

Department of Fiscal Services  
Maryland General Assembly

FISCAL NOTE

House Bill 255 (Delegate Morhaim, *et al.*)  
Environmental Matters

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Utilization Review - Adverse Decisions

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This bill prohibits private review agents from retrospectively rendering an adverse decision for services determined to be medically necessary by the patient's attending physician, if the attending physician is under contract with the health carrier for whom the private review agent is performing the utilization review services.

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Fiscal Summary

**State Effect:** Indeterminate increase in general fund revenues and expenditures.

**Local Effect:** Expenditures for local jurisdiction employee health benefits could increase by an indeterminate amount. Revenues would not be affected.

**Small Business Effect:** Potential meaningful effect on small businesses as discussed below.

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Fiscal Analysis

**State Revenues:** Current law provides that the private review agent acting on behalf of the health carrier may retrospectively render an adverse decision regarding preauthorized or approved services under certain circumstances. This bill would prohibit such retrospective adverse decisions and thus may limit the health carrier's ability to control utilization of health care services. As a result, medical care costs could increase for some health carriers. The extent of the increase cannot be reliably determined because there are no available data on the number of retrospective adverse decisions encountered by each health carrier and the proportion of total health care expenditures that is saved as a result of these adverse decisions. In any event, if costs increase, these carriers would raise premiums on their health plans, meaning that general fund revenues could increase by an indeterminate amount in fiscal 1998 as a result of the State's 2% insurance premium tax. The State's premium tax is

only applicable to “for-profit” insurance carriers.

In addition, general fund revenues could increase by an indeterminate amount since insurance companies may be subject to rate and form filing fees. Each insurer (except HMOs) that revises its rates and amends its insurance policy must submit the proposed change(s) to the Insurance Administration and pay a \$100 rate and/or form filing fee. The number of insurers who will file new rates and forms as a result of the bill’s requirements cannot be reliably estimated at this time, since rate and form filings often combine several rate and policy amendments at one time.

**State Expenditures:** The State employee health benefit plan is self-insured for Preferred Provider Option plans (PPO) and Point-of-Service (POS) out-of-network services and pays an administrative fee to a third-party administrator (TPA); and is insured for HMO plans and POS in-network services. As a result of the bill, carriers may pass the increased costs onto the State employee health benefit plan. The extent of the increase in premiums cannot be reliably estimated at this time.

The bill could indirectly affect the Medicaid Program through the HMOs with which Medicaid contracts. The Medicaid program reimburses providers only for medically necessary health care services. Under this bill, HMOs would not be able to retrospectively render adverse decisions for certain health care services; however, the Medicaid program may not reimburse providers for all the costs if the program decides that the services were not medically necessary. In the short-term, this bill would not affect the Medicaid program. However, in the long-term the bill could increase expenditures minimally if HMOs with which Medicaid contracts persuade the State to increase the reimbursement rates to HMOs to accommodate the increase in costs as a result of the bill.

**Local Expenditures:** Expenditures for local jurisdiction employee health benefits could increase by an indeterminate amount, depending upon the current type of health care coverage offered and number of enrollees.

**Small Business Effect:** Current law provides that the private review agent acting on behalf of the health carrier may retrospectively render an adverse decision regarding preauthorized or approved services under certain circumstances. This bill would prohibit such retrospective adverse decisions and thus may limit the health carrier’s ability to control utilization of health care services. As a result, medical care costs could increase for some health carriers. Most nonprofit dental and vision plans are small businesses, therefore medical care costs for these small business health carriers could increase. In addition, health carriers could raise premiums to cover the increase in costs, meaning that self-employed persons and small businesses that offer health insurance could face higher health care costs. Alternatively,

small businesses could pass an increase in health insurance premium costs onto their employees.

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**Information Source(s):** Insurance Administration, Department of Health and Mental Hygiene (Medical Care Policy Administration), Department of Budget and Management, Department of Fiscal Services

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