

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 290
Finance

(Senator Benson)

Health Insurance - Out-of-Pocket Maximums and Cost-Sharing Requirements -
Calculation

This bill requires insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers), to the extent authorized by federal law, to include any payments made by, or on behalf of, the insured, subscriber, or member when calculating the overall contribution to an out-of-pocket (OOP) maximum or a cost-sharing requirement. **The bill takes effect January 1, 2022, 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 special fund revenue increase for the Maryland Insurance Administration (MIA) from the \$125 rate and form filing fee in FY 2022. MIA review of additional filings may necessitate contractual support in FY 2022 only. As the bill does not impact the calculation of the OOP maximum, there is no impact on the State Employee and Retiree Health and Welfare Benefits Program.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: If a carrier negotiates and enters into a contract with providers to render health care services to insureds, subscribers, or members at alternative rates of payment, and coinsurance payments are based on a percentage of the fee, the carrier must calculate the amount of the coinsurance payment exclusively from the negotiated alternative rate. A

carrier may not charge or collect from an insured, subscriber, or member coinsurance that is greater than this amount.

Under the federal Patient Protection and Affordable Care Act, all nongrandfathered group health plans must ensure that any annual cost sharing imposed under the plan does not exceed specified limitations. For plan or policy years beginning in 2021, the maximum annual limitation on cost sharing is \$8,550 for individual coverage and \$17,100 for family coverage.

In the final [Notice of Benefit and Payment Parameters for 2020](#), the U.S. Department of Health and Human Services (HHS) stated that plans are permitted to exclude the value of drug manufacturer coupons from counting toward the annual limitation on cost sharing when a medically appropriate generic equivalent is available. As it was unclear if this required plans, in any other circumstances, to count such coupons toward the annual limitation on cost sharing, HHS deferred implementation of this interpretation. In the final [Notice of Benefit and Payment Parameters for 2021](#), HHS stated that, to the extent consistent with applicable state law, amounts paid toward reducing the cost sharing incurred by an enrollee using any form of direct support offered by drug manufacturers for specific prescription drugs may be, but are not required to be, counted toward the annual limitation on cost sharing.

Additional Information

Prior Introductions: HB 1360 of 2020 received a hearing in the House Health and Government Operations Committee but was later withdrawn. Its cross file, SB 623, received a hearing in the Senate Finance Committee, but no further action was taken.

Designated Cross File: HB 167 (Delegate P. Young) - Health and Government Operations.

Information Source(s): U.S. Department of Health and Human Services, Maryland Health Benefit Exchange, Maryland Insurance Administration, Department of Legislative Services

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rh/ljm

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