HB 539

Department of Legislative Services

Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 539 (Delegate Kelly)
Health and Government Operations

Health Insurance - Habilitative Services - Period of Time for Coverage

This bill revises the current mandated health insurance benefit for habilitative services to be consistent with federal regulations adopted under the Patient Protection and Affordable Care Act (ACA). The bill updates the definition of "habilitative services," clarifies the timeframe for coverage for children, and repeals the requirement that a child have a congenital or genetic birth defect to quality for services.

The bill applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after the bill's October 1, 2016 effective date.

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the $125 rate and form filing fee. Review of additional form filings can be handled with existing budgeted resources. Expenditures for the State Employee Health and Welfare Benefits Program (State plan) may increase by a minimal amount to provide coverage for devices.

Local Effect: Any impact on health insurance costs for local governments is anticipated to be minimal.

Small Business Effect: None. Small employer nongrandfathered health plans are already subject to these requirements. Small employer grandfathered health plans are exempt from Maryland mandates.

Analysis

Bill Summary: The definition of "habilitative services" is expanded to include services *and devices*, including occupational therapy, physical therapy, and speech therapy, *that help a child keep, learn, or improve skills and functioning for daily living*. A carrier must provide coverage of habilitative services for insureds and enrollees who are children until at least the end of the month in which the insured or enrollee turns age 19. The bill repeals the provision that a determination by a carrier denying a request for or payment for habilitative services on the grounds that a condition or disease is not a congenital or genetic birth defect is considered an adverse decision. The definition of congenital or genetic birth defect is also repealed.

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. Congenital or genetic birth defects include, but are not limited to, autism or autism spectrum disorder, cerebral palsy, intellectual disability, Down syndrome, spina bifida, hydroencephalocele, and congenital or genetic developmental disabilities.

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. Determination by a carrier of whether habilitative services are medically necessary and appropriate to treat autism and autism spectrum disorders must be made in accordance with regulations adopted by the Insurance Commissioner.

Under ACA, nongrandfathered health plans in the individual and small group markets must include items and services within at least 10 specified essential health benefits, including "rehabilitative and habilitative services and devices." Grandfathered health plans are those plans existing without major changes to their provisions since March 23, 2010, the date of enactment of ACA. Grandfathered plans are required to meet some but not all ACA requirements.

Federal regulations generally state that coverage of habilitative services should cover health care services and devices that help a person keep, learn, or improve skills and functioning for daily living, which may include physical and occupational therapy, speech-language pathology, and other services for people with disabilities in a variety of inpatient and/or outpatient settings. The regulations also require that, for plan years

beginning on or after January 1, 2016, pediatric habilitative services be provided until at least the end of the month in which the enrollee turns age 19.

Background: According to MIA, the requirements of the bill are already being applied to individual and small group nongrandfathered health benefit plans. The bill extends these requirements to individual grandfathered health plans and large group grandfathered and nongrandfathered health plans.

Additional Information

Prior Introductions: None.

Cross File: SB 297 (Senator Madaleno) - Finance.

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

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