

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1439 (Delegate Qi, *et al.*)

Health and Government Operations and
Economic Matters

Better Small Business Employee Benefit Act of 2025

This bill exempts health benefit plans provided by a professional employer organization (PEO), co-employer, or other organization that engages in employee leasing to small employers from the requirements of the Maryland Health Insurance Reform Act (small group law) and provisions governing the Maryland Health Benefit Exchange (MHBE). Thus, small businesses may purchase large group health insurance from such entities. The bill also specifies that a welfare benefit plan offered to a worksite employee of a PEO must be treated as a single employer welfare benefit plan. **The bill takes effect January 1, 2026, and applies to all policies, contracts, and health benefit plans issued, renewed, or delivered in the State on or after that date.**

Fiscal Summary

State Effect: The bill has no fiscal or operational impact on the Maryland Insurance Administration (MIA). Revenues are not affected.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Application of Small Group Law

Per Title 15, Subtitle 12 of the Insurance Article (which governs the small group market), “health benefit plan” includes a policy or certificate for hospital or medical benefits that

covers residents of this State who are eligible employees and that is issued through a multiple employer trust or association located in this State or another state or a PEO or other organization located in this State or another state that engages in employee leasing. Subtitle 12 applies to any health benefit plan offered by an association, a PEO, or any other entity, including a plan issued under the law of another state, if the health benefit plan covers eligible employees of one or more small employers and meets other specified requirements. A PEO must determine the number of employees the PEO leases to each of its employer clients. Any employer client that is a small employer must be insured in accordance with Maryland laws governing small employer groups.

The bill removes a PEO, co-employer, or other organization located in this State or another state that engages in employee leasing from the definition of “health benefit plan” and a PEO or any other entity from the application of Subtitle 12. Thus, these entities are exempt from the requirements of small group law.

Definition of Professional Employer Organization

The bill defines “professional employer organization” to mean a business entity that enters into a contractual agreement with another business entity under which employer responsibilities are allocated between the business entities for all or at least half of the worksite employees of the second business entity. “PEO” does not include a business entity that (1) recruits or hires its own employees; (2) finds other organizations that need the services of its employees; (3) assigns employees to clients on a temporary basis to support or supplement the client’s workforce in special circumstances such as employee absences, temporary skill shortages, and seasonal workloads; and (4) customarily attempts to reassign the employees to other clients when the employees finish each assignment.

Small Employer and Welfare Benefit Plans

Under § 15-1204.1 of the Insurance Article, a carrier that offers health benefit plans to a small employer must also offer qualified health benefit plans in MHBE’s Small Business Health Options Program. The bill specifies that these provisions do not apply with respect to a health benefit plan issued through a PEO.

Under Title 31 of the Insurance Article, which governs MHBE, to the extent permitted by federal law, an entity that leases employees from a PEO, co-employer, or other organization engaged in employee leasing and that otherwise meets the description of a small employer must be treated as a small employer. The bill repeals this language and specifies that a welfare benefit plan offered to a worksite employee of a PEO must be treated as a single employer welfare benefit plan.

Maryland Insurance Administration Report on Professional Employer Organizations

Chapters 796 and 797 of 2024 required MIA to study PEOs in the State. According to the [report](#), issued in January 2025, there are approximately 73 PEOs operating in Maryland. PEOs are not licensed or regulated in Maryland but are subject to Maryland law regarding health and other employee benefits. PEOs enter into co-employment arrangements with businesses under which the PEO performs various human resources functions on behalf of the business, including contracting with health insurance carriers to enable their clients to access larger and more comprehensive health insurance plans. PEOs do not sell health insurance or operate as health insurers or carriers. Instead, group health insurance policies are issued to a PEO as a plan sponsor. PEOs extend insurance to their client co-employees through partnering with one or more carriers to offer coverage to worksite employees in the states in which their employees work or allowing clients to buy health insurance from carriers with the PEO benefits brokerage operating as the broker on the account.

Maryland is one of only three states that do not allow PEOs to offer large group insurance to small business clients, who must otherwise purchase insurance according to the rules governing Maryland's small group and individual markets. According to the report, MIA found limited data to demonstrate a direct causation between allowing small businesses to purchase large group health insurance through PEOs and a deleterious effect on the small group market.

Small Business Effect: Certain small employers will be able to obtain large group health insurance coverage through a PEO, which may be obtained at lower premium rates. However, premium rates for small employers who are unable to join PEOs and instead remain in the small group market may increase.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: SB 760 (Senator Feldman) - Finance.

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

Fiscal Note History: First Reader - February 24, 2025
rh/ljm

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510