

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



KATHLEEN A. BIRrane
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2471 Fax: 410-468-2020
1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

Date: March 21, 2024

Bill # / Title: Senate Bill 821 – Maryland Insurance Administration – Professional Employer Organizations - Study

Committee: House Health and Government Operations Committee

Position: Support

The Maryland Insurance Administration (MIA) appreciates the opportunity to share its support for Senate Bill 821. Senate Bill 821 is in an identical posture as its cross-file, HB 827, which was passed unanimously on the House floor.

Senate Bill 821 requires the MIA to conduct a comprehensive study of professional employer organizations (PEOs). PEOs typically are engaged by businesses to perform HR administrative tasks such as payroll, benefits, workers' compensation and employee training. In addition, PEOs often sponsor health and welfare benefit plans that the business may elect to make available to their workers. In many PEO arrangements, the PEO is designated as the "employer" or "co-employer" of the individuals working for the business, which is referred to under the arrangement as the "workplace employer."

Currently, Maryland is one of three states in the country that effectively prevent a small employer that has engaged a PEO from participating in the PEO's large group health plan. A Maryland small employer may engage a PEO to perform human resource and payroll services and may take advantage of pension and retirement plans sponsored by the PEO. However, with respect to health insurance, Maryland law looks at the number of people at the workplace employer level in determining whether the health insurance issued to those individuals must meet small group vs large group requirements.

The study required by SB 821 will include the identification and comparison of the regulation of PEOs under federal and State law in and other states; the history of PEOs in the State and in other jurisdictions, including changes in the PEO industry over time; the review of PEO health plans and benefit designs; the review of the requirements related to the engagement of PEO services and access to PEO sponsored health plans that must be met by a business; the examination of which other states determine an employer's group size at the level of the workplace employer, as well as the applicable regulatory structures under federal law; and address potential impacts to the Maryland small group market if Maryland were to change the current law regarding group size.

The MIA will be required to report its findings to the House Health and Government Operations Committee and the Senate Finance Committee by December 31, 2024.

Traditionally, policy makers have expressed concern that access to large group coverage through a PEO could adversely impact Maryland's small group market. The argument traditionally raised is that joining a PEO would only be beneficial to small employers with young and healthy employees who would benefit from the experience rating in the large group market, and that small employers with older and sicker employees would benefit more from the community rating in the small group market. It is perceived that as the healthier groups join PEOs, the experience of the remaining small group risk pool would deteriorate, driving up rates for small employers. However, there is currently no actuarial data to support or refute these concerns, and this study to conduct research on the issue will be an important tool should future legislation arise seeking to allow small employers who join PEOs to obtain large group health insurance.

For these reasons, the MIA urges a favorable committee report on Senate Bill 821 and thanks the Committee for the opportunity to share its support.