

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 686 (Delegate K Kelly, *et al.*)
Environmental Matters and Economic Matters

Practice of Medicine – Definition

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.

Fiscal Summary

State Effect: Expenditures for the State Employee Health Benefits Plan and the Medicaid program could increase by a minimal amount. Any additional disciplinary hearings by the State Board of Physician Quality Assurance could be handled with existing resources. Minimal general fund revenue increase from the State’s 2% insurance premium tax on for-profit carriers. Minimal special fund revenue increase for the Maryland Insurance Administration from the \$125 rate and form filing fee.

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 could increase.

Analysis

Current Law: Making a determination of medical necessity is not considered to be the practice of medicine.

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 or the Medicaid program. Increases are expected to be minimal because it is assumed that 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.

Additional Information

Prior Introductions: A similar bill, SB 372, was introduced in the 2000 session. It passed the Senate but received an unfavorable report from the House Environmental Matters Committee. Identical bills, SB 574/HB 243, were introduced in the 1999 session. SB 574 passed the Senate. HB 243 was not reported from the House Environmental Matters Committee.

Cross File: None, although SB 34 is identical.

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

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