be set aside because emergency conditions exist. If the Committee approves the request, the regulations are given emergency status. Emergency status means that the regulations become effective immediately, or at a later time specified by the Committee. After the Committee has granted emergency status, the regulations are published in the next available issue of the Maryland Register. The approval of emergency status may be subject to one or more conditions, including a time limit. During the time the emergency status is in effect, the agency may adopt the regulations through the usual promulgation process. If the agency chooses not to adopt the regulations, the emergency status expires when the time limit on the emergency regulations ends. When emergency status expires, the text of the regulations reverts to its original language.

Title 11

DEPARTMENT OF TRANSPORTATION

Subtitle 07 MARYLAND TRANSPORTATION AUTHORITY

11.07.07 Electronic Toll Collection and Toll Violation Enforcement

Authority: Courts and Judicial Proceedings Article, §§7-301 and 7-302; Transportation Article, §§4-205, 4-312, 21-1414, 21-1415, 26-401, and 27-110; Annotated Code of Maryland

Notice of Emergency Action

[20-096-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulations .02, .06, and .09 under COMAR 11.07.07 Electronic Toll Collection and Toll Violation Enforcement.

Emergency status began: June 30, 2020.

Emergency status expires: December 26, 2020.

Editor's Note: The text of this document will not be printed here because it appears as a Notice of Proposed Action on pages 562—563 of this issue, referenced as [20-096-P].

JAMES F. PORTS
Executive Director
Maryland Transportation Authority

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 01 GENERAL PROVISIONS

31.01.02 Emergency Powers

Authority: Health-General Article, §19-706; Insurance Article, §2-115; Annotated Code of Maryland

Notice of Emergency Action

[20-098-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulations .02 and .06 under COMAR 31.01.02 Emergency Powers.

Emergency status began: April 28, 2020.

Emergency status expires: October 12, 2020.

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Estimate of Economic Impact

I. Summary of Economic Impact. The primary impact of the amendments is to increase the capacity of hospitals and pharmacies to provide medical and pharmaceutical care if there is a strain on the supply of providers due to the surge of patients related to the COVID-19 crisis. Any economic impacts of the amendments are secondary and indirect. The economic impact on hospitals, pharmacies, and consumers would be positive as the suspension of utilization review and auditing practices may result in payments being made by insurance carriers that would otherwise have been denied. Additionally, hospital and pharmacy staffing costs to handle the administrative tasks related to utilization review and auditing would be reduced. Conversely, the economic impact on insurance carriers would be negative as the suspension of utilization review and auditing practices may result in payments being made by insurance carriers that would otherwise have been denied. The magnitude for these fiscal impacts is impossible to quantify at this time since the hospital and pharmacy staff that would handle the utilization review and auditing will instead be performing direct patient care, and because it is unknown whether the suspension of utilization review and auditing will actually result in carriers paying for services that would otherwise have been denied. To the extent an independent

pharmacy is a small business, the economic impact would be positive, as described above. Otherwise, these proposed regulations will have no direct impact on small businesses.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit Cost (-)	(+) Magnitude
D. On regulated industries or trade groups:	NONE	
Cost	(+)	Likely minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	
Benefit	(+)	Likely minimal

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. Assuming benefits may be paid that would otherwise be denied based on utilization review or auditing practices that are suspended, insurance carrier costs could increase.

F. Assuming benefits may be paid that would otherwise be denied based on utilization review and auditing practices that are suspended, consumers would incur a benefit of having services covered.

Economic Impact on Small Businesses

The emergency action has minimal or no economic impact on small businesses.

.02 Applicability.

A. This chapter applies to:

(1) Each insurer, nonprofit health service plan, health maintenance organization, and dental plan organization licensed to do business in Maryland; [and]

(2) Each premium finance company registered to do business in Maryland[.]; and

(3) Each pharmacy benefits manager registered to do business in Maryland.

B. (text unchanged)

.06 Life and Health.

A. The bulletin issued by the Commissioner under Regulation .05 of this chapter may require health carriers to:

(1)—(2) (text unchanged)

(3) Waive any time restrictions on prescription medication refills and authorize payment to pharmacies for at least a 30-day supply of any prescription medication, regardless of the date upon which the prescription medication had most recently been filled by a pharmacist; [and]

(4) Waive any restrictions on the time frame for the replacement of durable medical equipment or supplies, eyeglasses, and dentures[.];

(5) Except as provided in §§J and K of this regulation, waive any cost-sharing, including copayments, coinsurance, and deductibles, for any visit to diagnose or test for COVID-19, regardless of the setting of the testing (for example, an emergency room, urgent care center, or primary physician's office);

(6) Except as provided in §§J and K of this regulation, waive any cost-sharing, including copayments, coinsurance, and deductibles, for laboratory fees to diagnose or test for COVID-19; and

(7) Except as provided in §§J and K of this regulation, waive any cost-sharing, including copayments, coinsurance, and deductibles, for vaccination for COVID-19.

B.—E. (text unchanged)

F. The Commissioner may require a health carrier to make a claims payment for treatment for COVID-19 that the health carrier has denied as experimental.

G. A health carrier shall evaluate a request to use an out-of-network provider to perform diagnostic testing of COVID-19 solely on the basis of whether the use of the out of network provider is medically necessary or appropriate.

H. Subject to §M of this regulation, the only prior authorization requirements a health carrier may utilize relating to testing for COVID-19 shall relate to the medical necessity of that testing.

I. An adverse decision on a request for coverage of diagnostic services for COVID-19 shall be considered an emergency case for which an expedited grievance procedure is required under Insurance Article, §15-10A-02, Annotated Code of Maryland.

J. The requirements of §A(5)—(7) of this regulation do not apply to a Medicare supplement policy as defined by Insurance Article, §15-901(k), Annotated Code of Maryland.

K. A carrier is not required to waive the deductible for an insured covered under a high deductible health plan, as defined in 26 U.S.C. §223, if the waiver of the deductible would disqualify the plan from being considered a high deductible health plan under federal law.

L. The Commissioner may require pharmacy benefits managers and health carriers to suspend random audits, including but not limited to in-person or “desk” audits, of pharmacies, unless there is a reasonable suspicion of fraud.

M. The Commissioner may require health carriers to suspend, waive, or modify requirements related to prior authorizations, concurrent review, retrospective review, and notification of inpatient acute care, post-discharge care, and facility transfers.

ALFRED W. REDMER, JR.
Insurance Commissioner