

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 78 (Delegates Grosfeld and Billings)

Judiciary and Economic Matters

Civil Actions - Health Maintenance Organizations - Liability for Damages

This bill makes an HMO liable in a civil action for damages resulting from failure to approve a covered service or benefit if the service or benefit is recommended by a provider that has a contract with the HMO. This bill applies only to cases filed on or after October 1, 1998.

Fiscal Summary

State Effect: Potential increase in general fund expenditures. No effect on revenues.

Local Effect: Potential increase in expenditures for local jurisdictions. No effect on revenues.

Small Business Effect: Potential meaningful.

Fiscal Analysis

State Expenditures: HMO costs could increase as a result of this bill for the following reasons:

- the potential increase in liability faced by carriers could necessitate additional liability insurance;
- potential damages paid by the carrier; and
- health care costs could increase if carriers become more defensive in their utilization review decisions due to concerns over liability issues.

If HMOs incur increased costs, some of the increased costs may be passed onto the State Employee Health Benefit Plan. The extent of the increase would depend on the number of

medical malpractice cases filed against carriers and the findings and judgement in those cases. The increase could be significant.

The bill could potentially increase the number of medical malpractice claims filed. It is anticipated that most medical malpractice claims would be filed in circuit court. Since clerks of court are compensated by the State, the increase in caseloads could result in additional expenditures for the State if there is a need for additional personnel in the clerk's office in the future.

As a result of this bill, future Medicaid capitation rates to managed care organizations (MCOs) could increase to accommodate the increased costs incurred by those MCOs that are also HMOs.

Any workload increase for the Health Claims Arbitration Office could be handled with existing resources.

Local Expenditures: Expenditures for local jurisdictions could increase depending on the number of additional medical malpractice cases filed in circuit courts.

In addition, expenditures for local jurisdiction employee health benefits could increase, depending upon the current type of health care coverage offered and number of enrollees.

Small Business Effect: For the reasons discussed above, the effect on health insurance premiums for small businesses and self-employed individuals cannot be determined at this point, although it could be significant.

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

Fiscal Note History: First Reader - March 9, 1998

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