

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 2
Finance

(Senator Forehand)

**Disability Insurance - Discrimination Based on Genetic Information or Tests -
Prohibited**

This bill prohibits insurers, nonprofit health service plans, and HMOs (carriers) from using a genetic test or genetic information for specified purposes relating to disability insurance. The bill also clarifies the definition of “genetic information.”

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration in FY 2010 from the \$125 rate and form filing fee. Review of existing form filings for compliance can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Carriers may not (1) use a genetic test or information, or a request for genetic services, to reject, deny, limit, cancel, refuse to renew, increase the rates of, or affect the terms or conditions of a health insurance policy or contract; (2) request or require a genetic test or information to determine whether to issue or renew health benefits coverage; or (3) release identifiable genetic information or the results of a genetic test to anyone other than an employee of the carrier or a participating health care provider without written consent. These prohibitions do not apply to life insurance, annuity contracts, long-term care insurance, or disability insurance.

Chapters 631 and 632 of 2008 prohibit carriers that provide long-term care insurance from requesting or requiring a genetic test or using specified genetic information to (1) deny or limit long-term care insurance coverage; or (2) charge a different rate for the same long-term care insurance coverage unless use of the test results or information is based on sound actuarial principles.

Background: Disability insurance is a type of health insurance that pays a monthly income to the policyholder in the event the policyholder is unable to work because of illness or accident.

Scientific advances in genetic testing raise new implications for the potential use and misuse of genetic information in insurance underwriting. Federal law prohibits discrimination based on genetic information for purposes of health insurance. The Health Insurance Portability and Accountability Act of 1996 prohibits employers from excluding or rating otherwise eligible employees from group health plans based on genetic information. The Genetic Information Nondiscrimination Act of 2008 prohibits health insurers from using a person's genetic information in determining eligibility or premiums or requesting or requiring that the person undergo a genetic test. Neither Act applies to life, disability, or long-term care insurance.

Although most states have enacted laws restricting the use of genetic information in health insurance policy determinations, fewer states extend this prohibition to life, disability, and long-term care insurance. According to the National Conference of State Legislatures, as of January 2008, at least 15 states restrict the use of genetic information in disability insurance.

Additional Information

Prior Introductions: None.

Cross File: HB 1 (Delegate Manno) - Health and Government Operations.

Information Source(s): Maryland Insurance Administration, National Conference of State Legislatures, Department of Legislative Services

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ncs/mwc

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