

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 792 (Delegate Hurson)
 Health and Government Operations

Individual Health Insurance Availability Act

This bill establishes the Individual Health Insurance Availability Act to provide guaranteed issue and renewal of policies in the individual market.

Fiscal Summary

State Effect: Maryland Insurance Administration (MIA) special fund expenditures could increase by \$135,200 in FY 2004. Special fund revenues from the \$125 rate and form filing fee could increase significantly beginning FY 2005.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	\$0	-	-	-	-
SF Expenditure	135,200	171,400	180,800	190,900	201,700
Net Effect	(\$135,200)	(\$171,400)	(\$180,800)	(\$190,900)	(\$201,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: By October 1, 2004, a health insurance carrier must, as a condition of issuing health benefit plans in the State, offer health benefit plans in the individual market. A carrier is deemed to have satisfied its obligation to provide individual health benefit plans by paying an assessment to the Insurance Commissioner. The Insurance

Commissioner has the authority to assess carriers their proportionate share of individual market losses and administrative expenses.

A carrier must file with the Insurance Commissioner, by March 1, 2004, and the close of the calendar year thereafter: (1) the carrier's net earned premium for the preceding calendar year; and (2) the carrier's net earned premium on individual health benefits plans, the claims paid, and the administrative expenses attributable to those plans. The health benefit plan sold in this market is exempt from mandated benefits and services.

The bill removes a self-employed individual from the definition of small group employer.

An individual carrier must develop its rates based on an adjusted community rate and can only vary the adjusted community rate for: (1) geographic area; (2) family composition; and (3) age. The rate adjustments may not result in a rate per enrollee of more than 200% of the lowest rate for all adult age groups. The premium may not be adjusted more frequently than once a year. A health benefit plan offered to an individual must have guaranteed issue and renewal and cannot have preexisting condition exclusions for a federally defined eligible individual. A federally defined eligible individual is one who: (1) as of the date on which the individual seeks coverage, has had 18 or more months of creditable coverage under a group health plan, governmental plan, church plan, or health insurance coverage offered in connection with any of these types of plans; (2) is ineligible for coverage under a group health plan, Medicare, Medicaid, and who does not have other coverage; (3) was not terminated from the most recent coverage based on nonpayment of premiums or fraud; or (4) if offered continuation coverage, both elected and exhausted that coverage. For an individual who is not a federally defined eligible individual, a carrier cannot count a preexisting condition against the individual if the condition was being treated under previous coverage within the last 90 days.

The Insurance Commissioner must appoint a Health Benefit Plan Committee composed of carrier representatives, consumers, health care providers, and producers. The committee will recommend the form and level of coverage to be made available by individual carriers. The committee must recommend benefit levels, cost sharing levels, exclusions, and limitations for the basic health benefit plan and the standard health benefit plan. The committee must submit the recommended health benefit plans to the Insurance Commissioner for approval by July 1, 2004.

The adjustments to the rates for a health benefit plan takes effect for all policies issued or renewed on or after October 1, 2008. For all policies issued or renewed between October 1, 2003 and September 30, 2005, the permitted rates for any age group must be no more than 400% of the lowest rate for all adult age groups. For all policies issued or renewed

between October 1, 2005 and September 30, 2008, the permitted rates for any age group must be no more than 300% of the lowest rate for all adult age groups.

Current Law: The Insurance Commissioner regulates the individual health insurance market. A carrier who sells insurance in the individual market has the right to refuse coverage or renewal, under certain circumstances, for an individual. A carrier may price its policy based on the individual's health status. A policy sold in the individual market is also subject to mandated health benefits and services.

An individual may obtain health insurance coverage in the small group market if the individual: (1) works and resides in the State; and (2) is a self-employed individual organized as a sole proprietorship or in any other legally recognized manner that a self-employed individual may organize. An individual may also obtain health insurance coverage in the small group market if the individual is engaged in a licensed profession through a professional corporation and received health benefits through a professional association on or before June 30, 1994. A person is considered a small employer if the person is a nonprofit organization and has at least one eligible employee.

The Maryland Health Insurance Plan (MHIP), slated to begin operation July 1, 2003, is a high-risk insurance pool that covers medically-uninsurable individuals who otherwise cannot obtain coverage due to their health status.

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is designed to provide greater access to health insurance coverage. HIPAA limits the use of preexisting condition clauses in new policies, prevents group health plans from discriminating against an individual based on health status, and provides for special enrollment options.

The federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) provides for continuation coverage in certain circumstances where individuals lose coverage.

Background: Many states have undertaken small group health insurance reform to provide better access to health care coverage. Small group reform measures have included guaranteed issue and renewal, community rate banding, and premium controls.

MHIP is an independent unit of the Maryland Insurance Administration (MIA), whose purpose is to decrease uncompensated care costs by providing access to affordable, comprehensive health benefits for medically-uninsurable residents by July 1, 2003. Premium rates must be from 110% to 200% of a standard risk rate. The MHIP program is subsidized in large part by an assessment on the base hospital rate of each hospital in

the State for which the Health Services Cost Review Commission (HSCRC) approves rates. This assessment is projected to be approximately \$57 million for fiscal 2004.

State Expenditures: MIA special fund expenditures could increase by \$135,150 in fiscal 2004, which accounts for the bill's October 1, 2003 effective date. This estimate reflects the cost of hiring two actuaries to conduct rate reviews, monitor ongoing compliance, review annual reports, and calculate the amount of the assessments imposed on carriers. Currently, there are only 10 carriers offering policies in the individual market, while there are approximately 868 carriers licensed to sell health insurance in Maryland. Consequently, a large number of carriers would be required to begin offering policies in the individual market or pay the assessment determined by the Insurance Commissioner. The assessment for each individual carrier would vary based on the proportion of the carrier's net earned premium to the net earned premium of all carriers. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$125,025
Operating Expenses	<u>10,125</u>
Total FY 2004 State Expenditures	\$135,150

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

State Revenues: MIA special fund revenues could increase by a significant amount beginning fiscal 2005. Carriers that participate in the individual market would be required to offer a basic health benefit plan and a standard health benefit plan. The carriers would be required to develop rates and policy forms, file the rates and policy forms with the MIA, and pay the \$125 filing fee.

Additional Comments: MHIP offers guaranteed issue health insurance policies for medically-uninsurable individuals, beginning July 1, 2003. It is expected that this new high-risk pool will have a stabilizing effect on Maryland's individual insurance market by segregating out the less healthy population and increasing carrier competition for the remaining people in the individual market.

It is unclear how the bill's guaranteed issue provisions in the individual market will affect MHIP enrollment. If MHIP premiums are more expensive than those offered in the individual market, high-risk individuals will stay in the individual market. Coverage of higher risk individuals under the community rating required in the bill will likely result in higher rates for lower risk individuals. This, in turn, may cause lower risk individuals to

leave the market or choose the basic plan offered under the bill, inevitably increasing the community rate for those who stay.

Small Business Effect: The exclusion of self-employed individuals from the small group market would eliminate high-risk individuals who only obtain health insurance when needed. Consequently, a more stable small group population could help stabilize overall health insurance costs for the small group market. It is unclear how the bill's removal of self-employed individuals from the small group market will affect coverage for these individuals. If the average individual rate is higher than the small group market rate, fewer self-employed individuals may purchase coverage. If the average individual rate is lower, health insurance coverage of self-employed individuals could increase.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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