

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 365 (Delegate Donoghue)

Economic Matters

**Health Maintenance Organizations - Subscribers and Enrollees - Private
Contracts for Health Care Services**

This bill allows an HMO enrollee to enter into a private contract with a health care provider where the enrollee accepts responsibility for paying all charges to the provider if: (1) the provider does not have a contract with the enrollee's HMO; (2) the HMO did not refer the enrollee to the provider; (3) the health care services are not emergency services; and (4) before treatment, the patient and health care provider sign a form developed by the Health Education and Advocacy Unit in the Office of the Attorney General. The bill allows a provider in these circumstances to collect or attempt to collect from the enrollee any charges owed for services.

In addition, the bill requires an HMO to bear the burden of providing that its payment to a health care provider is at the usual, customary, and reasonable rate. The bill defines the usual, customary, and reasonable rate as the amount at which 90% of all claims for the same service submitted in the preceding calendar year would be paid in full. A provider may file a complaint against an HMO with the Maryland Insurance Administration (MIA) or by filing a civil action in a court of competent jurisdiction. The MIA or the court must award reasonable attorney fees if the provider's complaint is sustained.

Fiscal Summary

State Effect: Potentially significant increase in State Employee Health Benefits Plan expenditures as a result of the bill's usual and customary rate provisions. Any additional complaints filed with the MIA could be handled with existing budgeted resources. No effect on Medicaid or the Office of the Attorney General. No effect on revenues.

Local Effect: Expenditures for local jurisdiction employee health benefits could increase if

carriers raise their premiums as a result of the bill's requirements. Revenues would not be affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: An HMO that pays a health care provider at the usual, customary, and reasonable (UCR) rate cannot determine the UCR rate based on reimbursement rates for Medicare, Medicaid, or workers' compensation payments. An HMO does not bear the burden of proving that its payment is at the UCR rate, but must provide a health care provider with the HMO's methodology used to determine the UCR rate.

In addition, a health care provider who does not have a contract with an HMO, but still provides services to an HMO enrollee, cannot bill the enrollee for services rendered.

State Expenditures: State Employee Health Benefits Plan expenditures would increase to the extent that the bill's UCR requirements erode an HMO's ability to control provider costs and the HMO passes the increased cost on to the State plan as increased premiums. The State plan offers five HMOs and three point-of-service (POS) plans that use underlying HMO networks. Generally, an HMO pays a capitated rate to primary care providers for each enrollee. An HMO may also contract with specialists who agree to accept a reduced fee schedule in return for participation in the HMO's network and increased patient volume generated by HMO referrals. An HMO's reduced fee schedule is often far below a specialist's normal fee. If an HMO were required to set its UCR based on what at least 90% of providers were charging as their normal fees, HMO expenditures would increase significantly.

The bill's provision allowing health care providers to directly bill HMO enrollees for services rendered has no fiscal impact on the State plan.

Small Business Effect: Health care providers that contract with HMOs for reduced fee schedules may be able to significantly increase their fees and reimbursements from HMOs. In addition, a health care provider who enters into a private contract with an HMO enrollee will be allowed to collect fees directly from the enrollee, reducing the provider's financial risk for treating HMO enrollees.

Additional Information

Prior Introductions: None.

Cross File: SB 405 (Senator Astle) - Finance.

Information Source(s): Department of Health and Mental Hygiene (Health Care Commission, Health Services Cost Review Commission, Office of Health Care Quality, Medicaid), Office of the Attorney General, Department of Budget and Management (Employee Benefits Division), CareFirst of Maryland, Department of Legislative Services

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