

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 585 (Delegate V Clagett)
Health and Government Operations

Health Insurance - Mandated Benefits - Dental Implants

This bill alters the existing health insurance mandate regarding coverage of diagnostic and surgical procedures for bones of the face, neck, or head by requiring all carriers, including insurers and nonprofit health service plans to provide coverage for dental implant devices. The bill also extends the entire diagnostic and surgical procedures for bones of the face, neck, or head mandate to health maintenance organizations (HMOs) and plans issued in the small group market.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) 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. The State Employee and Retiree Health and Welfare Benefits Program (State plan) already covers dental implants.

Local Effect: Expenditures may increase for some local governments to the extent that dental implants are not already covered.

Small Business Effect: Potential increase in expenditures for the Comprehensive Standard Health Benefit Plan (CSHBP) to cover dental implants or dental treatment in connection with operations on the teeth or supporting tissues of the teeth.

Analysis

Current Law: Insurers and nonprofit health service plans in the group and individual health insurance markets must cover face, neck, and head bone and joint conditions if other skeletal bones and joints are covered, and if the procedure is medically necessary to treat a condition caused by a congenital deformity, disease, or injury. This mandate does not include intraoral prosthetic devices.

Background: According to the American Dental Association, dental implants are an alternative to crowns and conventional bridges or dentures. Surgically placed below the gums over a series of appointments, implants fuse to the jawbone and serve as a base for individual replacement teeth, bridges, or a denture. Integration of the implants into the jaw helps replacement teeth feel more natural and securely fit than conventional substitutes.

Diagnostic and surgical procedures for bones of the face, neck, or head constitute 1 of 45 mandated health insurance benefits that certain carriers must provide to their enrollees. Every four years, the Maryland Health Care Commission (MHCC) examines the fiscal impact of mandated benefits. In 2008, MHCC found that these benefits account for 15.4% of total premium costs for group health insurance and 18.6% of total premium costs for individual policies. However, diagnostic and surgical procedures for bones of the face, neck, or head do not currently account for any measurable premium cost percentage.

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 is typically 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. CSHBP specifically excludes coverage of dental implants or dental treatment in connection with operations on the teeth or supporting tissues of the teeth, except for removal of tumors and cysts or treatment of injury to natural teeth due to an accident if the treatment is received within six months of the accident.

Local Expenditures: Local government expenditures (for those that purchase fully insured plans from an insurance company) may increase for some local governments that do not already cover dental implants.

Small Business Effect: As indicated earlier, CSHBP is generally 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. However, since this bill does apply to the small group market, expenditures for CSHBP potentially increase to cover dental implants or dental treatments in connection with operations on the teeth or supporting tissues of the teeth.

Additional Comments: The Department of Budget and Management indicates that dental implants are currently covered under the State plan's dental provider contract, and that covering the same benefit under its medical plans will increase State plan costs since the State plan covers 80% of the premium for medical plans compared to just 50% of the premium for dental provider contracts. However, Legislative Services assumes that, since the State is not required to follow health insurance mandates and already covers dental implants, the State would not choose to pay more for a benefit it already provides.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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