SB 206

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 206 (Senator Manno)
Finance

Long-Term Care Insurance - Premium Rates and Benefits

This bill prohibits a carrier from imposing a long-term care insurance premium rate increase on specified insureds or certificate holders. A carrier must provide specified written notice of each approved premium rate increase to an insured or certificate holder at least 90 days before the increase becomes effective. Certain insureds or certificate holders are authorized to convert their coverage and elect to receive specified benefits and to retain specified inflated benefit amounts. The bill also imposes a moratorium on any long-term care insurance premium rate increase from June 1, 2018, through December 31, 2019, and imposes restrictions on certain rate increases beginning January 1, 2020. Medicaid may not consider specified income sources when determining allowable yearly income levels or available income for eligibility determination. **The bill takes effect June 1, 2018, and applies to all policies, contracts, or certificates of long-term care insurance issued, delivered, or in effect in the State and rate filings submitted to the Insurance Commissioner on or after that date.**

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the $125 rate and form filing fee in FY 2020. Contractual assistance may be required to review additional filings. Medicaid expenditures (50% federal funds, 50% general funds) increase significantly beginning in FY 2020. Potential increase in general fund expenditures in FY 2020 for training. **This bill increases the cost of an entitlement program beginning in FY 2020.**

Local Effect: Minimal increase in local area agency on aging (AAA) expenditures due to increased referrals. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Prohibition on Premium Rate Increases for Specified Insureds or Certificate Holders

A premium rate increase may not be imposed on an insured or certificate holder who (1) agreed to the reduction of the daily benefit amount to an amount less than 70% of the current cost of nursing home care; (2) agreed to the reduction of the duration of the insurance; (3) is at least 70 years old and has held long-term care insurance for at least 10 years; or (4) is at least 80 years old.

Written Notice of Premium Rate Increases

The required notice must include (1) the options available to the insured or certificate holder to convert the coverage to paid-up status and any other options available to alter the insurance or receive benefits in light of the increase and (2) a referral for an in-person counseling session with the Maryland State Health Insurance Assistance Program (SHIP).

Restrictions on Premium Rate Increases

Following the moratorium on premium rate increases, beginning January 1, 2020, a carrier may increase a long-term care insurance premium only if (1) the premium rate increase has been filed with and approved by the Commissioner and (2) for a premium rate increase of more than 20% during the duration of the policy or contract, the carrier imposes offsetting reductions in company expenses.

Conversion to Paid-up Status

If a long-term care premium rate increase is approved and the insured or certificate holder has held the insurance for at least 10 years, the insured or certificate holder may convert the coverage to paid-up status and elect to receive benefits equal to the previously paid premiums. Any benefits paid out following conversion may not be considered available income for purposes of Medicaid eligibility.

Inflation Protection

If an insured or certificate holder drops the inflation protection feature of a policy or certificate, the insured or certificate holder may retain the inflated daily benefit amount and the inflated lifetime benefit amount provided on the date the inflation protection feature was dropped.

Medicaid Allowable Yearly Income Levels and Available Income

Medicaid, in determining allowable yearly income levels for eligibility, may not consider (1) benefits paid to an individual when a long-term care insurance policy or contract converts to a paid-up status or (2) distributions from a 401K plan. Any benefits paid out after a long-term care insurance policy or contract converts to a paid-up status may not be considered available income for purposes of Medicaid eligibility.

Current Law: Chapter 672 of 2017 prohibits a carrier from charging a premium to an insured under a long-term care policy or contract or changing the premium charged before the premium rate or rate change has been filed with and approved by the Commissioner. The Commissioner must provide specified information about long-term care insurance premium rates on the MIA website.

The Commissioner must disapprove or modify a proposed premium rate filing if, based on actuarial analysis and reasonable assumptions, the rate appears to be inadequate, unfairly discriminatory, or excessive in relation to benefits. In determining whether to disapprove or modify a premium rate filing, the Commissioner must consider (1) past and prospective loss experience inside and outside of the State; (2) underwriting practice and judgment; (3) a reasonable margin for reserve needs; (4) past and prospective expenses, nationally and in Maryland; and (5) any other relevant factors. Each decision or finding of the Commissioner about premium rates is subject to judicial review.

