

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

**FISCAL AND POLICY NOTE**

Senate Bill 445

(Senator Madaleno, *et al.*)

Finance

**Health Insurance - Habilitative Services - Required Coverage**

This bill increases the age limit for mandated coverage of habilitative services for dependents from 19 to 25.

The bill takes effect July 1, 2010.

**Fiscal Summary**

**State Effect:** Expenditures for the State Employee and Retiree Health and Welfare Benefits Program (State plan) increase by an estimated \$287,200 in FY 2011 to cover habilitative services for dependents aged 19 to 24. Future years reflect 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	\$169,400	\$181,300	\$194,000	\$207,500	\$222,100
SF Expenditure	\$86,100	\$92,200	\$98,600	\$105,500	\$112,900
FF Expenditure	\$31,600	\$33,800	\$36,200	\$38,700	\$41,400
Net Effect	(\$287,200)	(\$307,300)	(\$328,800)	(\$351,800)	(\$376,400)

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

**Local Effect:** Expenditures for some local governments increase beginning in FY 2011.

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

## Analysis

**Current Law:** Habilitative services include occupational therapy, physical therapy, and speech therapy for the treatment of a child with a congenital or genetic birth defect to enhance the child's ability to function. Carriers must cover habilitative services for children younger than age 19 and may do so through a managed care system. Carriers are not required to provide reimbursement for habilitative services delivered through early intervention or school services. Carriers must provide annual notice to insureds and enrollees about coverage of habilitative services. Denial of a request or payment for habilitative services on the grounds that a condition or disease is not a congenital or genetic birth defect is an adverse decision and subject to appeal.

**Background:** Coverage of habilitative services for children is 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. Coverage of habilitative services accounts for 0.1% of total premium costs for both group and individual health insurance policies.

### *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. CSHBP does cover habilitative services for children younger than 19 to treat congenital or genetic birth defects.

**State Fiscal Effect:** The Department of Budget and Management (DBM) advises that 12,213 dependents between the ages of 18 and 23 are currently enrolled in the State plan and will qualify under the new age limit when the bill takes effect. In addition, approximately 1 in 97 children receive habilitative services. DBM further estimates that each enrollee who receives habilitative services makes 50 office visits per year at a cost of \$45.58 to the State plan. Legislative Services' estimate is based on these assumptions.

State plan expenditures increase by an estimated \$287,154 in fiscal 2011 to cover habilitative services for approximately 126 children between the ages of 19 and 24. Future years reflect 7% annual medical inflation.

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

**Local Fiscal Effect:** Local government expenditures (for those that purchase fully insured plans from an insurance company) increase for some local governments beginning in fiscal 2011 to cover additional services for dependents aged 19 to 24.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 198 (Delegate Bronrott, *et al.*) - Health and Government Operations.

**Information Source(s):** CareFirst Blue Cross/Blue Shield, 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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