

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**

Senate Bill 524

(Senator Pugh, *et al.*)

Finance

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**Health Insurance - Cancer Chemotherapy - Cost Sharing Equity**

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This bill prohibits insurers, nonprofit health service plans, and health maintenance organizations that provide cancer chemotherapy from imposing dollar limits, copayments, deductibles, or coinsurance requirements on coverage for orally administered cancer chemotherapy that are less favorable to an enrollee than those that apply to cancer chemotherapy administered intravenously or by injection.

The bill applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2010.

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**Fiscal Summary**

**State Effect:** Expenditures for the State Employee and Retiree Health and Welfare Benefits Program (State plan) increase by an estimated \$144,500 in FY 2012 due to decreased enrollee cost sharing for oral anti-cancer drugs. Future years reflect annualization and medical inflation. Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the \$125 rate and form filing fee in FY 2011. Review of filings can be handled with existing budgeted MIA resources.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	-	\$0	\$0	\$0	\$0
GF Expenditure	\$0	\$85,300	\$91,200	\$97,600	\$104,500
SF Expenditure	\$0	\$43,400	\$46,400	\$49,600	\$53,100
FF Expenditure	\$0	\$15,900	\$17,000	\$18,200	\$19,500
Net Effect	\$0	(\$144,500)	(\$154,700)	(\$165,500)	(\$177,100)

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

**Local Effect:** Expenditures increase for some local governments due to decreased enrollee cost sharing for oral anti-cancer drugs.

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

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## Analysis

**Current Law:** Statute includes 45 mandated health insurance benefits that certain carriers must provide to their enrollees. Chemotherapy is not one of the mandated benefits.

**Background:** Every four years, the Maryland Health Care Commission (MHCC) examines the fiscal impact of mandated health insurance benefits. In 2008, MHCC found that these benefits account for 15.4% of total premium costs for group health insurance.

### *Health Insurance Mandates as They Relate to State and Local Governments and the Small Group Market*

Employers have two major options when providing health insurance benefits. They can purchase a fully insured plan from an insurance company or they can self-insure by assuming risk and paying all claims for services themselves, usually through a third-party administrator. The federal Employee Retirement Income Security Act (ERISA) preempts states' ability to require private employers to offer insurance coverage and exempts the coverage offered by self-insured entities from state insurance regulation. Therefore, the health insurance requirements under Title 15, Subtitles 4, 7, and 8 of the Insurance Article apply only to fully insured health benefit plans.

Government entities that self-fund their health benefit plans are *not exempt* under ERISA from state regulation and health insurance mandates. In Maryland, these entities have instead been exempt from these requirements based on the State definition of "insurance business." An insurance business includes the transaction of all matters pertaining to an insurance contract, either before or after it takes effect, and all matters arising from an insurance contract or a claim under it. Insurance business *does not* include pooling by public entities for self-insurance of casualty, property, or health risks.

In 2008, the Maryland Association of Counties and the Maryland Association of Boards of Education conducted an informal survey of counties and county school boards about their insurance plans, to which 22 counties and 19 school boards responded. Of the 22 responding counties, 13 were self-insured, 4 were fully insured, and 5 offered both self-insured and fully insured options. Of the 19 responding county school boards, 14 were self-insured, 1 was fully insured, and 4 offered both self-insured and fully insured options. The fully insured plans offered by counties and county school boards are subject to State insurance laws.

Maryland's small group market Comprehensive Standard Health Benefit Plan (CSHBP) is not subject to mandated benefits applicable to the large group market. Rather, MHCC reviews CSHBP on an annual basis and considers making benefit or cost sharing changes at that time.

**State Expenditures:** The Department of Budget and Management (DBM) advises that, in fiscal 2009, the State plan paid for 13,423 prescriptions filled for "anti-neoplastics" (oral anti-cancer drugs) at an average enrollee cost of \$11.48. DBM further advises that the average enrollee cost for intravenous and injection-delivered drugs was \$2.29 in fiscal 2009, \$8.79 less than the enrollee cost for oral anti-cancer drugs.

Although not required to follow health insurance mandates, the State plan generally does. Thus, this estimate is based on the assumption that the State plan will follow the bill's requirements. However, since the State plan contract runs on a fiscal-year basis, the cost sharing specified under the bill would not be included until the fiscal 2012 plan year. State plan expenditures increase by as much as \$144,540 in fiscal 2012, which reflects the bill's October 1, 2010 effective date. This estimate assumes that the State plan pays the additional \$10.77 (\$8.79 adjusted for inflation) for State plan enrollees who take oral anti-cancer drugs. Future years reflect annualization and 7% medical inflation.

State plan expenditures are split 59% general funds, 30% special funds, and 11% federal funds.

**Local Expenditures:** Local government expenditures (for those that purchase fully insured plans from an insurance company) increase for some local governments beginning in fiscal 2011 due to decreased enrollee cost sharing for oral anti-cancer drugs.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 626 (Delegate Nathan-Pulliam, *et al.*) – Health and Government Operations.

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

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