

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 909 (Senator Teitelbaum)
Finance

Health Insurers - Retroactive Reimbursement Denials - Insureds, Members, and Subscribers

This bill prohibits a health insurer, nonprofit health service plan, or HMO (carrier) from retroactively denying reimbursements, reducing reimbursements currently owed, or attempting in any manner to affect future reimbursements to an insured or enrollee for payments made to a health care provider for health care services unless: (1) the retroactive denial occurred within the four-month period after the carrier reimbursed the insured or enrollee; and (2) the carrier provides the insured or enrollee with a written statement specifying the basis for the denial. Another exception applies if the retroactive denial was for reimbursements to an insured/enrollee for health care services rendered that exceed the annual or lifetime maximums specified in the enrollee's contract.

Fiscal Summary

State Effect: Indeterminate increase in general fund revenues; expenditures for the State employee health benefit plan could increase by an indeterminate amount.

Local Effect: Expenditures for local jurisdiction employee health benefits could increase by an indeterminate amount. Revenues would not be affected.

Small Business Effect: Potential minimal effect on small businesses as discussed below.

Fiscal Analysis

State Effect: Under the Preferred Provider Option (PPO) and Point-of-Service (POS) health benefit plans offered through the State employee health benefit plan, if a member elects to receive services from a non-participating PPO physician or an out-of-network POS provider, the member would have to pay the entire fee at the time of service and submit a claim to the

State employee health benefit plan for reimbursement. The State employee health benefit plan would reimburse members for medically necessary health care services, subject to certain deductibles and copayments. The State generally takes 30 days to adjudicate a claim.

In addition, the POS out-of-network dental plan offered through the State employee health benefit plan requires members to pay the fee at the time of service; members are then reimbursed by the State. There are also instances where members enrolled in the pharmacy plan pay the full cost of a claim and apply to the State for reimbursement.

In cases of fraud (such as to cover an ineligible child), overpayment errors, reimbursements that exceed the annual or lifetime maximums, subrogation, or coordination of benefits (COB), the State employee health benefit plan retroactively denies reimbursements to members. It is estimated that in some cases of fraud and most cases of subrogation and COB, the determination for retroactive denial exceeds four months. Combined subrogation and COB collections for the State employee health benefit plan are approximately \$2 million per year, of which an indeterminate portion is collected from members while the remainder is collected from another carrier or a third party responsible for the payment.

Because of the four-month time limit, expenditures for the State employee health benefit plan would increase by an indeterminate amount if they are now unable to recoup claims that previously would have been retroactively denied. The extent of the increase cannot be reliably estimated at this time because there are insufficient data on (1) the total value of claims that require more than four months for a retroactive denial determination; (2) the proportion of the retroactive denials that are for services which exceed the annual or lifetime maximums; and (3) the value of subrogation and COB claims that are currently collected from enrollees.

Other health carriers may also require enrollees to pay the physician fee at the time of service, such as for services received from out-of-network providers. For the reasons indicated above, costs to carriers could increase as a result of certain claims being paid where they previously would have been retroactively denied. Health carriers would raise premiums to cover that increase, meaning that general fund revenues could increase by an indeterminate amount in fiscal 1998 due to the State's 2% insurance premium tax. The State's premium tax is only applicable to "for-profit" insurance carriers.

In addition, general fund revenues could increase by an indeterminate amount since insurance companies may be subject to rate and form filing fees. Each insurer (except HMOs) that revises its rates and amends its insurance policy must submit the proposed change(s) to the Insurance Administration and pay a \$100 rate and/or form filing fee. The number of insurers who will file new rates and forms as a result of the bill's requirements cannot be reliably estimated at this time, since rate and form filings often combine several rate and policy

amendments at one time.

Local Expenditures: Expenditures for local jurisdiction employee health benefits could increase by an indeterminate amount, depending upon the current type of health care coverage offered and number of enrollees.

Small Business Effect: Some health benefit plans require enrollees to pay the physician fee at the time of service under certain circumstances. The enrollee later submits the claim to the carrier for reimbursement. This bill imposes a time period within which retroactive denials may be made regarding claims paid to the insured/enrollee. To the extent that costs for carriers increase as a result of certain claims being paid where they previously would have been retroactively denied and health carriers raise premiums to cover that increase, self-employed persons and small businesses that offer health insurance could face higher health care costs. Alternatively, small businesses could pass an increase in health insurance premium costs onto their employees.

Information Source(s): Department of Health and Mental Hygiene (Medical Care Policy Administration, Health Care Access and Cost Commission); Insurance Administration; Department of Budget and Management; Department of Fiscal Services

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