

Department of Legislative Services  
 Maryland General Assembly  
 2014 Session

FISCAL AND POLICY NOTE

House Bill 1268 (Delegates Frank and McConkey)  
 Health and Government Operations

Maryland Health Benefit Exchange - Criminal History Records Checks

This bill requires the Maryland Health Benefit Exchange (MHBE) to request a State and a national criminal history records check (CHRC) for any individual who provides or may provide services as an assister, an application counselor, a Consolidated Services Center (CSC) employee, or an Individual Exchange navigator.

Fiscal Summary

**State Effect:** MHBE expenditures (general and federal funds) increase by at least \$24,500 in FY 2015 to request CHRCs of specified individuals. Federal fund revenues increase correspondingly to the extent Medicaid matching funds are available. Future years reflect additional CHRCs.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
FF Revenue	-	-	-	-	-
GF/FF Exp.	\$24,500	\$2,500	\$2,500	\$2,500	\$2,500
Net Effect	(\$24,500)	(\$2,500)	(\$2,500)	(\$2,500)	(\$2,500)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

Analysis

**Bill Summary:** MHBE must submit to the Criminal Justice Information System and Central Repository (CJIS) two complete sets of the individual’s legible fingerprints and

the appropriate fees. CJIS must forward to the individual and MHBE the individual's criminal history record information (CHRI).

Information obtained from CJIS as part of a CHRC is confidential, may not be disseminated, and may be used only for the purpose of evaluating qualifications of individuals who provide or may provide services as an assister, an application counselor, a CSC employee, or an Individual Exchange navigator. An individual subject to a CHRC under the bill may contest the contents of the printed statement issued by CJIS.

**Current Law:** An "application counselor" means an individual who holds an Individual Exchange application counselor certification from MHBE. MHBE may designate a community-based organization, health care provider, unit of State or local government, or other entity as an application counselor sponsoring entity and certify any agent, employee, or volunteer of that entity as an application counselor if the individual meets the requirements for Individual Exchange navigator certification. Application counselors may not be compensated by MHBE, a carrier, an insurance producer, or a third-party administrator for their enrollment services nor may they impose a fee for services. Application counselors must disclose to MHBE and to individuals to whom they provide services any relationships they have with specified health insurance entities and must act in the best interest of the individuals for whom they are authorized to provide services.

Services that involve the sale, solicitation, and negotiation of qualified plans offered in the Individual Exchange must be provided by an Individual Exchange navigator. An Individual Exchange navigator must hold an Individual Exchange navigator certification, be employed or engaged by an Individual Exchange navigator entity, receive compensation only through the Individual Exchange or an Individual Exchange navigator entity, and comply with all laws, regulations, and policies governing Medicaid and the Maryland Children's Health Program (MCHP). MHBE may not require an Individual Exchange navigator to hold an insurance producer license. To qualify for an Individual Exchange navigator certification, an applicant must be of good character and trustworthy, be at least age 18, complete and comply with any training requirements, and comply with all applicable requirements. Certification must be renewed every two years.

MHBE is authorized to establish a CSC or call center, which may employ individuals to assist the Small Business Health Options Program (SHOP) Exchange or the Individual Exchange. CSC employees are required to hold a SHOP Exchange enrollment permit or an Individual Exchange enrollment permit.

CJIS (established by the Criminal Procedure Article, § 10-213, *et seq.*), collects, manages, and disseminates Maryland CHRI for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

**Background:** MHBE launched the Connector Program to provide outreach and enrollment mechanisms to help consumers learn about, apply for, and enroll in appropriate health insurance products, including Medicaid, MCHP, and subsidized and nonsubsidized qualified health plans (QHPs) through Maryland Health Connection, the State-based health insurance exchange.

MHBE designated six organizations that serve as “connector entities” throughout the State: Montgomery County Department of Health and Human Services (Capitol Region); Health Care Access Maryland (Central Region); Worcester County Health Department (Lower Shore Region); Calvert Health Care Solutions (Southern Region); Seedco, Inc. (Upper Shore Region); and Healthy Howard, Inc (Western Region). Connector entities employ trained and certified navigators to counsel and enroll residents into QHPs and Medicaid, as well as noncertified personnel, known as “assisters,” who provide information, assistance, and enrollment into Medicaid. Navigators and assisters provide information about eligibility requirements for federal premium subsidies and cost-sharing assistance, and they assess eligibility requirements for Medicaid and MCHP. Navigators and in-person assisters also provide referrals to appropriate agencies, including the Attorney General’s Health Education and Advocacy Unit, Maryland Insurance Administration, and the Department of Human Resources.

**State Expenditures:** MHBE expenditures increase by at least \$24,525 in fiscal 2015, which reflects the bill’s October 1, 2014 effective date. This estimate reflects the cost of requesting CHRCs for approximately 450 assisters and Individual Exchange navigators. No application counselors have been certified to date. CSC employees are hired through a contractor and, thus, are not included in this estimate. To the extent MHBE pays for CHRCs for CSC employees, expenditures increase further. Federal Medicaid matching funds may be available for a portion of these costs. In future years, it is assumed that approximately 45 CHRCs will be conducted annually.

The cost of a State and national CHRC check is shown below.

**State and National CHRC Check**

\$16.50 FBI fee  
18.00 CJIS fee  
20.00 Fingerprinting fee  
\$54.50 Total

The bill requires MHBE to request the CHRCs and submit fingerprints. For purposes of this analysis it is assumed that, in practice, individuals will submit to fingerprinting and apply for a CHRC in person. Therefore, individuals likely pay for the cost of the State

and national check themselves (or at least the fingerprinting fee) and be reimbursed by MHBE.

**Additional Comments:** MHBE requires connector entities to perform background checks, but not a full State and national CHRC. The Maryland Insurance Administration (MIA) advises that it runs a check against the National Association of Insurance Commissioner's Regulatory Information Retrieval System, State Producer Licensing Database, and Special Activities Database for all individuals licensed by MIA. This provides MIA with disciplinary actions that may have been taken against an individual in another state. However, MIA does not perform a State or federal CHRC on applicants.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/ljm

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