Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 703 (Senator Middleton)
Finance Health and Government Operations

Health Insurance - Medical Stop-Loss Insurance - Small Employers

This bill increases the minimum attachment points for medical stop-loss insurance issued or delivered in the State. Policies and contracts issued prior to June 1, 2015, are grandfathered. The bill also establishes requirements and prohibitions for medical stop-loss insurance issued to a small employer. The Maryland Insurance Administration (MIA) must conduct a study of the use of medical stop-loss insurance in self-funded employer health plans and report to the Governor and specified committees of the General Assembly.

The bill takes effect June 1, 2015, and applies to all medical stop-loss insurance policies and contracts issued, delivered, or renewed in the State on or after that date. The bill terminates June 30, 2018.

Fiscal Summary

State Effect: No likely effect in FY 2015. Minimal increase in special fund revenues for MIA beginning in FY 2016 from rate and form filing fees. Special fund revenues further increase to the extent the Insurance Commissioner imposes penalties on medical stop-loss insurers who fail to comply with the bill's requirements. Future years reflect termination of the bill at the end of FY 2018. MIA special fund expenditures increase by an estimated $80,000 in FY 2016 and $20,000 in FY 2017 to conduct the required study and submit the interim and final reports. No effect of the State Employee and Retiree Health and Welfare Benefits Program.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
SF Revenue	-	-	-	$0	$0
SF Expenditure	$80,000	$20,000	$0	$0	$0
Net Effect	($80,000)	($20,000)	$0	$0	$0

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

Local Effect: Counties are not affected because they already purchase policies that meet or exceed the bill's attachment points. However, municipalities that newly join the Maryland Local Government Health Cooperative may face an increase in total claims liability.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Attachment Points: A specific attachment point (the dollar amount in losses attributable to a single individual in a policy year beyond which the medical stop-loss insurer assumes liability for losses incurred by the insured) may be no less than $22,500. An aggregate attachment point (the percentage of expected claims in a policy year above which the medical stop-loss insurer assumes liability for losses incurred by the insured) may be no less than 120% of expected claims. The bill also specifies that a medical stop-loss insurer may not *renew* a policy or contract unless it meets these requirements.

A policy or contract of medical stop-loss insurance issued or delivered to a county or municipality through the Maryland Local Government Health Cooperative must have an aggregate attachment point of at least 115% prior to July 1, 2017, and at least 120% beginning July 1, 2017.

These provisions do not apply to medical stop-loss insurance issued or delivered before June 1, 2015, if the policy or contract maintains a specific attachment point of at least $10,000 and an aggregate attachment point of at least 115% of expected claims. The provisions also do not apply to the renewal of such insurance issued or delivered on or after June 1, 2015, if the policy or contract (1) is issued or delivered to an employer that, on May 31, 2015, held a policy or contract with a specific attachment point of at least $10,000 and an aggregate attachment point of at least 115% of expected claims and (2) maintains the same specific and aggregate attachment points.

Stop-loss Insurance Issued to Small Employers: A medical stop-loss insurer may not (1) impose higher cost sharing for a specific individual within a small employer's health benefit plan than is required for other individuals within the plan; (2) decrease or remove stop-loss coverage for a specific individual within a small employer's health benefit plan; or (3) exclude any employee or dependent from a policy or contract based on an actual or expected health status-related factor or condition.

A medical stop-loss insurer must (1) guarantee rates for at least 12 months, unless there is a change in benefits, ownership and control of the small employer, or the number of covered lives by a significant percentage resulting from specified events; (2) pay stop-loss claims incurred during the policy or contract period and submitted within 12 months after the expiration of the policy or contract; and (3) disclose to the small employer the following regarding the contract or policy: total costs, the effective and termination dates, renewal provisions, attachment points, and limitations on coverage.

MIA Study on the Use of Medical Stop-loss Insurance: As part of the study, MIA must solicit information from specified stakeholders and hold informational meetings, as appropriate. The study must include (1) an analysis of baseline data; (2) an overview of the employer health benefit plan market in contiguous states; (3) an estimate of the number of employers with 51 to 100 employees whose benefits would change from the large group to the small group market in 2016 under the federal Patient Protection and Affordable Care Act; (4) an analysis of requirements for medical stop-loss insurance in other states; (5) a review of specified guidance, recommendations, or model legislation; (6) identification of any incentives and disincentives, beginning in 2016, associated with the purchase of insurance in the small group market compared to self-insurance with the purchase of medical stop-loss insurance for specified employers; (7) a comparison of specified risk profiles; (8) an assessment of the impact on the stability and viability of the small group market resulting from specified actions by employers; (9) an assessment of any impact on the Maryland Health Benefit Exchange of small employers dropping coverage; (10) an assessment of different attachment points for medical stop-loss insurance, the effect of medical inflation, and the desirability of maintaining or adjusting such attachment points; (11) an assessment of the consumer protections relating to medical stop-loss insurance and the desirability of maintaining or adjusting such protections; and (12) an assessment of the impact on local governments and small employers of any changes to attachment points or consumer protections. MIA must submit an interim report by December 1, 2015, and a final report by October 1, 2016.

