**SB 702**

# Department of Legislative Services

Maryland General Assembly
2018 Session

## FISCAL AND POLICY NOTE
**First Reader**

Senate Bill 702 (Senator Klausmeier, *et al.*)
Finance

**Health Insurance - Behavioral Health Assessments, Services, and Treatment for Patients Provided Opioids - Coverage**

This bill requires insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) to provide coverage for (1) a behavioral health assessment to determine the risk for opioid misuse or opioid use disorder and (2) services provided by a comprehensive pain management program for opioid weaning or a substance use disorder treatment program under specified circumstances. **The bill takes effect January 1, 2019, and applies to all policies, contracts, and health benefit plans that are issued, delivered, or renewed in the State on or after that date.**

## Fiscal Summary

**State Effect:** Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2019 from the $125 rate and form filing fee. Review of additional filings can likely be handled with existing resources. No impact on the State Employee and Retiree Health and Welfare Benefits Program as the specified services are already covered.

**Local Effect:** To the extent coverage mandated under the bill is already provided, any impact on health insurance expenditures for local governments that purchase fully insured medical plans is anticipated to be minimal. Revenues are not affected.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** "Assessment provider" means a provider licensed under the Health Occupations Article that is authorized to provide a behavioral health assessment within the provider's scope of practice and in the ordinary course of business or practice of a profession. "Ordering provider" means a provider licensed under the Health Occupations Article that is authorized to order an assessment within the provider's scope of practice and in the ordinary course of business or practice of a profession *and* is treating a patient for pain.

Behavioral health assessment coverage must include up to two sessions of a behavioral health assessment performed by an "assessment provider" if an "ordering provider" orders such an assessment for an individual who:

- has taken opioid medication for more than three months for an acute or postsurgical injury or condition;
- has taken opioid medication for more than six months for a chronic injury or condition;
- reports poor pain control after an increase in dose or frequency of one or more prescribed opioids;
- exhibits opioid-seeking behavior;
- has a history of opioid or other substance misuse; or
- has had a previous diagnosis of a mental health disorder.

Coverage must be provided for services provided by a comprehensive pain management program for opioid weaning or by a substance use disorder treatment program if (1) a behavioral health assessment supports a determination by the "ordering provider" that the individual would benefit from such services *or* meets the criteria for a substance use disorder and (2) the "ordering provider" refers the individual to such a program.

Any prior authorization required for coverage must be provided within three days after the order for the behavioral health assessment is presented by the patient to an "assessment provider" or the "ordering provider" makes the referral. Prior authorization may not require any documentation other than the order or the referral and the results of the assessment.

**Current Law:** Under Maryland law, there are 49 mandated health insurance benefits that certain carriers must provide to their enrollees. The federal Patient Protection and Affordable Care Act (ACA) requires nongrandfathered health plans to cover 10 essential health benefits (EHBs), which include items and services in the following categories: (1) ambulatory patient services; (2) emergency services; (3) hospitalization; (4) maternity

and newborn care; (5) mental health and substance use disorder services, including behavioral health treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and (10) pediatric services, including dental and vision care.

Under § 31-116 of the Maryland Insurance Article, EHBs must be included in the State benchmark plan and, *not withstanding any other benefits mandated by State law*, must be the benefits required in (1) all individual health benefit plans and health benefit plans offered to small employers (except for grandfathered health plans) offered outside the Maryland Health Benefit Exchange (MHBE) and (2) all qualified health plans offered in MHBE.

Under § 15-802 of the Insurance Article, specified health benefit plans must provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug use disorder, or alcohol use disorder:

- inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient benefits;
- partial hospitalization benefits; and
- outpatient and intensive outpatient benefits, including all office visits, diagnostic evaluation, opioid treatment services, medical evaluation and management, and psychological and neuropsychological testing for diagnostic purposes.

These benefits must comply with federal regulations regarding parity in mental health and substance use disorder benefits that relate to parity requirements for aggregate lifetime and annual dollar limits, financial requirements, treatment limitations, and criteria for medical necessity determinations.

**Background:** According to the Centers for Disease Control and Prevention, research indicates that some risk factors make people particularly vulnerable to prescription opioid abuse and overdose, including obtaining overlapping prescriptions from multiple providers and pharmacies, taking high daily dosages of prescription pain relievers, having mental illness or a history of alcohol or other substance abuse, and living in rural areas and having low income.

**Additional Comments:** According to MIA, the bill establishes a new mandated benefit for the large group market only. Under the ACA, each state must pay, for every health plan purchased through MHBE, the additional premium associated with any state-mandated benefit beyond EHBs. As such, if the Insurance Commissioner elects to include the mandate in the State benchmark plan, the State would be required to defray the

cost of the benefits to the extent it applies to the individual and small group market ACA plans.

## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 1344 (Delegate Sample-Hughes, *et al.*) - Health and Government Operations.

**Information Source(s):** Centers for Disease Control and Prevention; Department of Budget and Management; Maryland Department of Health; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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