

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 588

(Delegate Cullison, *et al.*)

Health and Government Operations

Finance

Health Insurance - Qualified Resident Enrollment Program (Access to Care Act)

This bill requires the Maryland Health Benefit Exchange (MHBE), in consultation with the Insurance Commissioner and as approved by the MHBE Board, to submit a federal State Innovation Waiver application by July 1, 2024. The waiver application must seek to establish a Qualified Resident Enrollment Program and seek federal pass-through funding to allow qualified residents to obtain coverage through the exchange. If the waiver is approved, MHBE, in consultation with the Commissioner and as approved by the MHBE Board, must establish and implement the program. By January 1, 2025, MHBE must adopt regulations to carry out the program.

Fiscal Summary

State Effect: No effect in FY 2024 as MHBE can apply for the waiver using existing budgeted resources. If the waiver is granted, MHBE expenditures increase by *at least* \$550,000 in FY 2025 for initial implementation costs, plus an additional indeterminate but significant amount to provide State premium assistance and cost-sharing reductions, as discussed below; receipt of federal pass-through funding increases accordingly.

| (in dollars) | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|----------------|---------|-------------|-------------|-------------|-------------|
| FF Revenue | \$0 | - | - | - | - |
| SF Expenditure | \$0 | \$550,000 | \$250,000 | \$250,000 | \$250,000 |
| SF/FF Exp. | \$0 | - | - | - | - |
| Net Effect | \$0 | (\$550,000) | (\$250,000) | (\$250,000) | (\$250,000) |

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Qualified resident” means an individual, including a minor, regardless of immigration status, who at the time of enrollment (1) is seeking to enroll in a qualified plan offered to individuals through the exchange; (2) resides in the State; (3) is not incarcerated, other than incarceration pending disposition of charges; and (4) is not eligible for the federal advance premium tax credit (APTC), Medicaid or the Maryland Children’s Health Program, Medicare, or employer-sponsored minimum essential coverage.

Implementation of subsidies under the program must be contingent on approval of the waiver from the U.S. Secretary of Health and Human Services and the U.S. Secretary of the Treasury. Within six months before a fiscal year in which MHBE implements subsidies under the program, MHBE must submit a report to the General Assembly on its plan to implement the subsidies, including (1) the amount and source of the funding; (2) the parameters of the subsidies; and (3) the number of individuals anticipated to be eligible for the subsidies.

The program must be designed to make individual market insurance coverage offered through MHBE available to qualified residents. The program must (1) facilitate the enrollment of qualified residents in qualified plans and (2) based on the availability of funds, provide State premium assistance and cost-sharing reductions to qualified residents enrolled in qualified plans.

If the federal government approves an amendment to the State’s § 1332 waiver to include any program in addition to the State reinsurance program, any federal pass-through funds may be used for the additional program as approved under the amended waiver.

Beginning January 1, 2025, funding for the program may be made using any pass-through funds received from the federal government and any funds designated by the federal or State governments to provide health coverage for qualified residents. The purpose of the MHBE Fund is expanded to include providing funding for the establishment and operation of the Qualified Resident Enrollment Program.

Based on the availability of funds and subject to the reporting requirement noted above, MHBE, in consultation with the Commissioner and as approved by the MHBE Board, must establish subsidy eligibility and payment parameters for calendar 2025 and annually thereafter.

By December 31, 2024, the Commissioner may waive any notification or other requirements that apply to a carrier under the Insurance Article in calendar 2024 due to the implementation of an approved waiver.

Current Law: MHBE was created during the 2011 session to provide a marketplace for individuals and small businesses to purchase affordable health coverage. Through the Maryland Health Connection, Maryland residents can shop for health insurance plans, compare rates, and determine their eligibility for federal APTCs, cost-sharing reduction plans, and public assistance programs such as Medicaid. MHBE is funded in part from a mandated \$32.0 million diversion of premium tax revenues that would otherwise go to the general fund. However, any of these special funds that remain unspent at fiscal year closeout revert to the general fund.

MHBE submitted a [report](#), in response to the 2021 *Joint Chairmen's Report*, on costs, feasibility, and a review of activity in other states to serve individuals ineligible for Medicaid or qualified health plans (QHPs) without APTCs. The report noted that the largest population of non-incarcerated individuals ineligible for Medicaid or QHP coverage are undocumented immigrants.

State Fiscal Effect: Assuming a waiver is granted and the program is operational for calendar 2025, MHBE expenditures (special and federal funds) increase by *at least* \$550,000 for initial implementation costs. This reflects one-time-only information technology costs of \$300,000 and ongoing annual costs for the consumer assistance team of \$250,000. MHBE expenditures (likely a combination of special and federal funds) increase by an additional indeterminate but significant amount in fiscal 2025 to provide State premium assistance and cost-sharing reductions to qualified residents. Federal pass-through funds increase accordingly.

For illustrative purposes only, based on prior estimates from MHBE regarding the cost to provide a State subsidy that mirrors subsidies and cost-sharing provided by the federal government prior to the enhanced subsidies offered under the federal American Rescue Plan Act, the gross cost of the program is estimated to be \$105.1 million in calendar 2025 increasing to \$206.7 million for calendar 2028. This estimate is based on the following information and assumptions:

- An estimated 29,413 individuals enroll in the program in calendar 2025, increasing to 51,380 by calendar 2028.
- Federal pass-through funding of \$14.8 million is received for calendar 2025, increasing to \$30.5 million for calendar 2028.
- The net cost to the State for the program is \$90.3 million for calendar 2025, increasing to \$176.2 million for calendar 2028.

Should lower subsidies be provided, enrollment numbers and the cost to provide subsidies decrease. To the extent new, generally healthy individuals enter the individual market risk pool under the bill, premiums in the individual market are reduced.

Additional Comments: On December 9, 2022, the U.S. Department of Health and Human Services and the U.S. Department of the Treasury approved Washington’s application for a State Innovation Waiver. Washington requested a waiver to expand access to QHPs, stand-alone qualified dental plans, and a state affordability program (Cascade Care Savings) to Washington residents regardless of immigration status. The [waiver](#) is effective January 1, 2024, through December 31, 2028.

California previously submitted a waiver application that would have permitted undocumented immigrants to purchase coverage through the state exchange without subsidies, but the application was withdrawn. California’s Medicaid program now covers income-eligible individuals of all ages, regardless of immigration status.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 728 and HB 1035 of 2022

Designated Cross File: SB 365 (Senator Lam) - Finance.

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

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