

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 928

(Senators Astle and Middleton)

Finance

Health and Government Operations

Health Insurance - Fees for Administrative Services Provided by Insurance
Producers - Authorized

This bill authorizes an insurance producer who is licensed to sell health insurance to charge reasonable fees for an “administrative service” that is sold to employers. Fees may not be charged for services that are compensated by commissions or other compensation paid by an insurer, nonprofit health service plan, or health maintenance organization (HMO). Likewise, fees may not be charged for services that are performed by the insurance producer acting as a third-party administrator or an insurance adviser.

Fiscal Summary

State Effect: The Maryland Insurance Administration (MIA) can adopt the required regulations within existing budgeted resources. No impact on the State Employee and Retiree Health and Welfare Benefits Program because the Department of Budget and Management does not use insurance producers.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Administrative service” means a service, other than a service related to the sale, solicitation, negotiation, or servicing of a health benefit plan, that an insurance producer provides to assist an employer in (1) complying with a statutory or regulatory requirement; (2) providing an employee benefit on behalf of the employer; or (3) performing functions related to the management of employees of the employer.

Before charging a fee, an insurance producer must disclose in a clear and conspicuous manner (on a form adopted by the Insurance Commissioner by regulation) each administrative service to be provided; the fee for each administrative service; and, if the insurance producer sells a health benefit plan to the employer, the amount of commission or other compensation that the insurance producer will receive from an insurer, nonprofit health service plan, or HMO related to the health benefit plan. The disclosure form must be signed by the insurance producer and an authorized representative of the employer and retained by the insurance producer as required by regulations adopted by the Insurance Commissioner.

Current Law: An insurance producer is a person who, for compensation, sells, solicits, or negotiates insurance contracts or the renewal or continuance of these insurance contracts. An insurance producer must be licensed by the Maryland Insurance Administration and have an appointment from an insurer before acting on behalf of the insurer.

Section 27-216 of the Insurance Article prohibits an individual from collecting a premium or charge for insurance if the insurance is not then provided (or to be provided subject to underwriting). However, an insurance producer may charge a fee of up to 15% of the premium for services rendered if commissions are not payable by the insurer.

Generally, under §§ 27-209 and 27-212 of the Insurance Article, insurers, employees or representatives of an insurer, and insurance producers are prohibited from knowingly giving, either directly or indirectly, an inducement to insurance, including any valuable consideration or other inducement not specified in the contract.

Background: In some instances, insurance producers provide noninsurance-related services to small businesses, such as administration of continuation coverage under COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) benefits or management of leave for employees. While insurance producers are compensated for the sale of health insurance to the employer (almost exclusively through commissions from the issuing insurance company, but at times through a fee of up to 15% of the premium), current law does not specifically authorize an insurance producer to charge for other noninsurance-related services. An insurance producer that provides additional services to clients must provide such services uniformly to all clients or may be found in violation of the prohibition on inducement. This bill will help MIA enforce the prohibition on inducement by authorizing insurance producers to charge a fee for noninsurance-related services and requiring specific disclosure.

Additional Information

Prior Introductions: None.

Cross File: HB 982 (Delegate Davis) - Health and Government Operations.

Information Source(s): National Association of Insurance and Financial Advisors of Maryland, Maryland Association of Health Underwriters, Maryland Health Insurance Plan, Maryland Insurance Administration, Department of Budget and Management, Department of Legislative Services

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Analysis by: Jennifer B. Chasse

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