Although there is no rate cap in statute, under Maryland regulations, a carrier may not raise long-term care insurance premiums by more than 15% in any 12-month period. However, an increase can be in excess of 15% if the carrier demonstrates that the utilization of policy benefits is greatly in excess of the expected rate.

A carrier must provide a one-time written notice at the time the policy or contract is issued that an insured may access information about proposed rate increases on the MIA website.

Generally, when determining Medicaid eligibility for individuals in long-term care, Medicaid must deduct certain expenses to determine the available income for covering the cost of care. These deductions include (1) a personal needs allowance (about $76 per month); (2) a spousal or family allowance; (3) a residential maintenance allowance for a single person; and (4) incurred medical expenses that are not subject to payment by a third party (*i.e.*, Medicare and health insurance premiums and necessary medical care or remedial services recognized under State law but not subject to Medicaid reimbursement). Medically needy individuals are required to contribute all of their available income to the long-term care facility, with Medicaid making up the difference in cost.

Background: According to MIA, approximately 150,000 Marylanders are covered by long-term care insurance. Twenty-one carriers are authorized to sell approved individual long-term care insurance policies in Maryland.

The Maryland Long-Term Care Insurance Partnership Program is a partnership between Maryland and private insurance companies that issue long-term care policies. A policy sold under the program must meet the same standards as a typical long-term care policy. In addition, a partnership policy must meet certain specific federal and State requirements and be certified as a "long-term care partnership policy" by the Commissioner. Unlike regular long-term care policies, partnership policies permit the insured to protect additional assets from spend-down requirements under Medicaid.

State Fiscal Effect:

Medicaid

The bill prohibits Medicaid from considering benefits paid when a long-term care insurance policy or contract converts to paid-up status as available income for purposes of Medicaid eligibility. The majority of individuals with long-term care insurance currently apply their insurance payments toward their cost of care. The Maryland Department of Health (MDH) advises that this prohibition accelerates Medicaid eligibility for individuals who elect to convert to paid-up status by making Medicaid the primary payor for long-term care for such individuals. Medicaid expenditures, therefore, increase by a *significant* amount beginning in fiscal 2020 (50% federal funds, 50% general funds). Federal matching fund revenues increase correspondingly.

As the option to convert to paid-up status is triggered if a long-term care premium rate increase is approved (and the insured or certificate holder has held the insurance for at least 10 years), no conversions are anticipated to occur until at least the second half of fiscal 2020, due to the bill's moratorium on rate increases until January 1, 2020.

The annual cost of nursing home care covered by Medicaid is $86,967. MDH estimates that 2,385 nursing home residents could be made eligible for Medicaid under the bill, thus increasing Medicaid expenditures by a total of $207.4 million annually. The Department of Legislative Services notes that actual expenditures will depend on how many insureds and certificate holders elect to convert to paid-up status and subsequently require Medicaid services. *For illustrative purposes only*, for every 100 such individuals, Medicaid expenditures increase by $8.7 million annually (50% federal funds, 50% general funds).

While the bill also prohibits Medicaid from considering distributions from a 401K plan in determining allowable yearly income levels for eligibility, MDH advises that 401K distributions are clearly defined as income and, thus, could not be waived or disregarded as income as part of the Medicaid eligibility process.

Maryland Insurance Administration

MIA special fund expenditures likely increase in fiscal 2020 for contractual assistance to review additional policy forms and premium rate increases. MIA anticipates that every long-term care insurance carrier that elects to remain in the market will likely submit rate filings on or about January 1, 2020, at the end of the bill's moratorium on premium rate increases.

Maryland Department of Aging

Maryland Department of Aging (MDOA) general fund expenditures may increase minimally in fiscal 2020 to provide additional training to SHIP counselors about long-term care insurance to ensure that counselors can adequately assist consumers.

Local Expenditures: MDOA advises that local governments, which serve as the State's AAAs, could see a significant increase in the number of referrals and counseling sessions provided under SHIP. Although SHIP is federally funded, local government expenditures may increase to supplement provision of SHIP services as required under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Aging; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

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