

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 137

(Senator Reilly, *et al.*)

Finance

Health and Government Operations

Health Insurance - Coverage for Male Sterilization - High-Deductible Health Plans

This emergency bill authorizes a high-deductible health plan (HDHP) to apply a deductible to coverage for male sterilization. The bill applies to all policies, contracts, and health benefit plans issued, delivered, amended, or renewed in the State on or after the effective date of the bill. The bill remains in effect until a specified determination is made.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill must remain in effect until the U.S. Secretary of the Treasury or other U.S. Treasury official determines that an HDHP that meets the male sterilization coverage requirements meets the qualifications for health savings account-qualified HDHPs under the safe harbor provisions for “preventive care” under the Internal Revenue Code. If such a determination is made, the bill terminates. If the Insurance Commissioner receives notice of such a determination, the Commissioner must forward a copy of the notice to the Department of Legislative Services within five days after receipt.

Current Law: Chapters 436 and 437 of 2016 require insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) that provide

hospital, medical, or surgical benefits to groups to provide coverage for male sterilization, effective January 1, 2018. Any carriers that provide coverage for male sterilization must provide such coverage with no copayment, coinsurance, or deductible requirement. Health plans grandfathered under the federal Patient Protection and Affordable Care Act are exempt from this prohibition.

HDHPs are health insurance plans with lower premiums and higher deductibles than traditional health insurance plans. HDHPs are often combined with a health savings account or health reimbursement account. An HDHP, as defined by 26 U.S.C. § 223, means a health plan (1) that has an annual deductible of at least \$1,000 for individual coverage and \$2,000 for family coverage and (2) for which the sum of the annual deductible and the other annual out-of-pocket expenses required to be paid under the plan (other than for premiums) for covered benefits does not exceed \$5,000 for individual coverage and \$10,000 for family coverage. Federal law provides for annual inflationary adjustments to the annual deductible under an HDHP. As determined by the Internal Revenue Service (IRS), the calendar 2018 deductible is \$1,350 for an individual and \$2,700 for a family.

Background: On March 5, 2018, the IRS issued [Notice 2018-12](#), which stated that a health plan that provides benefits for male sterilization before satisfying the minimum deductible for an HDHP does not constitute an HDHP, regardless of whether such coverage is required by state law. However, the notice provides transitional relief until calendar 2020. Thus, until 2020, an individual will not be treated as failing to qualify as an eligible individual merely because the individual is covered by a health insurance policy or an arrangement that fails to qualify as an HDHP solely because it provides (or provided) coverage for male sterilization without a deductible or with a deductible below the minimum deductible for an HDHP.

Additional Information

Prior Introductions: SB 1156 of 2017, substantially similar legislation, received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 1557, received a hearing in the House Health and Government Operations Committee and was subsequently withdrawn.

Cross File: HB 135 (Delegate Hill, *et al.*) - Health and Government Operations.

Information Source(s): Internal Revenue Service; Department of Budget and Management; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2018
mm/ljm Third Reader - March 20, 2018
Revised - Amendment(s) - March 20, 2018

Analysis by: Jennifer B. Chasse

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