

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 800 (Chair, Health and Government Operations  
Committee)(By Request - Departmental - Maryland  
Insurance Administration)

Health and Government Operations

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**Health Insurance - Payments to Noncontracting Specialists and Noncontracting  
Nonphysician Specialists**

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This departmental bill requires a carrier to pay a specified rate for covered services provided to a member by a noncontracting specialist or nonphysician specialist because a network provider is not available. An insurer, nonprofit health service plan, or dental plan organization must pay at least 140% of the Medicare rate for the same covered service provided by a similarly licensed provider in the same geographic area. A health maintenance organization (HMO) must pay the greater of this amount or the amount specified for noncontracting providers under current law.

The bill takes effect June 1, 2016.

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**Fiscal Summary**

**State Effect:** Any impact on the Maryland Insurance Administration (MIA) can be handled within existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** MIA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

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## Analysis

**Current Law:** Each carrier must establish and implement a procedure by which a member may request a referral to a specialist or nonphysician specialist who is not part of the carrier's provider panel. The procedure must provide for such a referral if (1) the member is diagnosed with a condition or disease that requires specialized health care services or medical care and (2) the carrier either does not have in its provider panel a specialist or nonphysician specialist with the professional training and expertise to treat or provide health care services for the condition or disease, or the carrier cannot provide reasonable access to such a specialist or nonphysician specialist without unreasonable delay or travel.

Section 19-710.1 of the Health-General Article specifies how much an HMO must pay for a covered service rendered to an enrollee by a noncontracting provider. For an evaluation and management service, an HMO must pay the greater of (1) 125% of the average rate the HMO paid as of January 1 of the previous calendar year in the same geographic area, for the same covered service, to similarly licensed contracting providers or (2) 140% of the Medicare rate for the same covered service to a similarly licensed provider in the same geographic area. For a service that is not an evaluation and management service, an HMO must pay at least 125% of the average rate the HMO paid as of January 1 of the previous calendar year in the same geographic area to a similarly licensed contracting provider for the same covered service. An HMO must pay a noncontracting trauma physician the greater of (1) 140% of the Medicare rate or (2) the rate the HMO paid, as of January 1, 2001, in the same geographic area, for the same covered service, to a similarly licensed provider.

**Background:** MIA advises that it has received an increased number of complaints regarding the level of payment when individuals receive covered services from noncontracting providers because a contracting provider is not available. Although current law provides access to noncontracting specialists if a contracting provider is not available, it does not establish an allowed amount or minimum that carriers must pay. Therefore, carriers often pay noncontracting specialists much less than the billed amounts and noncontracting specialists balance bill the remainder to the patient (with the exception of HMO members, for which balance billing is prohibited).

In February 2015, Governor Hogan established, by executive order, the Heroin and Opioid Emergency Task Force. To address concerns regarding network adequacy, in the [Final Report of the Heroin and Opioid Emergency Task Force](#), issued in December 2015, the task force recommended legislation to require that the allowed amount an insurance carrier uses to pay benefits to noncontracting providers (when the provider network is inadequate, not when a patient voluntarily goes out-of-network for services) be no less than 140% of the allowed Medicare amount. The bill implements this recommendation and is intended

to give carriers more incentive to contract with providers and assure members that they get a reasonable benefit when a network provider is not readily available.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Maryland Insurance Administration, Heroin and Opioid Emergency Task Force, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2016  
kb/ljm

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**ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**

**TITLE OF BILL:**    **Health Insurance—Payments to Non-Contracting Specialists and to Non-Contracting Nonphysician Specialists**

**BILL NUMBER:**    HB 800

**PREPARED BY:**  
(Dept./Agency)    **Maryland Insurance Administration**

**PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

  **X**      WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
          SMALL BUSINESS

OR

          WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
          SMALL BUSINESSES

**PART B. ECONOMIC IMPACT ANALYSIS**