

Department of Legislative Services

Maryland General Assembly

2024 Session

FISCAL AND POLICY NOTE

First Reader

Senate Bill 535

(Senator Ready, *et al.*)

Finance

Health Insurance - Labor and Delivery Services - Cost-Sharing Requirements

This bill requires insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) that provide coverage for labor and delivery services to cover such services without a deductible, coinsurance, copayment, or other cost-sharing requirement. With respect to insurers and nonprofit health service plans, this requirement only applies to coverage provided on an expense-incurred basis. **The bill takes effect January 1, 2025, 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 (MIA) in FY 2025 only from the \$125 rate and form filing fee. Review of filings can be handled with existing MIA resources. Expenditures for the State Employee and Retiree Health and Welfare Benefits Program (State Plan) increase beginning in FY 2025 by as much as \$2.4 million on an annualized basis, as discussed below.

Local Effect: Potential increase in health insurance premiums for local governments that purchase fully insured plans. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Under Maryland law, there are more than 50 mandated health insurance benefits that carriers must provide to their enrollees. Carriers must provide coverage for

inpatient hospitalization services for a mother and newborn child for a minimum of 48 hours for a regular delivery and 96 hours for a cesarean section. If prescribed by the attending provider, a carrier must provide coverage for a home visit if the mother and newborn child remained in the hospital for at least the length of time specified above. Alternatively, if a mother and newborn child have a shorter hospital stay, a carrier must provide coverage for one home visit within 24 hours after hospital discharge and, if prescribed by the attending provider, a second home visit. For covered home visits, a carrier may not impose any copayment, coinsurance, or deductible on the enrollee.

Carriers that provide labor and delivery coverage must also cover abortion care services without (1) a deductible, coinsurance, copayment, or any other cost-sharing requirement and (2) any restrictions that are inconsistent with the protected rights under Title 20, Subtitle 2 of the Health-General Article. These requirements do not apply to (1) a multistate plan that does not provide coverage for abortions in accordance with federal law or (2) a high-deductible plan, unless the Insurance Commissioner determines that abortion care is not excluded from the safe harbor provisions for preventive care under federal law.

The federal Patient Protection and Affordable Care Act requires nongrandfathered health plans to cover 10 essential health benefits (EHBs), which include maternity and newborn care. Under § 31-116 of the Maryland Insurance Article, EHBs must be included in the State benchmark plan and, notwithstanding 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. The Maryland benchmark plan includes delivery and all inpatient services for maternity care as an EHB.

State Expenditures: The December 2023 report, [*Maryland Elimination of Labor and Delivery Cost Sharing Analysis*](#), commissioned by the Maryland Health Care Commission, reported that the average estimated cost of labor and delivery in Maryland is \$21,750, of which an average of \$1,120 is paid by the enrollee. The analysis estimated the premium impact of removing cost sharing from labor and delivery services as follows: (1) individual and small group premiums are estimated to increase by \$1.93 and \$0.85 per member per month (PMPM) or \$23.16 and \$10.20 per member per year (PMPY), respectively; (2) fully insured large group premiums are estimated to increase by \$0.20 PMPM (\$2.40 PMPY); and (3) premiums for the State Plan are estimated to increase by \$0.81 PMPM (\$9.72 PMPY).

Estimated Impact on the State Plan

As of January 2024, the State Plan covers 112,708 individuals, including employees and retirees. Based on the estimated increase in PMPY costs for the State Plan estimated in the

study noted above, Department of Budget and Management (DBM) expenditures could increase by \$1,095,522 annually beginning in calendar 2025 (\$547,761 in fiscal 2025, and \$1,095,522 in fiscal 2026 and annually thereafter).

DBM advises that, based on the most recent 12 months of claims experience trended forward, expenditures for the State Plan increase by an estimated \$2.4 million annually beginning in calendar 2025 (\$1.2 million in fiscal 2025, and \$2.4 million in fiscal 2026 and annually thereafter). This is based on an average of 5,000 labor and delivery claims per year. The actual impact will vary depending on future plan design and plan selection by enrollees.

Small Business Effect: Health insurance premiums in the small group market increase to the extent cost sharing is currently required for labor and delivery services. Alternatively, carriers could opt to maintain premiums at existing levels by increasing cost sharing for other services.

Additional Comments: Section 223 of the Internal Revenue Code permits an eligible individual to establish a health savings account (HSA) that requires, among other things, that the individual be covered under a high deductible health plan (HDHP). An HDHP may not provide benefits to an individual – unless the benefits are for “preventive care” – until the individual has satisfied their annual minimum deductible. Because Internal Revenue Service guidelines do not classify labor and delivery services as preventive care, the bill’s requirements may result in State residents losing their HSA eligibility.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced in the past three years. See SB 784 of 2023.

Designated Cross File: None.

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

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