

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 704

(Senator Garagiola, *et al.*)

Finance

Health and Government Operations

**Insurance - Coordination of Benefits - Health Insurance and Personal Injury
Protection**

This bill prohibits health insurers, nonprofit health plans, and health maintenance organizations (HMOs) from requiring that personal injury protection (PIP) benefits under a motor vehicle liability insurance policy be paid before benefits under the health insurance policy.

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

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration in FY 2011 from the \$125 rate and form filing fee. Review and approval of forms and rate filings can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: In general, an insurer that issues, sells, or delivers a motor vehicle liability insurance policy in the State must provide coverage, known as PIP, for the medical, hospital, and disability benefits to individuals injured in a motor vehicle accident. Benefits are payable despite the fault or nonfault of the insured or benefits recipient, or any collateral source of medical, hospital, or wage continuation benefits. The minimum medical, hospital, and disability benefit under PIP is \$2,500 for payment of all reasonable and necessary expenses that arise from a motor vehicle accident and are incurred within three years after the accident for specified services and lost income.

If specified requirements are met, a primary insured may waive PIP coverage for himself or herself. A waiver of PIP coverage by the primary insured is binding on each named insured, each listed driver, and each member of the primary insured's family over the age of 16 and living in the household.

If an insured has both PIP coverage and collateral coverage, the insurer or insurers may coordinate the policies to ensure nonduplication of benefits, subject to appropriate reductions in premiums for one or both of the policies. The insured may choose to coordinate the policies by indicating which policy will be the primary policy, or reject the coordination of policies and nonduplication of benefits.

An insurer under a PIP policy may not impose a surcharge or retitle a policy for a claim or payment made under that coverage and, at the time that policy is issued, must notify the policyholder of this prohibition.

Health insurers and nonprofit health service plans may contain nonduplication provisions to coordinate coverage with other health insurance policies, including HMOs, and other established programs under which an insured may make a claim. A contract between an HMO and its subscriber or group of subscribers may not recover any payments made to a subscriber under a PIP policy.

Background: A decision by the Maryland Special Court of Appeals in October 2009 upheld the health insurer's right to exclude liability for medical expenses covered by an auto insurer's PIP coverage. The court ruled that health insurance was not included under the "collateral source of medical, hospital, or wage continuation benefits" referenced in Title 19 of the Insurance Article.

Additional Information

Prior Introductions: None.

Cross File: HB 1073 (Delegate Pena-Melnyk, *et al.*) - Health and Government Operations.

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

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