

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1329 (Delegate Mautz, *et al.*)
Health and Government Operations

Maryland Health Benefit Exchange - Establishment of Small Business Health
Insurance Subsidies Program

This bill requires the Maryland Health Benefit Exchange (MHBE), in consultation with the Insurance Commissioner and as approved by the MHBE Board, to establish and implement a Small Business Health Insurance Subsidies Program (SBHISP). For calendar 2021, funding for SBHISP must come from any unspent MHBE funds from fiscal 2020, as specified. Beginning in fiscal 2022, the Governor, must include in the annual budget bill a specified appropriation to fund SBHISP. By January 1, 2021, MHBE must adopt regulations implementing the program. **The bill takes effect June 1, 2020.**

Fiscal Summary

State Effect: No effect in FY 2020. General fund revenues decrease and MHBE special fund revenues increase beginning in FY 2021 due to repeal of a reversion provision. Special fund expenditures increase, beginning in FY 2021 to implement the program and provide subsidies, and further in FY 2022 due to the mandated appropriation. **The bill establishes a mandated appropriation beginning in FY 2022.**

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The purpose of SBHISP is to provide subsidies to qualified employers for the purchase of insurance offered to eligible employees on the Small Business Health Options (SHOP) Exchange. The program must be designed to reduce the amount qualified

employers and eligible employees pay for plans offered on the SHOP Exchange. Based on available funds, MHBE, in consultation with the Commissioner and as approved by the MHBE Board, must establish subsidy eligibility and payment parameters for calendar year 2021 and each subsequent calendar year.

The bill authorizes current funding provided to MHBE from the insurance premium tax, as well as monies in the MHBE Fund, to be used to fund the establishment and operation (including administration costs) of SBHISP. MHBE must maintain a separate account in the MHBE Fund for SBHISP.

If, in any fiscal year (beginning with fiscal 2020 based on the bill's June 1, 2020 effective date), the amount of funding for MHBE exceeds expenditures, unspent funds must be transferred to the SBHISP account rather than revert to the general fund. For calendar 2021, SBHISP must be funded by these funds. Beginning with calendar 2022, SBHISP must be funded by the Governor's mandated appropriation. The amount the Governor must annually appropriate for SBHISP must be not less than the unspent funds transferred to the SBHISP account for the immediately preceding fiscal year.

Current Law/Background:

Maryland Health Benefit Exchange

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, Maryland residents can shop for health insurance plans, compare rates, and determine their eligibility for federal advanced premium tax credits (APTCs), cost-sharing reduction plans, and public assistance programs such as Medicaid.

MHBE also assists qualified employers in the State by facilitating the enrollment of their employees in qualified health plans (QHPs) in SHOP and their access to federal small business health care tax credits. MHBE has implemented a direct enrollment process whereby small employers and their brokers can enroll directly with insurance carriers. SHOP enrollment in Maryland has remained low, with 140 active groups and 748 covered lives as of December 2019. To qualify to purchase in SHOP, businesses must have between 1 and 50 full-time-equivalent employees, with all full-time employees offered coverage, and at least one enrolling in coverage who is neither an owner or business partner nor the spouse of the owner or business partner. Businesses must also have a physical business address in Maryland and either provide coverage through SHOP to all eligible employees who are principally employed in Maryland or provide coverage through SHOP to all eligible employees, wherever employed.

MHBE is funded in part from a mandated \$35 million diversion of premium tax revenues that would otherwise go to the general fund. However, any of these special funds that remain unspent at fiscal year closeout, revert to the general fund. In recent years, MHBE has not spent all of the mandated appropriation. In fiscal 2018, MHBE canceled \$7.1 million in authorized special fund spending, and in fiscal 2019, MHBE canceled \$6.2 million.

Small Business Health Care Tax Credit

The federal Patient Protection and Affordable Care Act includes a small business health care tax credit, which can benefit small employers who provide health coverage for their employees. The tax credit benefits employers who have fewer than 25 full-time-equivalent employees, pay an average wage of less than \$51,600 a year, and pay at least half of employee health insurance premiums. The credit percentage is 50% of employer-paid premiums; for tax-exempt employers, the percentage is 35%. Small employers may claim the credit for only two consecutive taxable years. The credit is phased out beginning when average wages equal \$25,800 and is fully phased out when average wages exceed \$51,600. The average wage phase out is adjusted annually for inflation. Generally, small employers are required to purchase a QHP from a SHOP to be eligible to claim the credit.

In contrast to APTCs, which can be received by an individual on a monthly basis or at the end of the tax year when the individual files his/her income tax return, the small business health care tax credit may only be received at the end of the year when an employer files taxes and is determined by the federal Internal Revenue Service.

Chapter 401 of 2019 authorized MHBE, in consultation with the Insurance Commissioner and as approved by the MHBE Board, to submit a State Innovation Waiver application for a federal Section 1332 waiver to allow the State to administer the federal small business health care tax credit to small businesses for monthly premium payments. The waiver application is expected to be filed in fall 2020.

State Revenues: General fund revenues decrease beginning in fiscal 2021 as unspent funds from MHBE no longer revert to the general fund; instead, these funds accrue to the SBHISP account. Special fund revenues for the SBHISP account increase correspondingly based on the amount of unspent funds transferred. The actual amount of such revenues cannot be reliably estimated at this time.

The Department of Legislative Services notes that the Budget Reconciliation and Financing Act of 2020 proposes to reduce the required appropriation from the premium tax on health insurers to MBHE from \$35 million to \$32 million annually beginning in fiscal 2021. The Governor's proposed fiscal 2021 budget includes a \$3 million special fund reduction, contingent on legislation reducing the mandate.

State Expenditures: Special fund expenditures increase beginning in fiscal 2021 to implement the program and provide subsidies. The bill allows current funding sources for MHBE and monies that would otherwise revert to the general fund to be used to fund the establishment and operation of SBHISP. To implement the program, MHBE may need additional staff – as many as two permanent positions and some initial contractual support, who would be funded with the available monies. Under the bill, MHBE must establish subsidy eligibility and payment parameters for each calendar year. The actual amount of subsidies depends on available funding and the eligibility and payment parameters established.

Beginning in fiscal 2022, the amount of funding for the program must be no less than the unspent funds transferred to the SBHISP account for the immediately preceding fiscal year, which the Governor must include as an appropriation in the budget. However, that amount cannot be reliably estimated at this time.

Small Business Effect: Small businesses that purchase health benefit plans through the SHOP exchange benefit from subsidies.

Additional Comments: House Bill 930/Senate Bill 977 of 2020 are contingent upon passage of this bill. House Bill 930/Senate Bill 977 would establish a separate \$17 million mandated general fund appropriation for the subsidy program.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Maryland Health Benefit Exchange; Department of Budget and Management; Maryland Insurance Administration; Department of Legislative Services

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