Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 163 (Senators Conway and Pugh)
Finance

Health Insurance - Diabetes Treatment - Coverage for Orthotics

This bill requires insurers, nonprofit health service plans, or health maintenance organizations (carriers) that are required to provide coverage for medically appropriate and necessary diabetes equipment, supplies, and outpatient self-management training and educational services to also provide coverage for orthotics for the management of diabetic feet. However, orthotics must be certified by the insured's or enrollee's health care provider (or a physician specializing in the treatment of diabetes) as necessary for the treatment of diabetes.

The bill applies to all policies and contracts issued, delivered, or renewed in the State on or after October 1, 2012.

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration in FY 2013 from the $125 rate and form filing fee. Review and approval of form filings can be handled with existing budgeted resources. No impact on expenditures for the State Employee and Retiree Health and Welfare Benefits Program (State plan) as it includes coverage for medically necessary orthotics. The bill does not apply to Medicaid or the Maryland Health Insurance Plan.

Local Effect: Potential minimal increase in health insurance costs for local jurisdictions to the extent that coverage of orthotics for diabetic feet is not already provided.

Small Business Effect: Potential minimal increase in revenues for small businesses that provide orthotics to individuals with diabetes. The bill does not apply to the small group market.

Analysis

Current Law: Carriers in the individual and group health insurance markets must provide coverage for all medically appropriate and necessary diabetes equipment, diabetes supplies, and diabetes outpatient self-management training and educational services, including medical nutrition therapy.

The Comprehensive Standard Health Benefit Plan (CSHBP) sold in the small group market provides coverage for all medically necessary supplies and equipment.

Background: Nationally, diabetes affects an estimated 25.8 million individuals (8.3% of the U.S. population and 26.9% of individuals age 65 and older). The incidence of diabetes in Maryland is higher than nationally – 8.7% of Maryland adults are diabetic.

Proper foot care is important for individuals with diabetes as the disease slows wound healing and often leads to foot problems such as neuropathy (nerve damage that lessons the ability to feel pain, heat, and cold) and poor circulation. Diabetics are far more likely to have a foot or leg amputated. Properly fitting footwear plays an important role in diabetic foot care. Orthotics may be recommended to treat diabetic feet.

Coverage of orthotics for diabetic patients varies under Medicaid. The HealthChoice program covers diabetes-related orthotic devices and related services to prevent or delay a foot amputation that would be highly probable in the absence of the specialized footwear. The Primary Adult Care program covers only noncustom orthotics, while the Medicaid fee-for-service program does not cover orthotics of any type or related services.

The federal Medicare program covers therapeutic shoes, inserts, or shoe modifications for individuals with severe diabetic foot disease. The treating health care provider must certify an individual's need for such items. A podiatrist or other qualified doctor must prescribe the shoes, inserts, or modifications, and a doctor or other qualified individual (*e.g.*, pedorthist, orthotist, or prosthetist) must fit and provide them. Medicare covers 80% of the Medicare-approved amount (after the Medicare Part B deductible has been met), while the patient pays the remaining 20%, with a limit of one pair of therapeutic shoes, inserts, or modifications per calendar year.

Every four years, the Maryland Health Care Commission (MHCC) examines the fiscal impact of mandated health insurance benefits. MHCC's January 2012 report found that the full cost of all 45 mandated benefits accounts for total premium costs of 18.8% for group health insurance, 19.6% for individual policies, and 17.9% for the State plan. Coverage for diabetes equipment, supplies, and self-management training and educational services accounts for total premium costs of 0.2% for group health insurance, 0.1% for CSHBP, 0.1% for individual policies, and 0.2% for the State plan. Significantly

more than half (but not all) of the surveyed employers with self-funded plans provide benefits that comply fully with the mandate requirement.

Under federal health care reform, beginning January 1, 2014, all health plans offered through the new health benefit exchange marketplaces must include certain "essential health benefits." Under the federal Affordable Care Act, each state must pay, for every health plan purchased through the exchange, the additional premium associated with any state-mandated benefit beyond the essential health benefits. States can choose one of four benchmark plans to meet the requirement for essential health benefits: (1) one of the three largest small group plans in the state by enrollment; (2) one of the three largest state employee health benefit plans by enrollment; (3) one of the three largest federal employee health benefit plans by enrollment; or (4) the largest insured commercial non-Medicaid health maintenance organization operating in the state. Any Maryland mandates that apply to the selected benchmark plan will apply to the essential health benefits package in 2014 and 2015. The U.S. Department of Health and Human Services advised in December 2011 that any new mandate enacted during the 2012 legislative session or beyond, or any benefits that do not apply to the benchmark plan, *will not* apply to the essential health benefits package, and thus the State will be liable for the cost of the additional premiums associated with those benefits. Legislative Services notes that this advice could be subject to change.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): American Diabetes Association, U.S. Centers for Medicare and Medicaid Services, 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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Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510