

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 413

(The Speaker)(By Request - Administration)

Health and Government Operations

Finance

Health Insurance – Individual Market Stabilization – Extension of Provider Fee

This Administration bill extends the existing State health insurance provider fee assessment through calendar 2028 to assist in the continued stabilization of the individual health insurance market. The bill exempts a stand-alone dental or vision plan carrier subject to the provider fee assessment from other assessments, as specified. By December 1, 2023, the Maryland Insurance Administration (MIA), in consultation with the Maryland Health Benefit Exchange (MHBE) and the Maryland Health Care Commission, must report to the Governor and the General Assembly on the impact on the State reinsurance program (SRP).

Fiscal Summary

State Effect: No effect in FY 2023. Special fund revenues increase by an estimated \$132.8 million in FY 2024 from continuation of the health insurance provider fee assessment. Future year revenues reflect growth in the revenue base on which the assessment is applied. General and federal fund expenditures (and associated federal matching revenues) increase to pay the Medicaid share of the assessment, as discussed below. MIA can complete the required report with existing budgeted resources. There is no material effect on MIA special fund revenues due to the exemption, as discussed below.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$0	\$132.8	\$135.8	\$138.8	\$141.9
FF Revenue	\$0	\$19.8	\$40.0	\$41.0	\$41.9
GF Expenditure	\$0	\$10.7	\$21.6	\$22.1	\$22.5
FF Expenditure	\$0	\$19.8	\$40.0	\$41.0	\$41.9
Net Effect	\$0.0	\$122.1	\$114.2	\$116.8	\$119.4

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

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: A stand-alone dental plan carrier or a stand-alone vision plan carrier subject to the health insurance provider fee assessment in calendar 2024 and each calendar year thereafter is exempt from the health care regulatory assessment under § 2-112.2 of the Insurance Article and the annual assessment fee under § 2-502 of the Insurance Article for each year in which the health insurance provider fee is paid.

In developing the required report on the reinsurance program, MIA must (1) consider whether the level of funding is appropriate; (2) consider whether the health insurance provider fee assessment is appropriately apportioned among the carriers, should be broadened to include other business sectors, and should be supplemented with general funds; (3) consider what market reforms are needed to provide affordable health coverage in the individual market, as specified; and (4) evaluate the design of the program, as specified. The report must include options for obtaining sustainable funding sources to support stability in the individual market.

Current Law:

State Reinsurance Program

Chapters 6 and 7 of 2018 required MHBE to apply for a federal Section 1332 waiver to establish a SRP and seek federal pass-through funding. In August 2018, the federal government approved the waiver through 2023. Under the approved waiver, Maryland can 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. State funding is also required to fund the program.

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 (HMO), a dental plan organization, a fraternal benefit organization, a Medicaid managed care organization (MCO), and any other person subject to State regulation that provides a product that is subject to a specified federal fee was 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 purpose of the assessment was 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 that was attributable to State health risk for calendar 2019 as a bridge to stability in the individual market.

Chapters 597 and 598 of 2019 extended the 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. For each calendar year that the health insurance provider fee assessment is assessed, a Medicaid MCO must pay the fee on a quarterly basis in accordance with a schedule adopted by the Insurance Commissioner.

Assessment revenue is distributed to the MHBE Fund, which may be used only for the operation and administration of MHBE and for the establishment and operation of SRP.

Health Regulatory Assessment

Section 2-112.2 of the Insurance Article requires the Commissioner to collect a health care regulatory assessment from each carrier for the costs attributable to MIA's role as the single point of entry for consumers to access information regarding health insurance, complaint processes for adverse decisions or grievances, private review agents, and medical directors. "Carrier" includes an authorized insurer that provides health insurance in the State, a nonprofit health service plan, an HMO, a dental plan organization, or any other person that provides health benefit plans subject to regulation by the State (with the exception of an MCO). The assessment must be calculated by taking the total costs attributable to the implementation of specified provisions multiplied by the percentage of gross direct health insurance premiums written in the State attributable to that carrier in the prior calendar year.

Annual Assessment Fee

Section 2-502 of the Insurance Article requires the Commissioner to collect an annual assessment fee from each insurer (including health, life, property and casualty, and domestic reinsurers). For each health insurer, the assessment fee is the product of the fraction obtained by dividing the gross direct written premium written by the health insurer in the prior calendar year by the total amount of gross direct premium written by all health insurers in the prior calendar year, multiplied by the health insurer assessment portion. The minimum assessment must be \$300 for each authorized insurer.

Background:

State Reinsurance Program

SRP provides 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 are reimbursed for 80% of those claims costs. Payments to insurance carriers are made after the plan year ends and all costs have been recorded and reconciled.

