Maryland General Assembly
Department of Legislative Services

Proposed Regulations
Department of Budget and Management
(DLS Control No. 14-306)

Overview and Legal and Fiscal Impact

These regulations align State employee health benefits with the federal Patient Protection and Affordable Care Act employer shared responsibility requirement. The regulations also clarify eligibility for coverage and repeal obsolete provisions concerning the eligibility for coverage of domestic partners of eligible employees or retired employees or the dependent children of those domestic partners.

The regulations present no legal issue of concern.

Department of Budget and Management expenditures increase by an estimated $4.0 million (total funds) in fiscal 2015 to provide health benefits employer contributions for certain eligible contractual employees as required under the federal Patient Protection and Affordable Care Act.

Regulations of COMAR Affected

Department of Budget and Management:
Personnel Services and Benefits: State Employees' Health Benefits:
COMAR 17.04.13.03, .03-1, .04, and .06

Legal Analysis

Background

Under the federal Patient Protection and Affordable Care Act, a large employer (generally, an employer with 50 or more full-time employees, including full-time equivalent employees) must offer affordable coverage that meets the minimum value indicated by the law to all employees working 30 or more hours per week or an average of 130 hours per month beginning January 1, 2015. Under Internal Revenue Code § 4980H, a large employer that, for a calendar month, fails to offer to its full-time employees health coverage that is affordable and provides minimum value may be subject to an assessable payment if a full-time employee enrolls for that month in a qualified health plan for which the employee receives a premium tax credit. This action conforms the State Employee and Retiree Health and Welfare Benefits Program to these federal requirements.

Summary of Regulations

The regulations provide that, generally, employees whose coverage is required by law, full-time employees, and part-time employees as defined in § 7–701 of the State Personnel and Pensions Article who are regularly paid salary or wages through an official State payroll center, are eligible for State Employee and Retiree Health and Welfare Benefits Program coverage. The regulations also repeal a requirement that those employees hold permanent positions.

The regulations provide that contractual employees regularly working at least 30 hours per week, or an average of 130 hours per month, in accordance with 26 U.S.C. § 4980H and COMAR 17.04.13.04B(2), are eligible for coverage. Contractual employees regularly working more than 30 hours per week, or more than an average of 130 hours per month, may receive a State subsidy of 75% of the premium cost for medical and prescription drug coverage; employees working less than 50% of the workweek and contractual employees working less than 30 hours per week or 130 hours per month may not receive a State subsidy. The regulations clarify that eligibility for the State subsidy may come at a date separate from and subsequent to eligibility for coverage in general.

The regulations provide that coverage for a newborn child of an eligible employee shall be effective on the date of birth provided the eligible employee submits a completed application and payroll deduction authorization form within 60 days of the date of birth. If the employee fails to timely submit this application, coverage may be extended retroactively if the employee contacts the Health Benefits Administrator and submits any necessary payments to effect the retroactive coverage.

The regulations repeal obsolete provisions concerning the eligibility for coverage, under specified circumstances, of domestic partners of eligible employees or retired employees or the dependent children of those domestic partners; under existing regulations, coverage of those individuals terminates on January 1, 2015.

The regulations provide that employees of specified satellite organizations and local governments may be eligible to participate in the program on the application of the entity, provided that, at the discretion of the Secretary, the participation does not impede, undermine, or conflict with the program's federal compliance obligations or governmental and cafeteria plan status.

Finally, the regulations repeal Regulation .06, concerning the conversion or continuation of health insurance benefits.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Budget and Management cites the following provisions of the State Personnel and Pensions Article as authority for the regulations: Title 2, Subtitle 5; Title 4, Subtitle 1; and Title 8, Subtitle 1. Title 2, Subtitle 5 concerns the State Employee and Retiree Health and Welfare Benefits Program, generally. More specifically, § 2–503 requires the

Secretary of Budget and Management to adopt regulations for the administration of the program and ensure that the program complies with all federal and State laws governing employee benefit plans. Title 4, Subtitle 1 concerns personnel management, generally. Section 4–106 authorizes the Secretary to adopt regulations, guidelines, or policies to carry out provisions of Division I of the State Personnel and Pensions Article. Title 8, Subtitle 1 concerns the Standard Pay and Executive Pay Plans, generally. Section 8–103 requires the Secretary to adopt regulations to carry out the subtitle.

The cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

As submitted, the Statement of Purpose accompanying the regulations does not reflect the amendments clarifying existing regulations concerning eligibility for coverage and repealing obsolete provisions. The department has amended the Statement of Purpose to reflect the proposed regulations. This analysis reflects the department's intent.

Fiscal Analysis

Department of Budget and Management expenditures increase by an estimated $4.0 million (total funds) in fiscal 2015 to provide health benefits employer contributions for certain eligible contractual employees as required under the federal Patient Protection and Affordable Care Act.

Agency Estimate of Projected Fiscal Impact

The regulations principally align State employee health benefits with the Affordable Care Act's employer shared responsibility requirement. Under the Affordable Care Act, employers with more than 50 employees must offer affordable coverage to all employees working 30 or more hours per week or an average of 130 hours per month beginning January 1, 2015. The department advises that expenditures for the State Employee and Retiree Health and Welfare Benefits Program (State plan) will increase by approximately $8.0 million in general funds in fiscal 2015 to provide additional employer contributions to individuals now eligible for coverage. The Department of Legislative Services disagrees, in part, as the $8 million impact reflects a full year of coverage. Thus, the impact in fiscal 2015 is likely to be approximately $4 million. Moreover, actual expenditures will depend on the number of newly eligible employees who enroll during the current open enrollment period (which ends November 14, 2014) and the type of coverage selected. Overall State plan expenditures are typically split 59% general funds, 30% special funds, and 11% federal funds. Thus, the actual fund split of these expenditures will depend on the agencies in which newly eligible individuals enroll in the State plan.

Impact on Budget

State plan expenditures increase by an estimated $4.0 million (total funds) in fiscal 2015. These funds are included in the fiscal 2015 budget (with approximately $2.5 million in general funds).

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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