

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 303 (Senator Della)
Finance

**Insurers and Health Maintenance Organizations - Prompt Payment - Workers'
Compensation Claims**

This bill requires a health insurer, nonprofit health service plan, or HMO (carrier) to cover claims that may also be covered under a workers' compensation claim.

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the \$125 rate and form filing fee in FY 2007 only. Minimal general fund revenue increase from the State's 2% insurance premium tax on for-profit carriers. Minimal expenditure increase for the State Employee and Retiree Health and Welfare Benefits Program (State plan) beginning in FY 2007.

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 minimal. Expenditures for employee health benefits could increase if carriers raise their premiums as a result of the bill's requirements.

Analysis

Bill Summary: The bill prohibits a carrier from delaying payment for services that may be covered under a workers' compensation claim while the issue of compensability of the workers' compensation claim is being determined. A carrier must comply with current prompt payment provisions for all services rendered to its enrollees for an injury or other

medical condition that is or may be covered under a workers' compensation claim. If an enrollee's medical condition is subsequently determined to be compensable, a carrier can seek reimbursement from the enrollee for whom payment was made.

A carrier may not seek reimbursement from its enrollee for an amount exceeding the lesser of: (1) the amount paid to the provider for the services rendered; or (2) the amount of the medical fees paid under the workers' compensation claim. A carrier may not seek reimbursement from its enrollee for interest it may have paid or is obligated to pay.

Current Law: A carrier must pay a claim for reimbursement within 30 days or send a notice of receipt and status of the claim. If a carrier is refusing to reimburse part or all of the claim, the carrier must state the reason(s) for denial. If a portion of the claim is undisputed, the carrier must promptly pay that portion within 30 days of receipt.

If a carrier fails to comply with prompt payment provisions, the carrier must pay specified interest on the amount of the claim that remains unpaid 30 days after the claim was received. A carrier that violates any of these provisions is subject to a fine not exceeding \$500 for each violation that is arbitrary and capricious, and various penalties prescribed for the commission of these acts with such frequency that indicates a general business practice.

Background: Currently, many carriers exclude coverage for an injury or medical condition that may result in payment under a workers' compensation claim. This practice may require some injured workers to pay out-of-pocket for health care until a workers' compensation claim has been adjudicated.

When a carrier does pay a health care provider for services rendered that subsequently are deemed compensable under a workers' compensation claim, the carrier may seek reimbursement from the health care provider. The provider, in turn, is generally paid by the workers' compensation insurer. The bill permits a carrier to seek reimbursement from the injured worker rather than the health care provider.

State Fiscal Effect:

Maryland Insurance Administration

MIA special fund revenues could increase from the \$125 rate and form filing fee. Carriers would be required to pay for services that ultimately may be determined to be compensable under the workers' compensation law. Carriers could incur additional administrative expenses to seek reimbursement of these payments from enrollees, and in some cases, may not be able to obtain reimbursement. Currently, most carrier contracts

exclude coverage for injuries or diseases that are covered under workers' compensation claims. If the bill is interpreted to prohibit carriers from excluding this coverage, carriers would have to revise any contracts that exclude this coverage, file the revised contract forms with MIA, and pay the \$125 filing fee.

In addition, the regulations implementing the Comprehensive Standard Health Benefit Plan for the small group market exclude coverage for injuries or diseases that are compensable under the workers' compensation law. If carriers are prohibited from excluding this coverage, the regulations would have to be amended. Any changes in regulations could be handled with existing MIA resources.

State Plan

State plan expenditures could increase by a minimal amount beginning in fiscal 2007. Carriers could incur additional administrative expenses seeking reimbursement for payments made for services rendered under a workers' compensation claim and may be unable to obtain reimbursement in some cases. To the extent that administrative costs increase and carriers pass these additional costs on to the State, State plan expenditures could increase. Any increase is assumed to be minimal. State plan expenditures assume a fund mix of 60% general funds, 20% federal funds, and 20% special funds; 20% of expenditures are reimbursable through employee contributions.

Additional Information

Prior Introductions: Identical bills, SB 593 and HB 941 of 2001, were reported unfavorably by the Finance Committee and the Economic Matters Committee, respectively.

Cross File: HB 364 (Delegate Feldman) – Economic Matters.

Information Source(s): Maryland Insurance Administration, Workers' Compensation Commission, Department of Legislative Services

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