

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 910 (Delegate Pena-Melnyk, *et al.*)
Health and Government Operations

Maryland Health Benefit Exchange - Application for State Innovation Waiver

This bill requires the Board of Trustees of the Maryland Health Benefit Exchange (MHBE), by September 1, 2017, to apply to the U.S. Secretary of Health and Human Services for a State Innovation Waiver to allow an individual who is not lawfully present in the United States to enroll in a qualified health plan (QHP) offered through MHBE.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: No likely impact in FY 2017. MHBE general fund expenditures increase significantly in FY 2018 only for contractual services to prepare and submit the waiver application, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Noncitizens are largely limited to purchasing private coverage outside of MHBE. Certain immigration statuses qualify an individual to purchase through MHBE, including lawful permanent resident (green card holder), asylee, refugee, Cuban/Haitian entrant paroled into the United States, battered spouse/child/parent, temporary protected status, deferred enforced departure, nonimmigrant status (such as H-1B, H-2A, H-2B), student visa, U visa, and T visa. Noncitizens are not eligible for Medicaid, but they may receive Emergency Medicaid, which includes labor and delivery

services. Individuals residing in Maryland on student or temporary work visas are not eligible for Medicaid either. Otherwise, when individuals become legal residents, there is a five-year waiting period to receive Medicaid. During this waiting period, legal residents can buy a QHP through MHBE and may qualify for financial assistance based on their income.

Section 1332 of the federal Patient Protection and Affordable Care Act permits a state to apply for a State Innovation Waiver to implement innovative ways to provide access to quality health care that (1) is at least as comprehensive and affordable as would be provided absent the waiver; (2) provides coverage to a comparable number of residents of the state as would be provided coverage absent a waiver; and (3) does not increase the federal deficit. The application process for a waiver is robust. An application must include, among other things:

- data, assumptions, targets, and other information sufficient to determine that the proposed waiver will provide coverage that is at least as comprehensive as would be provided absent the waiver, will provide coverage and cost-sharing protections that keep care at least as affordable as would be provided absent the waiver, will provide coverage to at least a comparable number of residents as would be provided coverage absent the waiver, and will not increase the federal deficit;
- actuarial analyses and actuarial certifications to support state estimates that the waiver will comply with the comprehensive coverage requirement, the affordability requirement, and the scope of coverage requirement;
- a detailed 10-year budget plan that is deficit neutral to the federal government;
- a detailed analysis of the impact of the waiver on health insurance coverage in the state; and
- a detailed plan as to how the state will implement the waiver, including a timeline.

Prior to submitting a waiver application, a state must also provide public notice and a comment period sufficient to ensure a meaningful level of public input on the application. During the public comment period, the state must conduct public hearings regarding the state's application. An approved waiver may not take effect until January 1, 2017.

According to the National Conference of State Legislatures, Hawaii is the only state to receive waiver approval to date. Hawaii's waiver exempts the state from the requirement to operate a Small Business Health Options Program (SHOP) and instead allows the small business tax credit that would otherwise be paid through SHOP to be used to support a state fund that helps small businesses offer health coverage. Two other states (Alaska and

Massachusetts) have active pending waiver applications. California submitted a waiver application in December 2016 to offer new insurance options (called California Qualified Health Plans) to individuals ineligible to purchase QHPs because of their immigration status; however, the state withdrew its waiver application on January 18, 2017.

State Expenditures: MHBE advises that, due to the complex waiver application process and the short, three-month timeframe to prepare the application provided under the bill, MHBE does not have the personnel or technical resources to prepare and submit a waiver application without contractual assistance. Therefore, MHBE general fund expenditures increase by at least \$750,000 (and potentially as much as \$900,000 or more) in fiscal 2018 to contract with an outside firm to develop the waiver proposal, comply with expansive public notice requirements, draft the waiver application, conduct data analysis, procure actuarial analyses and certifications, prepare a 10-year budget plan, revise the application based on public input, and prepare a detailed operational plan for implementation of the waiver. This estimate does not reflect any planning or implementation costs should the waiver be approved. MHBE further advises that the waiver development and submission process, even with the level of contractual assistance noted above, will likely take six to nine months to complete rather than the three months allocated under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Centers for Medicare and Medicaid Services; National Conference of State Legislatures; Maryland Health Benefit Exchange; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2017
mm/ljm

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510