

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 90

(Chairman, Finance Committee)

(Departmental - Insurance Administration, Maryland)

Finance

Economic Matters

**Health Insurance - Health Maintenance Organizations and Managed Care
Organizations - Application of Acquisitions Disclosure and Control Act**

This departmental bill subjects HMOs and Medicaid managed care organizations (MCOs) to the Maryland Insurance Acquisitions Disclosure and Control Act.

Fiscal Summary

State Effect: The adoption of regulations and any increase in filings with the Maryland Insurance Administration (MIA) could be handled with existing budgeted resources. To the extent MCO administrative costs increase as a result of the penalty provisions and MCOs pass this cost on to the Medicaid program as increased capitation rates, Medicaid expenditures (50% federal, 50% general funds) could increase. Any increase is expected to be negligible. The civil and criminal penalty provisions of this bill are not expected to significantly affect State finances or operations.

Local Effect: None.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill subjects HMOs and Medicaid MCOs to the Maryland Insurance Acquisitions Disclosure and Control Act (Act) in its entirety. The bill also repeals provisions subjecting HMOs and MCOs to Subtitles 3 and 4 of the Act.

In addition, the Insurance Commissioner must adopt regulations establishing a materiality threshold for reporting requirements and any regulations necessary to implement the bill's provisions. MCOs are not subject to the Act's reporting requirements until the Insurance Commissioner has adopted the materiality threshold regulations.

Before approving an acquisition transaction for either an MCO or an HMO, the Insurance Commissioner must consult with the Secretary of the Department of Health and Mental Hygiene (DHMH).

The bill subjects MCOs and HMOs to both civil and criminal penalties for failure to comply with the Act. A person who willfully violates the Act is subject to a penalty of \$1,000 for the first day of violation and \$100 for each additional day the violation continues. In addition, a person who willfully violates a provision of the Act or makes an untrue statement of material fact or omission of material fact in any filing required under Subtitles 3 and 6 of the Act is guilty of a misdemeanor and subject to a fine not exceeding \$10,000, or imprisonment not exceeding five years, or both.

Current Law: In general, the Maryland Insurance Acquisitions Disclosure and Control Act: (1) requires an insurer to meet certain asset and surplus standards; (2) permits an insurer to acquire a subsidiary under certain circumstances and establishes limitations on investments in subsidiaries; (3) establishes standards for the acquisition of a foreign nonprofit health service plan; (4) requires the registration of insurers in insurance holding company systems; (5) establishes standards for certain transactions within a holding company system and regulation of such transactions; (6) requires notice to the Insurance Commissioner of certain investments, dividend payments, and stock distributions; and (7) establishes unfair trade practices. The Act also provides for civil and criminal penalties for failure to comply with the Act.

Insurers and nonprofit health service plans are subject to the Maryland Insurance Acquisitions Disclosure and Control Act in its entirety. HMOs and MCOs are subject only to Subtitles 3 and 4 of this Act, which govern the acquisition of insurers, domestic insurers, and insurance holding companies.

Background: The Maryland Insurance Acquisitions Disclosure and Control Act was adopted by the General Assembly in 1995 to protect the public interest and the interest of policy holders and stockholders who may be adversely affected when control of an

insurer is sought by another entity or when acquisition of an insurer would substantially lessen competition or create a monopoly in the insurance business. The Act intends to promote public interest by: (1) requiring disclosures in acquisitions or mergers; (2) requiring disclosures of material transactions, relationships between an insurer and its affiliates, and dividends to stockholders paid by insurers; (3) requiring disclosures of changes in control of insurers; and (4) establishing penalties for failure to disclose relevant information and providing for the disapproval of certain transactions.

HMOs and MCOs are regulated for financial solvency in a manner similar to insurers. As the managed care industry has evolved, many HMOs have gone from stand-alone single-state operations to multi-state companies that are part of large holding company systems. The bill will uniformly apply the provisions the Act to HMOs and MCOs in the same manner that those provisions currently apply to health insurers and nonprofit health service plans, thereby giving the MIA greater oversight and approval authority regarding transactions between HMOs and MCOs and their affiliated companies.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Medicaid), Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2002
lc/jr Revised - Senate Third Reader - March 25, 2002

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