HB 1086

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE

Revised

House Bill 1086 (Delegate Busch, *et al.*)
Economic Matters

Stop-Loss Insurance Policies

This bill prohibits a stop-loss insurance policy from having a specific attachment point of less than $10,000 or an aggregate attachment point of less than 115% of expected claims. The Maryland Insurance Administration may impose a penalty up to $25,000 on an insurer who issues a stop-loss policy that does not comply with the bill's requirements.

This bill takes effect June 1, 1999.

Fiscal Summary

State Effect: Special and general fund revenues could each increase by an indeterminate minimal amount. No effect on expenditures.

Local Effect: None.

Small Business Effect: Meaningful. Small businesses that are self-insured and use stop-loss insurance policies with lower attachment points may incur higher employee health benefit costs.

Fiscal Analysis

Background: In 1997 the U.S. Court of Appeals for the Fourth Circuit struck down Maryland Insurance Administration (MIA) regulations that set a minimum attachment point for stop-loss insurance at $10,000 of benefits paid to any single beneficiary annually. The regulations also set a minimum aggregate attachment point of 115% of total benefit payments expected to be paid to all plan beneficiaries. Any stop-loss insurance policy that had lower

attachment points was deemed by MIA to be a health insurance policy and therefore subject to State insurance regulation and all State mandated health insurance benefits. The Fourth Circuit held that while MIA could regulate stop-loss insurance policies, MIA could not deem any specific stop-loss insurance policy to be a health insurance policy for the purpose of imposing State health insurance law on the policies.

Large companies often chose to self-fund their employee health benefits as a way of saving money. In the past, generally only a large company could opt to self-fund its health benefits, because a company had to have sufficient financial resources to assume the risk of paying for its employees' health care. More recently, smaller companies have begun to self-fund their employee health benefits to realize the savings that larger companies have enjoyed. A stop-loss insurance policy allows a small company to self-fund its employee health benefits by assuming very little financial risk, and therefore requiring less financial resources. The company assumes the risk for claims up to a certain dollar amount, thereby qualifying as a self-funded plan. Self-funded plans are regulated by the Employee Retirement Income Security Act of 1974 (ERISA) and are exempt from State mandated benefits. The company may purchase a stop-loss insurance plan that pays any claims that exceed a certain amount set in the stop-loss policy. Consequently, a small company may enjoy the cost-savings and the exemption from State mandated health benefits by qualifying as a self-funded plan under ERISA, but does not assume the entire risk of any claims paid under its plan. This practice has increased the number of employer health plans that are not subject to MIA health insurance law or regulations.

State Effect: Special fund revenues could increase by an indeterminate minimal amount. Carriers that offer stop-loss insurance would be required to file policy forms with MIA and pay a $125 filing fee. The number of carriers who will file policy forms as a result of the bill's requirements cannot be reliably estimated at this time because carriers often combine several rate and policy amendments at one time when filing with MIA.

General fund revenues could increase by an indeterminate minimal amount in fiscal 2000 as a result of the penalty provisions. Expenditures would not be affected.

Information Source(s): Department of Budget and Management (Employee Benefits Division), Department of Health and Mental Hygiene (Medicaid, Health Care Access and Cost Commission), Maryland Insurance Administration, Department of Legislative Services

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Analysis by: Susan John

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510