

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1509 (Delegate Morgan, *et al.*)  
Health and Government Operations

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Maryland Health Benefit Exchange – Individual Exchange – Copper Plans to  
Lower Rates

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This bill requires the Maryland Health Benefit Exchange (MHBE), beginning January 1, 2019, to offer a copper plan in the Individual Exchange. Benefits mandated by the State benchmark plan or otherwise mandated by State law that are not essential health benefits (EHBs) may not be required in copper plans. A carrier may not offer individual health benefit plans in the State unless the carrier offers copper plans in the Individual Exchange. **This provision takes effect January 1, 2019, and applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after this date. Otherwise, the bill takes effect June 1, 2018.**

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Fiscal Summary

**State Effect:** No effect in FY 2018. Minimal increase in special fund revenues for the Maryland Insurance Administration from the \$125 rate and form filing fee in FY 2019 only. Review of filings can likely be handled with existing budgeted resources. Special fund expenditures increase for MHBE by \$40,000 in FY 2019 only, as discussed below. Potential minimal increase in special fund revenues beginning in FY 2019 to the extent MHBE imposes specified monetary penalties.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** Notwithstanding any other State or federal law, MHBE must certify an individual health benefit plan as a copper plan if the plan provides for (1) the EHBs required under the federal Patient Protection and Affordable Care Act (ACA) and (2) individuals of any age. MHBE may not require a copper plan to provide coverage for benefits mandated under the Health-General Article or the Insurance Article that are not federal EHBs.

The bill establishes requirements for a health benefit plan to be certified as a copper plan that generally mirror existing requirements for existing metal level plans, including carrier requirements; prior approval of rates and deductibles from the Insurance Commissioner; and submission of specified disclosures to MHBE, the Commissioner, and the public.

A health benefit plan may not be denied certification as a copper plan solely on the grounds that it is a fee-for-service plan or through the imposition of premium price controls by MHBE. A managed care organization may not be required to offer a copper plan in the exchange.

Subject to contested case hearing provisions, MHBE may deny certification of a health benefit plan as a copper plan, or suspend or revoke certification, based on specified findings. In addition or alternatively, MHBE may impose other remedies or take other actions, including imposing a monetary penalty of up to \$5,000 for each violation. Certification requirements must include providing data and meeting specified standards. A carrier may appeal an order or decision of MHBE and request a hearing, which stays a decision or order of MHBE. If a petition for judicial review is filed, the court has jurisdiction over the case.

**Current Law/Background:** Under Maryland law, there are 49 mandated health insurance benefits that certain carriers must provide to their enrollees. The ACA requires nongrandfathered health plans to cover 10 EHBs, which include items and services in the following categories: (1) ambulatory patient services; (2) emergency services; (3) hospitalization; (4) maternity and newborn care; (5) mental health and substance use disorder services, including behavioral health treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and (10) pediatric services, including dental and vision care.

Under § 31-116 of the Maryland Insurance Article, EHBs must be included in the State benchmark plan and, *notwithstanding any other benefits mandated by State law*, must be the benefits required in (1) all individual health benefit plans and health benefit plans offered to small employers (except for grandfathered health plans) offered outside MHBE and (2) all qualified health plans (QHPs) offered in MHBE.

## *Maryland Health Benefit Exchange*

*Function:* MHBE was created during the 2011 session to provide a marketplace for individuals and small businesses to purchase affordable health coverage. Through the Maryland Health Connection (MHC), Maryland residents can shop for health insurance plans, compare rates, and determine their eligibility for federal advanced premium tax credits (APTCs), cost-sharing reduction (CSR) plans, and public assistance programs such as Medicaid. An individual or family that selects a QHP enrolls in that program directly through MHC.

*QHP Requirements:* Under the ACA, to be certified as a QHP, an insurance plan must meet certain requirements, including providing at least 10 EHBs with no lifetime maximums and follow established limits on cost sharing (deductibles, copayments, and out-of-pocket maximum amounts). The same rules apply to plans sold both in and out of the exchange, but in order to be sold on the exchange, a health plan must be certified by MHBE as a QHP.

Carriers participating in either the Small Business Health Options or Individual Exchange are currently required to offer at least one QHP at the bronze, silver, and gold level of coverage. If a carrier participates in the Individual Exchange and offers any individual health benefit plan off-exchange, the carrier must offer at least one QHP at the silver and gold level of coverage.

*Enrollment:* For calendar 2018, 153,571 individuals have enrolled in a QHP through MHBE. Most enrollees are eligible for a federal APTC or to purchase a CSR plan. Four metal level plans are available: bronze; silver; gold; and platinum. Catastrophic plans are also available but only to individuals younger than age 30 or who have a hardship or affordability exemption. APTCs are not available with catastrophic plans. For calendar 2018, 3,662 individuals are enrolled in a catastrophic plan through MHBE.

*Federal Advanced Premium Tax Credits:* Federal APTCs are available to individuals with incomes between 100% and 400% of federal poverty guidelines (FPG) and help to make monthly premiums more affordable. In calendar 2018, 121,400 individuals (79% of MHBE enrollees) qualify for an APTC. For January 2018, the monthly value of APTCs to Maryland residents was \$63.9 million.

*Cost-sharing Reduction Plans and Payments:* CSR plans are silver-level plans with reduced cost sharing that insurers are required to offer under the ACA to enrollees with incomes between 100% and 250% FPG. To compensate for additional claims expenses for CSR enrollees, the federal government made payments directly to insurers based on actual utilization. CSR payments were discontinued in October 2017. CSR payments to Maryland insurers were valued at about \$65.0 million in calendar 2017.

*2018 Rates:* Only two carriers currently participate in MHBE, down from eight in 2015. Premium rates initially approved for silver plans (the most popular plan type) increased by between 22% (Kaiser health maintenance organization) and 52% (CareFirst preferred provider organization) for calendar 2018. Following elimination of CSR payments, rates were amended, adding an additional 21 to 27 percentage points to the rates for on-exchange silver plans. For calendar 2018, the lowest rates available for a 40-year-old nonsmoker range from \$314 to \$516 per month depending on the type of plan and carrier selected. For a 60-year-old nonsmoker, the lowest rates range from \$668 to \$1,096 per month. These rates reflect the cost before application of APTC. For most individuals enrolled in silver plans, any increase in premiums was likely offset by APTC as it is calculated based on the cost of the second-lowest silver plan available to the enrollee.

**State Fiscal Effect:** MHBE special fund expenditures increase by \$40,000 in fiscal 2019 only for information technology system modifications to provide for the new benefit plan category.

MHBE may deny certification of a copper plan, or suspend or revoke certification, based on specified findings. In addition or alternatively, MHBE may impose other remedies, including a monetary penalty of up to \$5,000 for each violation. If MHBE imposes a monetary penalty, special fund revenues increase minimally beginning in fiscal 2019.

**Additional Comments:** MHBE advises that federal law explicitly lays out the standards for catastrophic plans, which the copper plans proposed under the bill essentially are, and the bill requires MHBE to ignore these standards.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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