

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 387
 Finance

(Senator Middleton)

Health and Government Operations

Health Insurance – Individual Market Stabilization (Maryland Health Care Access Act of 2018)

This emergency bill establishes a health insurance provider fee assessment on specified entities for calendar 2019 only. The bill adds one member to the Maryland Health Insurance Coverage Protection Commission and requires the commission to study and make recommendations regarding individual and group health insurance market stability. The bill also clarifies that association health plans may offer coverage in the State but must comply with specified requirements. The definition of “short-term limited duration insurance” is also clarified.

Fiscal Summary

State Effect: Maryland Insurance Administration (MIA) special fund revenues increase minimally from the \$125 rate and form filing fee in FY 2018 only. Special fund revenues increase by \$280.8 million in FY 2019 and \$84.2 million in FY 2020 from the health insurance provider fee assessment. General and federal fund expenditures increase in FY 2019 and 2020 to pay the Medicaid share of the assessment for calendar 2019.

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Revenue	-	\$280.8	\$84.2	\$0	\$0
FF Revenue	\$0	\$52.2	\$52.2	\$0	\$0
GF Expenditure	\$0	\$32.1	\$32.0	\$0	\$0
FF Expenditure	\$0	\$52.2	\$52.2	\$0	\$0
Net Effect	-	\$248.7	\$52.2	\$0.0	\$0.0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Health Insurance Provider Fee Assessment

In calendar 2019, in addition to other amounts due, an insurer, a nonprofit health service plan, a health maintenance organization (HMO), a dental plan organization, a fraternal benefit organization, any other person subject to State regulation that provides a product that is subject to a specified federal fee, and a Medicaid managed care organization (MCO) must be subject to an assessment of 2.75% on all amounts used to calculate the entity's premium tax liability or the amount of the entity's premium tax exemption value for calendar 2018. The assessment must be distributed to the Maryland Health Benefit Exchange (MHBE) Fund. The purpose of the assessment is to recoup the aggregate amount of the health insurance provider fee that otherwise would have been assessed under the federal Patient Protection and Affordable Care Act (ACA) that is attributable to State health risk for calendar 2019 as a bridge to stability in the individual market.

Maryland Health Insurance Coverage Protection Commission

Uncodified language adds one representative of a group model HMO that participates in the individual market to the membership of the commission.

The commission is required to study and make recommendations for individual and group health insurance market stability, including (1) the components of one or more federal Section 1332 waivers to ensure market stability; (2) whether to pursue a standard plan design that limits cost sharing; (3) whether to merge the individual and small group health insurance markets in the State for rating purposes; (4) whether to pursue a Basic Health Program and/or Medicaid buy-in program; (5) whether to provide subsidies that supplement federal premium tax credits or cost-sharing reductions; and (6) whether to adopt a State-based individual health insurance mandate and how to use payments from those who do not maintain essential minimum coverage. The commission must engage an independent actuarial firm to assist in this study. The commission must include its findings and recommendations from the study in its annual report by December 31, 2019.

Association Health Plans and Short-term Limited Duration Insurance

The bill clarifies that the Maryland Health Insurance Reform Act (Title 15, Subtitle 12 of the Insurance Article, Maryland's small group market reforms) applies to any health benefit plan offered by an association, professional employer organization, or any other entity, including a plan issued in another state, if the health benefit plan covers eligible employees of one or more small employers and meets specified requirements.

The bill also clarifies the definition of “short-term limited duration insurance” by specifying that such insurance may not be extended or renewed and must apply the same underwriting standards to all applicants regardless of whether they have been previously covered by such insurance.

Current Law/Background:

Federal Health Insurance Provider Fee

Section 9010 of the ACA imposes a fee on each covered entity engaged in the business of providing health insurance for U.S. health risks. Fees are based on insurance premiums and the amount of the fee is roughly proportional to an entity’s market share. The fee was designed to help fund the federal and state health benefit exchanges. There was a moratorium on the fee for calendar 2017. In calendar 2018, a total of \$14.3 billion was collected by the federal government from the fee. A second moratorium was passed by the U.S. Congress for calendar 2019.

Maryland Health Insurance Coverage Protection Commission

Chapter 17 of 2017 established the Maryland Health Insurance Coverage Protection Commission to (1) monitor potential and actual federal changes to the ACA, Medicaid, the Maryland Children’s Health Program, Medicare, and the Maryland All-Payer Model; (2) assess the impact of such changes; and (3) provide recommendations for State and local action to protect access to affordable health coverage. By December 31 each year, the commission must submit a report on its findings and recommendations. The commission is jointly staffed by the Department of Legislative Services, the Maryland Department of Health, and MIA. The commission terminates June 30, 2020.

Short-term Limited Duration Insurance

“Short-term limited duration insurance” has the same meaning as under federal regulations; specifically, an expiration date of less than three months after the original date of the contract and that prominently displays in the contract and in any application materials that it is not minimum essential coverage under the ACA and that, without such coverage, an individual may owe an additional payment with taxes. Under Maryland law, an individual health benefit plan does not include short-term limited duration insurance.

State Fiscal Effect:

Association Health Plans and Short-term Limited Duration Insurance

MIA special fund revenues increase minimally in fiscal 2018 due to the \$125 rate and form filing fee. MIA can likely review additional filings with existing resources.

Health Insurance Provider Fee Assessment

Special fund revenues to the MHBE Fund increase by \$280.8 million in fiscal 2019 and \$84.2 million in fiscal 2020 from a 2.75% assessment for calendar 2019 on all amounts used to calculate an entity's premium tax liability or the amount of the entity's premium tax exemption value for calendar 2018:

- From commercial carriers, the assessment is estimated to generate \$196.5 million in fiscal 2019 only.
- From Medicaid MCOs, the assessment is estimated to generate an additional \$168.4 million in revenues for calendar 2019, to be received by the MHBE Fund as \$84.2 million in fiscal 2019 and \$84.2 million in fiscal 2020; 62% of that amount is the federal share.

Accordingly, Medicaid expenditures (62% federal funds, 38% general funds) increase by \$84.2 million in fiscal 2019 and \$84.2 million in fiscal 2020 to pay the assessment.

Maryland Health Insurance Coverage Protection Commission

The bill directs the commission to conduct a study and make recommendations for health insurance market stability, including a requirement to engage an independent actuarial firm to assist. General fund expenditures, therefore, increase by at least \$100,000, likely in fiscal 2019, to contract with an actuarial firm for this purpose. To the extent the actuarial firm is engaged sooner, some portion of this cost may be incurred in fiscal 2018.

The additional commission members can be reimbursed for travel expenses with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None designated; however, HB 1782 (Delegate Pena-Melnyk, *et al.* – Health and Government Operations) is identical.

Information Source(s): *State of Maryland Options for a Reinsurance Program*; The Hilltop Institute; Maryland Department of Health; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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