SB 239

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled

Senate Bill 239 (Senator Feldman)
Finance Health and Government Operations

Health Insurance - Individual Market Stabilization - Provider Fee

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This bill extends the existing State health insurance provider fee assessment through calendar 2023. In calendar 2020 through 2023, the amount of the assessment must be 1% on all amounts used to calculate the entity's premium tax liability for the immediately preceding calendar year. The bill clarifies the applicability and calculation of the assessment. The Maryland Health Insurance Coverage Protection Commission must study and recommend whether the State Reinsurance Program should be extended after calendar 2023 and, if so, how it will be funded.

Fiscal Summary

State Effect: Special fund revenues increase by an estimated $105.0 million in FY 2020 from a 1% health insurance provider fee assessment. Future year revenues reflect the assessment ending after calendar 2023. General and federal fund expenditures (and associated federal matching revenues) increase to pay the Medicaid share of the assessment through FY 2024, as discussed below.

($ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
SF Revenue	$105.0	$140.2	$147.9	$156.0	$34.0
FF Revenue	$19.8	$40.6	$42.7	$45.0	$23.0
GF Expenditure	$9.7	$20.0	$21.0	$22.1	$11.4
FF Expenditure	$19.8	$40.6	$42.7	$45.0	$23.0
Net Effect	$95.3	$120.2	$126.9	$133.9	$22.6

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: The purpose of the assessment is modified to be to assist in the stabilization of the individual health insurance market.

The bill clarifies that the assessment applies only to products that (1) are subject to the health insurer fee under the federal Patient Protection and Affordable Care Act (ACA) and (2) may be subject to assessment by the State. The bill also specifies that calculation of the assessment must be made without regard to the threshold limits or partial exclusion of net premiums provided for in the ACA.

The bill clarifies that Medicaid managed care organizations (MCOs) are subject to the assessment and must pay the assessment on a quarterly basis in accordance with a scheduled adopted by the Insurance Commissioner.

If the federal government confirms that Maryland can impose a 1% assessment on Medicaid MCOs (if the State imposes that fee on all commercial health insurance plans *except dental and vision*), then the assessment does *not* apply to stand-alone dental plan carriers and stand-alone vision plan carriers. Otherwise, the assessment applies to all stand-alone dental plan carriers and stand-alone vision plan carriers.

Current Law:

Health Insurance Provider Fee Assessment

Chapters 37 and 38 of 2018 established a health insurance provider fee assessment on specified entities for calendar 2019 only. In addition to other amounts due, an insurer, a nonprofit health service plan, a health maintenance organization, 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 MCO is 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 is to 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 ACA that is attributable to State health risk for calendar 2019 as a bridge to stability in the individual market. The MHBE Fund may be used only for the operation and administration of the Exchange and for the establishment and operation of the State Reinsurance Program.

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. Calculation of the fee includes specified threshold limits and partial exclusions of net premiums. The fee was designed to help fund the federal and state health benefit exchanges. There was a moratorium on the fee for calendar 2017, and a moratorium is in place for calendar 2019. In the absence of federal action, the fee will be assessed again beginning in calendar 2020.

State Reinsurance Program

Chapters 6 and 7 of 2018 required MHBE to submit an application for a State Innovation Waiver under Section 1332 of the ACA to establish a State Reinsurance Program and seek federal pass-through funding. The federal government approved the waiver in August 2018. The waiver is approved through 2023.

Funding for the State Reinsurance Program includes State special funds from the 2.75% health insurance provider fee assessment for calendar 2019 only and federal pass-through funding. Under the Section 1332 waiver, Maryland is able to use federal pass-through funds (federal funding that would have been provided to Maryland residents in the form of advanced premium tax credits in the absence of the reinsurance program) to provide additional funding for the program.

Background:

State Reinsurance Program

For calendar 2019, the State Reinsurance Program will provide reinsurance to carriers that offer individual health benefit plans in the State. Carriers that incur total annual claims costs on a per-individual basis between a $20,000 attachment point (the dollar amount of insurer costs above which an insurer is eligible for reinsurance) and a cap of $250,000 will be reimbursed for 80% of those claims costs. Payments to insurance carriers will be made after the plan year ends and all costs have been recorded and reconciled.

Prior to approval of the Section 1332 waiver, Maryland carriers requested calendar 2019 rate increases averaging 30.2%. However, following waiver approval, carriers revised their rate requests and the average requested rate increase fell to 23.4%. Ultimately, the rates approved by the Maryland Insurance Administration (MIA) declined by an average of 13.2%.

Total funding for the State Reinsurance Program is estimated at $1.1 billion between calendar 2019 and 2021, including $365 million in State funds from the calendar 2019 health insurance provider fee assessment and an estimated $730 million in federal pass-through funds. Although the Section 1332 waiver is approved through 2023, by calendar 2021, additional funding will be required to continue the program and maintain the significant rate reductions realized in calendar 2019.

State Fiscal Effect: Special fund revenues to the MHBE Fund increase beginning in fiscal 2020, by an estimated $105.0 million that year, from a 1% assessment on all amounts used to calculate an entity's premium tax liability or the amount of the entity's premium tax exemption value for the immediately preceding calendar year.

- From commercial carriers, the assessment is estimated to generate $75.5 million in fiscal 2020, increasing to $88.9 million in fiscal 2023. This reflects an anticipated 5.6% annual growth in the commercial revenue base on which the assessment is applied.

- From Medicaid MCOs, the assessment is estimated to generate an additional $59.0 million in revenues from the calendar 2020 assessment, to be received by the MHBE Fund as $29.5 million in fiscal 2020 and $29.5 million in fiscal 2021; 67% of that amount is the federal share. This estimate assumes no calendar 2020 MCO rate increase. By calendar 2023, Medicaid MCOs generate $68.8 million in special fund revenues under the assessment, to be received by the MHBE Fund as $34.4 million in fiscal 2023 and $34.4 million in fiscal 2024.

- Accordingly, Medicaid expenditures (67% federal funds, 33% general funds) increase by $29.5 million in fiscal 2020 and $60.6 million in fiscal 2021 to pay the assessment (including half of the calendar 2020 and half of the calendar 2021 assessment), increasing to $67.1 million to pay the assessment in fiscal 2023 (half of the calendar 2022 and half of the calendar 2023 assessment).

- In calendar 2014, Medicaid remits the remaining half of the calendar 2023 assessment ($34.4 million).

This estimate assumes stand-alone dental and vision plan carriers are subject to the assessment and that MIA can collect the assessment on an ongoing basis with existing resources.

If the federal government confirms that the State can impose a 1% assessment on Medicaid MCOs (if the State is imposing that fee on all commercial health insurance plans except stand-alone dental and vision plan carriers), the assessment does not apply to such carriers. Should such carriers be exempt from the assessment, special fund revenues are reduced by

at least $8.1 million in fiscal 2020, increasing to a $9.5 million reduction in fiscal 2023. This reflects the estimated values of the assessment on stand-alone dental and vision plans sold by *health* insurance carriers for calendar 2018, including anticipated 5.6% annual growth. This does not reflect the additional values of any stand-alone dental and vision plans sold by *life* insurance companies as those amounts were not available for this analysis.

Additional Information

Prior Introductions: None.

Cross File: HB 258 (Delegate Pena-Melnyk, *et al.*) - Health and Government Operations.

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

Fiscal Note History: First Reader - February 4, 2019
mag/ljm Third Reader - March 26, 2019
Revised - Amendment(s) - March 26, 2019
Enrolled - May 9, 2019

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