Current Law: "Medical stop-loss insurance" means insurance, other than reinsurance that is purchased by a person other than a carrier or health care provider, to protect the person against catastrophic, excess, or unexpected losses incurred by that person's obligations to third parties under the terms of a health benefit plan.

"Small employer" means an employer that, during the preceding calendar year, employed an average of up to 50 employees (if the preceding calendar year ended by January 1, 2016) and 100 employees (if the preceding calendar year ended after January 1, 2016).

Medical stop-loss insurance may only be sold, issued, or delivered in the State by a carrier that holds a certificate of authority issued by the Insurance Commissioner that authorizes the insurer to engage in the business of health insurance or to act as a nonprofit health service plan. A medical stop-loss insurer may not issue, deliver, or offer a policy or contract with a specific attachment point of less than $10,000 or an aggregate attachment point of less than 115% of expected claims.

A medical stop-loss insurer who offers or issues a medical stop-loss insurance policy that does not meet statutory requirements is subject to existing sanctions. For authorized insurers (§ 4-113 of the Insurance Article), sanctions include refusal to renew, suspension, or revocation of a certificate of authority and/or a penalty of at least $100 but no more than $125,000 for each violation as well as a restitution requirement. Per § 4-212 of the Insurance Article, an unauthorized insurer is subject to a civil penalty of at least $100 but no more than $50,000 for each violation.

Background: Stop-loss insurance is a product that provides protection against catastrophic or unpredictable losses. It is purchased by employers that self-fund their employee benefit plans but do not want to assume 100% of the liability for losses. Stop-loss insurance comes in two forms: *specific and aggregate.* Specific stop-loss is excess risk coverage that provides protection for the employer against a high claim on any one individual. Aggregate stop-loss provides a ceiling on the dollar amount of total eligible expenses that an employer pays during a contract period. A medical stop-loss insurer reimburses the employer after the end of the policy or contract period for aggregate claims. MIA advises that there are about 70 insurers selling medical stop-loss insurance in Maryland.

In March 2014, Milliman issued a report, *Policy Characteristics in the Employer Medical Stop-Loss Market,* for the Self Insurance Educational Foundation. The report summarizes the distribution of key policy characteristics found in the U.S. employer medical stop-loss insurance market for calendar 2013. The median specific deductible found across all plans was $85,000. For groups of 50 or fewer covered employees, the median deductible was $30,000. For groups of 51 to 100 employees, the median was $45,000. In Maryland, the median deductible was $100,000, with an average deductible of $145,000. Employers purchased aggregate corridors ranging from 85% to 200% of expected claims, with the most common corridor (found on nearly 90% of policies with aggregate coverage) being 125% of expected claims.

State Expenditures: MIA special fund expenditures increase by an estimated total of $100,000 to conduct the required study and submit the related reports. Due to the significant scope of the study and the required analyses, assessments, and data collection, MIA cannot complete the study using existing resources and instead will rely largely on contractual services. Special fund expenditures increase by approximately $80,000 in fiscal 2016, which reflects the cost to initiate the required study and submit the interim report by December 1, 2015, and by approximately $20,000 in fiscal 2017 to complete the study and submit the final report by October 1, 2016.

Local Expenditures: Fifteen municipalities currently participate in the Maryland Local Government Health Cooperative. Under the bill, these municipalities are grandfathered. Another dozen or so municipalities are considering joining the cooperative. Any that do so on or after June 1, 2015, may face an increase in total claims liability on or after June 1, 2017, when the aggregate attachment point increases to 120%.

Small Business Effect: Small businesses likely benefit from the protections specified for medical stop-loss policies and contracts issued to small employers (*i.e.*, guaranteed rates). Increased attachment points may reduce premiums for stop-loss insurance; however, purchasing policies or contracts with higher attachments points may subject small employers to greater upfront financial risk in covering claims.

Additional Information

Prior Introductions: None.

Cross File: HB 552 (Delegates Pendergrass and Hammen) - Health and Government Operations.

Information Source(s): Milliman; Self-Insurance Institute of America, Inc.; Department of Budget and Management; Department of Health and Mental Hygiene; Maryland Insurance Administration; Maryland Municipal League; Department of Legislative Services

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