MHBE advises that, because of SRP, average premium rates in the individual market are down more than 30% compared to 2018 (the year before SRP started). In 2021, Maryland's average lowest cost plans at each metal level are 20% to 30% below national averages. Without reinsurance, MHBE would have expected 2021 rates to increase by at least 23%, depending on the carrier; with reinsurance, each carrier had at least an 11% reduction in premiums.

Renewal Timeline for the Federal Section 1332 Waiver

The federal Section 1332 waiver authorizing SRP expires at the end of calendar 2023. To amend and extend the existing waiver, the State must submit a letter of intent at least 15 months prior to the waiver amendment's proposed implementation date and the waiver amendment application by the end of the first quarter of the year prior to the year the amendment would take effect. If MHBE were to amend and extend the waiver application, the federal government would need to be notified by October 1, 2022, and the application would need to be submitted by March 31, 2023. As a state funding source is required for waiver renewal, the General Assembly must consider whether to extend current State funding for the waiver.

Reinsurance Programs in Other States

Fourteen states have approved reinsurance programs. Programs are funded with a combination of state and federal dollars. States provide additional funding for reinsurance programs from insurer assessments; general fund appropriations; former high-risk pool/special funds; state individual mandate penalties; savings from switching from the federal to a state-based exchange; and other approaches such as a special assessment fee on hospitals, redirected insurance premium tax revenues, and premiums from policies ceded to the program. Nine states fund (or partially fund) their reinsurance programs through insurer assessments (Alaska, Colorado, Delaware, Maine, Maryland, Montana, New Hampshire, North Dakota, and Oregon). Assessments reflect either a percentage of

premiums (1.0% to 2.75%) or a per member per month charge (\$2.00 to \$4.00). Assessments may be applied to some or all insurance markets with specified exceptions.

State Fiscal Effect: MIA advises that the last assessment under current law will be collected in March 2023 (fiscal 2023) based on 1% of applicable premiums in calendar 2022. The first assessment under the bill will be collected in March 2024 (fiscal 2024) based on calendar 2023 premiums. Thus, special fund revenues to the MHBE Fund increase beginning in fiscal 2024, by an estimated \$132.8 million that year, from continuation of the 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 \$71.9 million in fiscal 2024, increasing to \$78.5 million in fiscal 2028. This reflects an anticipated 2.24% annual growth in the commercial revenue base on which the assessment is applied.
- From Medicaid MCOs, the assessment is estimated to generate an additional \$60.9 million in revenues from the calendar 2023 assessment, to be received by the MHBE Fund as \$30.45 million in fiscal 2024 and \$30.45 million in fiscal 2025. By calendar 2028, Medicaid MCOs generate \$66.6 million in special fund revenues under the assessment, to be received by the MHBE Fund as \$33.3 million in fiscal 2028 and \$33.3 million in fiscal 2029.
- As Medicaid MCOs pay the assessment quarterly, funds for the assessment are remitted over two fiscal years.
- Accordingly, Medicaid expenditures increase by \$30.45 million in fiscal 2024 to pay half of the calendar 2023 assessment, and by \$61.6 million in fiscal 2025 to pay the remaining half of the calendar 2023 assessment and half of the calendar 2024 assessment.
- Medicaid expenditures increase by \$63.0 million in fiscal 2026 to pay the remaining half of the calendar 2024 assessment and half of the calendar 2025 assessment, by \$64.4 million in fiscal 2027 to pay the remaining half of the calendar 2025 assessment and half of the calendar 2026 assessment, and by \$65.85 million in fiscal 2028 to pay the remaining half of the calendar 2026 assessment and half of the calendar 2027 assessment.
- In fiscal 2029, Medicaid remits the remaining half of the calendar 2027 assessment (\$33.3 million).

- A fund split of 65% federal funds, 35% general funds is assumed in fiscal 2024 through 2027, changing to 64% federal funds, 36% general funds beginning in fiscal 2028.

This estimate assumes that MIA can collect the assessment on an ongoing basis with existing resources.

MIA advises that exempting a stand-alone dental plan carrier or a stand-alone vision plan carrier subject to the health insurance provider fee assessment from the health care regulatory assessment and the annual assessment fee has no material net effect on MIA special fund revenues. The assessments paid by these carriers under current law will generally be reallocated among other payors.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 395 (The President, *et al.*) (By Request - Administration) - Finance.

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

Fiscal Note History: First Reader - February 8, 2022
fnu2/ljm Third Reader - March 28, 2022
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Health Insurance - Individual Market Stabilization -
Extension of Provider Fee

BILL NUMBER: HB 413

PREPARED BY: Jake Whitaker

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS