

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 951

(Senator Conway, *et al.*)

Finance

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Maryland Medical Assistance Program - Orthodontic Care - Reimbursement

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This bill requires the Department of Health and Mental Hygiene (DHMH) to adopt a procedure for the reimbursement of orthodontists that allows for the full amount of reimbursement authorized under the Maryland Medical Assistance Program (Medicaid) for orthodontic care for a Medicaid recipient if: (1) Medicaid covers the orthodontic care; (2) the Medicaid recipient does not receive the full number of authorized visits because the orthodontist treating the recipient determines that it is not medically necessary to the recipient to receive the full number of visits; and (3) for a Medicaid recipient who is a dependent, his or her parent or guardian is satisfied with the orthodontic care provided.

The bill takes effect July 1, 2010.

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Fiscal Summary

**State Effect:** Since the Medicaid program is prohibited from reimbursing for services not rendered, the fiscal impact of the bill cannot be determined at this time.

**Local Effect:** None.

**Small Business Effect:** Since the Medicaid program is prohibited from reimbursing for services not rendered, the fiscal impact of the bill on small health care providers cannot be determined at this time.

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Analysis

**Bill Summary:** “Orthodontic care” means dental services related to the diagnosis and treatment of irregularities of the teeth, malocclusions, and associated oral-facial abnormalities.

## **Current Law/Background:**

*Medicaid and the Maryland Children's Health Program (MCHP):* Medicaid provides health care coverage to children, pregnant women, elderly or disabled individuals, and indigent parents who pass certain income and asset tests. Eligibility for MCHP currently extends to individuals younger than age 19 with family incomes up to 300% of the federal poverty guidelines (FPG). Children in families with incomes above 200% but at or below 300% FPG are enrolled in the MCHP Premium Plan. Individuals who have been eligible for employer-sponsored health insurance in the previous six months are ineligible for MCHP. Children and pregnant women who have not been legal immigrants for at least five years are ineligible for federal Medicaid and MCHP benefits. The State currently provides Medicaid benefits to legal immigrant pregnant women and children who have been in the country for less than five years using general funds only. Emergency services are provided to all financially eligible individuals regardless of immigration status.

Medicaid covers orthodontic care for individuals younger than age 21 for conditions which meet certain requirements and cause specific dysfunction that is supported by specified comprehensive pretreatment orthodontic records. Medicaid also covers orthodontic care for pregnant women and adults in the Rare and Expensive Cases Management Program with significant orthodontic needs.

Medicaid reimburses up to 24 treatment months at an established monthly rate for treatment that meets the standards required under regulations. Medicaid reimburses providers for a preorthodontic treatment visit, a set amount for comprehensive orthodontic care, and then \$75 per adjustment for 24 months, which a provider is paid as he or she completes the course of treatment.

Advances in orthodontic care have led to the development of braces that require fewer adjustments and consequently fewer visits to a treating provider. However, as with many new technologies, these braces tend to be more expensive for the provider to purchase. Therefore, while providers offering such treatment pay more for the braces, they are paid less by the Medicaid program since the treatment requires fewer visits.

DHMH advises that, since benefits in MCHP mirror the Medicaid benefit package, the bill's requirements would also be implemented in MCHP.

**State Fiscal Effect:** Under the bill, DHMH has to adopt a procedure to reimburse orthodontists that allows for the full amount of reimbursement authorized under Medicaid for covered orthodontic care for a Medicaid recipient if the Medicaid recipient does not receive the full number of authorized visits because the orthodontist treating the recipient determines that it is not medically necessary to the recipient to receive the full number of

visits. As mentioned earlier, Medicaid reimburses providers \$75 per adjustment for 24 months. DHMH advises that payment for services not rendered or services that are not medically necessary is against federal policy and would constitute Medicaid fraud. Therefore, the fiscal impact of the bill cannot be determined at this time.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 16, 2010  
mam/mwc

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