

Department of Legislative Services  
Maryland General Assembly  
1999 Session

FISCAL NOTE  
Revised

Senate Bill 594 (Senator Hollinger. *et al.*)

Economic and Environmental Affairs

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Practice of Medicine - Definition

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This bill includes within the definition of “practice medicine” the making of a determination that a health care service is not medically necessary or medically appropriate. The Maryland Insurance Administration (MIA) and the Department of Health and Mental Hygiene (DHMH) must study the potential impact of the bill’s requirements on insurance premiums and access to insurance. In addition, the study must also examine other states’ practices on allowing state medical boards to regulate medical necessity/appropriateness. MIA and DHMH must submit a report of their findings to the General Assembly by December 31, 1999.

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Fiscal Summary

**State Effect:** Expenditures for the State Employee Health Benefits Plan and the Medicaid program may increase by an indeterminate minimal amount. Any additional disciplinary hearings by the Board of Physician Quality Assurance could be handled with existing resources. Any expenses associated with MIA and DHMH’s study could be handled with existing agency resources. General fund revenues could increase by an indeterminate minimal amount.

**Local Effect:** 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:** Potential minimal. To the extent that costs for carriers increase and carriers raise premiums, health insurance costs for small businesses and self-employed persons could increase.

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## Fiscal Analysis

### State Expenditures:

*State Employee Health Benefits Plan and the Medicaid Program:* Generally, HMOs and other carriers have asserted that a determination of medical necessity is a coverage issue and in no way impacts on the health care provider's delivery of health care services. Under the bill's provisions, if an HMO's medical director reviews an enrollee's proposed course of treatment and deems it to be not medically necessary, and if the enrollee suffers harm from the denial of a certain course of treatment, the medical director may be held liable for medical malpractice in a cause of action by the enrollee or enrollee's agent. HMOs and other carriers may incur increased costs of litigation as a result of this bill, and may subsequently pass the costs on to employers, such as the State Employee Health Benefits Plan and the Medicaid program. Increases are expected to be minimal because it is assumed carriers will take other steps to minimize their liability risks.

*Board of Physician Quality Assurance:* The bill subjects medical directors of HMOs and other carriers to the disciplinary authority of the Board of Physician Quality Assurance (BPQA) in matters concerning the determination of medical necessity. BPQA expects few additional cases as a result of the bill, and any additional cases could be handled with existing board resources.

*Study by MIA and DHMH:* Any expenses associated with the study are assumed to be minimal and can be handled with existing agency resources.

**State Revenues:** It is unknown how many HMOs or other types of carriers may incur additional litigation costs and subsequently increase premiums as a result of this bill. If carriers do increase premiums, general fund revenues could increase by an indeterminate minimal amount as a result of the State's 2% insurance premium tax. The State's premium tax is applicable only to for-profit insurance carriers.

**Additional Comments:** The bill's requirements may potentially conflict with the Appeals and Grievance Law in Title 15, Subtitle 10A of the Insurance Article. The Appeals and Grievance Law requires the Insurance Commissioner to make final decisions on complaints that involve determinations of medical necessity. The bill may prohibit the Commissioner from making those decisions unless the Commissioner were a licensed physician.

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**Information Source(s):** Maryland Insurance Administration, Department of Health and Mental Hygiene (Medicaid, Board of Physician Quality Assurance), Department of Legislative Services

**Fiscal Note History:** First Reader - March 8, 1999

ncs/jr Revised - Senate Third Reader - April 5, 1999

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