SB 609

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 609 (Senator Nathan-Pulliam)
Finance

Maryland Medical Assistance Program and Health Insurance - Coverage - Treatment for Contagious Diseases

This bill requires Medicaid to provide specified coverage for the treatment of a contagious disease. The bill also establishes a new health insurance mandate for coverage for any medically necessary drug or other treatment for a contagious disease. The bill's insurance requirements apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.

Fiscal Summary

State Effect: Medicaid expenditures increase by *at least* $4.0 million (68% federal funds, 32% general funds) in FY 2020, as discussed below. Federal fund revenues increase accordingly. Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2020 only from the $125 rate and form filing fee. MIA review of additional filings may necessitate contractual support in FY 2020 only. No effect on the State Employee and Retiree Health and Welfare Benefits Program (State plan). **This bill increases the cost of an entitlement program beginning in FY 2020.**

($ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
SF Revenue	-	$0	$0	$0	$0
FF Revenue	$2.7	$3.2	$2.9	$2.6	$2.4
GF Expenditure	$1.3	$1.6	$1.4	$1.3	$1.2
SF Expenditure	-	$0	$0	$0	$0
FF Expenditure	$2.7	$3.2	$2.9	$2.6	$2.4
Net Effect	($1.3)	($1.6)	($1.4)	($1.3)	($1.2)

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

Local Effect: To the extent the mandate increases premiums, expenditures for local governments that purchase fully insured health plans may increase. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill does not define "contagious disease."

Medicaid, subject to the limitations of the State budget, must provide coverage for any medically appropriate drug or other treatment for the treatment of a contagious disease that is determined to be necessary by the treating physician of the Medicaid recipient.

An insurer, nonprofit health services plan, or health maintenance organization (collectively known as carriers) that provides hospital, medical, or surgical benefits must provide coverage for any medically appropriate and necessary drug or other treatment for the treatment of a contagious disease and that the insured's or enrollee's treating physician or other appropriately licensed health care provider certifies is necessary for the treatment of the contagious disease. A carrier may not reduce or eliminate coverage in health insurance policies or contracts due to these requirements.

Current Law: For purposes of reporting potential exposure to a contagious disease, "contagious disease or virus" is defined under the Health-General Article to mean human immunodeficiency virus, meningococcal meningitis, tuberculosis, mononucleosis, any form of viral hepatitis (including, but not limited to, hepatitis A, B, C, D, E, F, and G), diphtheria, plague, hemorrhagic fever, or rabies.

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 Insurance Article, EHBs must be included in the State benchmark plan and, *not withstanding 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.

Background: Maryland Medicaid covers medically necessary treatment, which includes coverage for contagious diseases. However, federal matching funds are contingent on rules determined by the federal Centers for Medicare and Medicaid Services, such as the manufacturer having an agreement with the federal government, the treatment being approved by the U.S. Food and Drug Administration (FDA), and the treatment being for an "on-label" use.

Maryland Medicaid has established certain criteria for individuals to be eligible for new hepatitis C therapies, including having a diagnosis with chronic hepatitis C; having liver fibrosis corresponding to a Metavir score (a measure of liver damage or fibrosis) of F2 or greater; prior Hepatitis C treatment history and outcomes; having a treatment plan; having a medication adherence evaluation; and if, of childbearing age or having a partner of childbearing age, utilizing two forms of contraception during and within six months of treatment. However, the Governor's proposed fiscal 2020 budget includes $29.3 million to lower the Metavir score at which individuals can access drug therapies from F2 to F1.

According to the U.S. Centers for Disease Control and Prevention, hepatitis C is a liver infection caused by the hepatitis C virus (HCV). For some people, hepatitis C is a short-term illness, but for 70% to 85% of people who become infected with hepatitis C, it becomes a long-term, chronic infection. The majority of infected persons might not be aware of their infection because they are not clinically ill. The treatment for HCV has evolved substantially since the introduction of highly effective HCV protease inhibitor therapies in 2011. Since that time, new drugs with different mechanisms of action have become and continue to become available. Currently available therapies can achieve sustained virologic response, defined as the absence of detectable virus, 12 weeks after completion of treatment, indicative of a cure of HCV infection. Over 90% of HCV-infected persons can be cured of HCV infection with 8 to 12 weeks of oral therapy.

State Fiscal Effect:

Maryland Medicaid

Medicaid expenditures increase by at least $4.0 million (68% federal funds, 32% general funds) in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. Federal fund revenues increase accordingly. This reflects only the estimated cost to expand coverage for new hepatitis C drug therapies to all Medicaid enrollees for whom the treating physician determines the therapy is necessary. The information and assumptions used in calculating this estimate are stated below.

- As the Governor's proposed fiscal 2020 budget includes funding to expand hepatitis C treatment to individuals with a Metavir score of F1 to F4, this estimate reflects the cost to expand coverage to enrollees with a Metavir score of F0.

- There are approximately 2,542 individuals enrolled in Medicaid with a Metavir score of F0.

- An estimated 12% of Medicaid enrollees with HCV will seek treatment (305).

- Of the 305 individuals who seek treatment, 290 (95%) will be cured.

- The per person cost of treatment is $17,500.

- Federal matching funds are provided at a rate of 68%.

- Medicaid receives drug rebates for approximately 25% of the cost of the drug, which offsets total costs.

Future years reflect an increase in the prevalence of HCV in the Medicaid population of 2% annually and a decrease in the number of individuals seeking treatment due to the high cure rate.

This analysis *does not* reflect any increased cost to provide any other medically appropriate drugs or treatments for the treatment of other contagious diseases that are determined to be necessary by a treating physician.

The Maryland Department of Health advises that the bill requires Medicaid to cover a treatment exactly as prescribed, which would prevent methods such as step-therapy where lower cost and more common treatments are used before moving to higher cost and more specialized treatments. The bill also prevents Medicaid from setting clinical criteria for certain drugs that may have significant downsides or interactions.

State Employee and Retiree Health and Welfare Benefits Program

The State plan is largely self-insured for its medical contracts and, as such, with the exception of one fully insured integrated health model medical plan (Kaiser), is not subject to this mandate. However, the State plan generally provides coverage for mandated health insurance benefits. According to the Department of Budget and Management (DBM), all carriers participating in the State plan generally provide coverage for treatment of contagious diseases. However, as with Medicaid, DBM advises that medical plans in the

State plan would not cover drugs or other treatments for the treatment of a contagious disease unless FDA-approved for that disease.

Additional Comments: According to MIA, the bill does not apply to the nongrandfathered individual or small employer markets. Section 31-116 of the Insurance Article specifies that mandates required after December 31, 2011, are not applicable to these markets if the mandates are not included in the State benchmark plan. As such, if the intent is to apply the mandate to these markets, the bill will need to be amended to indicate that it applies to these markets *irrespective of § 31-116*. If the mandate is applied to all markets, the State will be required to defray the cost of the new mandate to the extent it applies to the individual and small group market ACA plans.

Additional Information

Prior Introductions: SB 943 of 2018, a bill with similar provisions, received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: None.

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

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