

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1280 (Delegate Mizeur)
Health and Government Operations

Gender Equity Health Coverage Act

This bill prohibits an insurer, nonprofit health service plan, or health maintenance organization from considering sex in determining whether to underwrite a particular insurance risk or class of risks in the individual health insurance market. The Insurance Commissioner has to review the underwriting standards of each insurer, nonprofit health service plan, or health maintenance organization offering health insurance in the individual market.

The bill applies to all policies, contracts, and health benefit plans offered to individuals that are issued, delivered, or renewed in the State on or after October 1, 2009.

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 2010. Review of underwriting standards can be handled with existing MIA budgeted resources.

Local Effect: None.

Small Business Effect: None. The bill does not apply to the small group health insurance market.

Analysis

Current Law: Under Title VII of the Civil Rights Act of 1964, employers with 15 or more employees are prohibited from charging employees different premiums for health insurance based on gender or other factors.

In the individual market, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk based on the color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason. An insurer may not require special conditions, facts, or situations as a condition of acceptance or renewal of a particular insurance risk or class of risks in an arbitrary, capricious, unfair, or discriminatory manner based on race, creed, color, sex, religion, national origin, place of residency, blindness, or other physical handicap or disability. Actuarial justification may be considered with respect to sex.

Health maintenance organizations are prohibited from discriminating unfairly on the basis of sex in offering and terminating contracts.

Carriers in the small group market (businesses with 2 to 50 employees) have to use a community rate that must be based on the experience of all risks covered by that health benefit plan without regard to health status or occupation. The rate may only be adjusted for age and geographical location. Carriers may charge a rate that is 40% above or 50% below the community rate and offer a discounted rate of up to 20% to a small employer for participation in a wellness program.

Background: According to the National Women's Law Center (NWLC), nearly two-thirds of all women ages 18 to 64 have insurance through an employer, while 16% are insured through a public program. Only a small percentage of women (about 7%) purchase health insurance directly in the individual market. In a 2008 study, NWLC found that insurance companies in most states are permitted to charge different rates based on gender, which results in wide variations in rates charged to women and men for the same coverage.

A total of 12 states impose some level of prohibition against the use of gender in health insurance rating in the individual market. Of those 12 states, four (Minnesota, Montana, New Hampshire, and North Dakota) outright prohibit insurers from considering gender when setting rates. Six states prohibit the use of gender as a rating factor under community rating, including New York, which imposes pure community rating, and Maine, Massachusetts, New Jersey, Oregon, and Washington, which allow modified community rating. Two states (New Mexico and Vermont) use rate bands to limit insurers' ability to vary rates based on gender.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 17, 2009
mcp/mwc

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510