

Department of Legislative Services  
Maryland General Assembly  
2020 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 661

(Senator Augustine, *et al.*)

Finance

Health and Government Operations

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**Health Insurance - Prostate Cancer Screening Services - Prohibiting Cost-Sharing**

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This bill prohibits an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers), subject to specified federal guidance, from applying a deductible, copayment, or coinsurance to coverage for preventive care screening services for prostate cancer, which must include a digital rectal exam (DRE) and a prostate-specific antigen (PSA) blood test. **The bill takes effect January 1, 2021, and applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after that date.**

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**Fiscal Summary**

**State Effect:** Special fund revenues increase for the Maryland Insurance Administration (MIA) in FY 2021 from the \$125 rate and form filing fee. Review of form filings requires contractual assistance in FY 2021 only. Potential minimal increase for the State Employee and Retiree Health and Welfare Benefits Program, as discussed below.

**Local Effect:** Potential increase in expenditures for local governments that purchase fully insured insurance plans. Revenues are not affected.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law:** Under Maryland law, there are more than 50 mandated health insurance benefits that certain carriers must provide to their enrollees. The federal Patient Protection and Affordable Care Act (ACA) requires nongrandfathered health plans to cover

10 essential health benefits (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 the Maryland Health Benefit Exchange (MHBE) and (2) all qualified health plans offered in MHBE.

Carriers must provide coverage for the expenses incurred in conducting a medically recognized diagnostic examination that must include a DRE and a PSA blood test (1) for men between 40 and 75 years of age; (2) when used for the purpose of guiding patient management in monitoring the response to prostate cancer treatment; (3) when used for staging in determining the need for a bone scan in patients with prostate cancer; or (4) when used for male patients who are at high risk for prostate cancer. A carrier must provide these benefits to the same extent as for any other medical condition under the enrollee's or insured's contract or policy with the entity.

Federal law governing high-deductible health plans (HDHPs) and health savings accounts (26 U.S.C. §223(c)(2)(c)) provides safe harbor for plans that do not include a preventive care deductible. Specifically, a plan may not fail to be treated as an HDHP by reason of failing to have a deductible for preventive care.

**Background:** According to the U.S. Centers for Disease Control and Prevention, excluding skin cancer, prostate cancer is the most common cancer in American men. Out of every 100 American men, about 13 will get prostate cancer during their lifetime, and about 2 to 3 men will die from prostate cancer. African American men and men with a family history of prostate cancer are at increased risk. Two tests are commonly used to screen for prostate cancer: the PSA test and DRE. A PSA test measures the level of PSA in the blood. As a rule, the higher the PSA level in the blood, the more likely a prostate problem is present. DRE is when a health care provider inserts a gloved, lubricated finger into a man's rectum to feel the prostate for anything abnormal, such as cancer.

As of May 2018, the U.S. Preventive Services Task Force (USPSTF) grades prostate cancer screening for men aged 55 to 69 years old a "C" (the service should be selectively offered or provided to individual patients based on professional judgment and patient preferences;

there is at least moderate certainty that the net benefit is small). USPSTF recommends against PSA-based antigen screening for prostate cancer in men aged 70 years and older. Prostate cancer screening is, therefore, not an eligible preventive service for purposes of a \$0 out-of-pocket benefit under the ACA.

**State Expenditures:** The State Employee and Retiree Health and Welfare Benefits Program is largely self-insured for its medical contracts and, as such, with the exception of the one fully insured integrated health model medical plan (Kaiser), is not subject to this mandate. However, the program generally provides coverage for mandated health insurance benefits. Accordingly, expenditures increase likely by a minimal amount beginning in fiscal 2021.

**Small Business Effect:** MIA advises that small group plans are required to cover prostate cancer screening as it is currently an EHB under the State benchmark plan. Thus, the prohibition on cost-sharing under the bill applies and costs for the small group plan may increase.

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### Additional Information

**Prior Introductions:** None.

**Designated Cross File:** HB 852 (Delegate Barron, *et al.*) - Health and Government Operations.

**Information Source(s):** U.S. Preventive Services Task Force; U.S. Centers for Disease Control and Prevention; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Budget and Management; Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2020  
rh/ljm Third Reader - March 14, 2020  
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