Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 765 (Senator Smith)
Finance

Health Insurance - Continuation Coverage - Change in Employment Status

---

This bill extends from 18 to 36 months the length of time that certain group contracts must provide continuation coverage that is elected by or on behalf of an insured following a change in employment status. **The bill takes effect January 1, 2020, and applies to all policies, contracts, and health benefit plans 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 from the $125 rate and form filing fee. Review of filings can be handled with existing budgeted resources. Potentially significant impact on revenues and expenditures for the State Employee and Retiree Health and Welfare Benefits Program (State plan) beginning in FY 2020, as discussed below.

Local Effect: To the extent that carriers experience additional claims costs, health insurance premiums for local governments with fully insured health plans may increase.

Small Business Effect: To the extent that carriers experience additional claims costs, health insurance premiums for small businesses may increase.

Analysis

Current Law: The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) requires issuers of health insurance to continue to offer individuals who leave an employer group (due to termination of employment, death of a covered employee, divorce, or the cessation of dependency for a child) the same terms of coverage that it issues to the group.

Maryland law also requires insurers, nonprofit health service plans, and health maintenance organizations to offer continuation coverage to individuals who lose group membership through change in employment status, death, or divorce. Maryland's continuation coverage law does not apply to self-funded or self-insured plans; however, COBRA provisions do apply to such plans. COBRA requirements generally apply to employers with 20 or more employees, while Maryland law applies to all employers, regardless of size.

Section 15-409 of the Insurance Article and Maryland regulations (COMAR 31.11.04) require continuation coverage be offered to an employee who voluntarily terminates employment or whose employment is involuntarily terminated other than for cause. To qualify, an individual must be a resident of Maryland who had coverage under a group contract with the same employer for at least three months before termination. An individual must submit a signed election for continuation coverage within the 45-day period following the date of termination. An administrative fee of up to 2% of the total premium may be added to the cost of coverage. An individual must pay the full group premium plus any administrative fee each month.

Continuation coverage ends on the earliest of 18 months or the date on which *either* the employer stops offering group health benefits *or* the individual (1) fails to make timely payment; (2) becomes eligible for another group health policy; (3) becomes eligible for Medicare; (4) obtains health insurance in the individual market; or (5) terminates coverage under the group contract.

Under COBRA, the length of continuation coverage for termination of employment is also 18 months, with certain exceptions under the disability extension rule that allows coverage for up to 29 months.

Maryland law also requires up to 18 months of continuation coverage be offered to the surviving spouse and dependent children of an employee who dies (§ 15-407 of the Insurance Article and COMAR 31.11.03) and to the former spouse and dependent children of an employee after divorce (§ 15-408 of the Insurance Article and COMAR 31.11.02). Under COBRA, the length of continuation coverage for these circumstances is 36 months.

State Fiscal Effect: The State plan is largely self-insured and, as such, with the exception of one fully insured integrated health model medical plan (Kaiser) and one fully insured dental plan (Delta Dental), is not subject to Maryland's continuation benefit law. However, the Department of Budget and Management (DBM) advises that, based on how continuation benefits are currently provided, it would not be administratively feasible for the department to separate out coverage provided to those in fully insured plans from those in self-insured plans. Thus, revenues and expenditures increase for the State plan by an indeterminate but potentially significantly amount beginning in fiscal 2020.

Former State employees who elect continuation coverage must pay the full monthly premium plus a 2% administrative fee. Thus, special fund revenues increase beginning in fiscal 2020 due to additional premiums and fees paid by those former employees that maintain their continuation coverage beyond the current 18 months.

However, due to the expense, only those with high medical bills typically elect continuation coverage. Thus, DBM anticipates that claims for the self-funded plans will exceed the premiums and fee revenues collected by a net of between $380,000 and $480,000 in fiscal 2020, rising to $465,000 to $580,000 in fiscal 2024. Actual expenditures depend on the number of former State employees who elect continuation coverage under the bill.

To the extent DBM is able to restructure administration of continuation coverage benefits, separating fully insured and self-insured plans, expenditures could be significantly less.

Additional Information

Prior Introductions: None.

Cross File: HB 86 (Delegate Wilkins, *et al.*) **-** Health and Government Operations.

Information Source(s): Department of Budget and Management; Maryland Insurance Administration; Maryland Health Benefit Exchange; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2019
md/ljm

Analysis by: Jennifer B. Chasse

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