

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1434 (Delegates Taylor and Busch)

Economic Matters

**Contracts Between Health Maintenance Organizations and Subscribers -
Subrogation Provisions**

This bill allows a contract between an HMO and its subscribers to contain a provision allowing the HMO to be subrogated to a cause of action a subscriber has against another person, to the extent that the HMO's payments or services resulted from the occurrence that gave rise to the cause of action. It further allows a contract between an HMO and its subscribers to contain a provision allowing the HMO to recover any payments made to the subscriber under a personal injury protection policy to the extent that payments are based on services provided or paid for by the HMO.

The bill's provisions apply to all subrogation recoveries by HMOs recovered on or after March 10, 1997, and to any case pending or filed on or after the bill's June 1, 2000, effective date.

Fiscal Summary

State Effect: The bill would prevent, beginning in FY 2001, a potential 1%-2% annual premium increase for the State Employee Health Benefits Plan's HMOs. In addition, the bill would prevent: (1) a potential workload increase for the Judiciary; (2) a potential general fund revenue increase from the State's 2% insurance premium tax on for-profit carriers; and (3) a potential minimal special fund revenue increase for the Maryland Insurance Administration from the \$125 rate and form filing fee.

Local Effect: The bill could prevent expenditure increases for local government health benefits and workload increases for circuit courts. Revenues would not be affected.

Small Business Effect: Potential meaningful. The bill could prevent small business expenditure increases for employee health benefits.

Analysis

Current Law: In accordance with 19-701(f) of the Health-General Article, an HMO may only be compensated through: (1) a predetermined periodic rate basis for providing members with minimum services; (2) copayments; and (3) deductibles.

Background: A recent Maryland Court of Appeals decision, *Victor G. Riemer et al. v. Columbia Medical Plan, Inc.*, (1999), held that an HMO is barred from pursuing its members for restitution, reimbursement, or subrogation, when members receive damages arising from third-party tort claims. The opinion stated that, “the language of §19-701(f)(3) cannot be interpreted to include payment to an HMO by means of other methods, whether subrogation, restitution, or reimbursement.”

For the past 25 years, HMOs have been seeking and recovering reimbursement from third-party tortfeasors.

State Fiscal Effect: If the bill is not enacted, HMOs will no longer be able to recover the costs of health services provided to an enrollee who was injured by a negligent third party. In addition, the court’s decision may possibly allow enrollees to file suit against HMOs on a retroactive basis to recover unlawfully subrogated funds. CareFirst of Maryland and Mid-Atlantic Medical Services, Inc. (MAMSI) estimate that failure to enact this bill could result in annual 1%-2% HMO premium increases for the State Employee Health Benefits Plan, beginning in fiscal 2001. Additional lawsuits filed against HMOs could result in workload increases for the Judiciary if the bill fails to pass.

Additional Information

Prior Introductions: None.

Cross File: SB 903 (Senators Miller and Bromwell) - Finance.

Information Source(s): CareFirst of Maryland, MAMSI, Judiciary (Administrative Office of the Courts), *The Daily Record*, Department of Legislative Services

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