

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 164
Finance

(Senator Astle)

Health Insurance - Small Group Market - Coverage - Preexisting Conditions

This bill modifies preexisting condition provisions for small group health benefit plans. Subject to the preexisting condition provisions in the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the bill permits an insurer, nonprofit health service plan, or HMO (carrier) who provides coverage in the small group market to limit coverage for not more than 12 consecutive months for a preexisting condition that existed during the six-month period immediately preceding the effective date of coverage.

Fiscal Summary

State Effect: Potential minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the \$125 rate and form filing fee in FY 2004. No effect on expenditures.

Local Effect: None.

Small Business Effect: Minimal. To the extent carriers impose preexisting condition clauses on new enrollees, overall premiums could decrease.

Analysis

Current Law: A carrier cannot limit coverage under a health benefit plan sold in the small group market for a preexisting condition, except for late enrollees in some circumstances. A late enrollee is an individual who requests enrollment in a health benefit plan after the initial enrollment period provided or a self-employed individual who requests enrollment in a health benefit plan after an annual open enrollment period for self-employed individuals. A carrier may subject a late enrollee to a 12-month

preexisting condition provision or waiting period until the next open enrollment period not to exceed a 12-month period.

HIPAA: HIPAA implemented reforms in the individual and small group health insurance markets to provide improved access and renewal for individuals seeking health insurance coverage. HIPAA specifically limits preexisting condition clauses in employer health insurance plans to a maximum of 12 months. In addition, an enrollee's prior health care coverage can be used as credit toward satisfying the preexisting condition period as long as there was no break in coverage. Preexisting condition exclusions cannot apply to pregnant women, newborns, or adopted children.

Background: The Comprehensive Standard Health Benefit Plan (CSHBP) was established in 1994 as a result of health care reforms adopted by the General Assembly to provide better access to coverage in the small group market. CSHBP is a standard health benefit package that carriers must sell to small businesses (fewer than 50 employees). CSHBP includes guaranteed issuance and renewal, adjusted community rating with rate bands, and the elimination of preexisting condition limitations.

Chapter 388 of 2001 required an independent evaluation of Maryland's small group market. This study required an examination of the existing delivery system as well as CSHBP compared to similar small group markets in other states. The report was issued on February 19, 2002.

The report examined preexisting condition requirements in Maryland's small group reform law, and noted that the lack of any preexisting condition limitations for enrollees is different from most states. Maryland's policy on preexisting conditions reflects a strongly held view in the State that restrictions on access to coverage should be minimal, and the report did not recommend any change in the overall policy. The study does note, however, that if changes were made with regard to preexisting condition limitations in the small group market, changes should only be made with respect to groups of one. Of all of the groups purchasing health insurance in the small group market, it is these groups of one that pose the greatest danger of adverse selection.

Additional Information

Prior Introductions: HB 935 of 2002 permitted similar preexisting condition requirements in the small group market. It was reported unfavorably by the House Economic Matters Committee.

Cross File: HB 599 (Delegate Redmer, *et al.*) – Health and Government Operations.

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

Fiscal Note History: First Reader - February 7, 2003
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