

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 919
Finance

(Senator Middleton, *et al.*)

Health and Government Operations

Insurance - Self-Funded Student Health Plans

This emergency bill exempts from most State insurance laws a self-funded student health plan operated by an independent institution of higher education that provides health care services to its students and their dependents. Beginning July 1, 2016, the institution must file an annual report with the Insurance Commissioner for the student health plan that will be offered to students for the upcoming school year, which certifies under penalties of perjury that the institution and the student health plan meet certain criteria. A self-funded student health plan operated by an independent institution of higher education must establish internal appeals and grievance procedures and a complaint process for coverage decisions, as is currently required of other carriers.

Fiscal Summary

State Effect: Any change in State activities does not materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The annual report must certify that (1) the student health plan satisfies federal minimum essential coverage standards; (2) the institution pledges assets sufficient to support the liabilities of the plan; (3) the institution demonstrates an ability to operate the plan in a sound matter, as specified under the bill; (4) the institution maintains at least a AA bond rating; and (5) the institution operates the student health plan in compliance with specified provisions of law.

Current Law/Background: Employer and government entities have two major options when providing health insurance benefits. They can purchase an insured plan from an insurance company or they can self-insure by assuming risk and paying all claims themselves, usually through a third-party administrator. The federal Employee Retirement Income Security Act limits states' ability to require employers to offer insurance coverage and exempts the coverage offered by self-insured entities provided to employees and dependents from state insurance regulation.

Current law does not recognize self-funded student health plans. Under Maryland law, a student health plan is a type of individual health benefit plan for students enrolled in an institution of higher education and their dependents under a written agreement that (1) is between the institution of higher education and a carrier; (2) does not make coverage available other than in connection with enrollment as a student or as a dependent of a student; and (3) does not condition eligibility on any health-status related factor. A carrier that offers a student health plan is not required to accept individuals who are not students or dependents of covered students; establish open enrollment periods; establish effective dates based on a calendar year; offer health benefit plan contracts on a calendar-year basis; or renew, or continue in force, coverage for individuals who are no longer students or dependents of students. A student administrative health fee is not a cost-sharing requirement with respect to specified recommended preventive services.

As a type of insurance regulated by the State, student health plans are subject to the insurance premium tax, risk-based capital requirements, and other requirements to which individual health benefit plans are subject.

Under the federal Patient Protection and Affordable Care Act (ACA), self-funded student health plans issued on or before December 31, 2014, were deemed minimum essential coverage. For plans years beginning after this date, sponsors of such plans must apply to the U.S. Department of Health and Human Services to be recognized as minimum essential coverage. To be recognized, the plan must meet all requirements of Title I of ACA pertaining to nongrandfathered individual health coverage (*e.g.*, prohibitions on preexisting conditions, minimum essential health benefits, prohibitions against annual and lifetime limits, patient protections and appeals rights) and submit an application. Once a plan achieves recognition, it is included on a list published by the Centers for Medicare and Medicaid Services.

Title 15, Subtitle 10A of the Insurance Article requires health insurance carriers to establish an internal grievance process, including an expedited process for use in an emergency case. Members may file a complaint with the Insurance Commissioner within four months after the receipt of an adverse decision or grievance decision from a carrier. The Commissioner must make final decisions on complaints. Carriers must submit quarterly reports with the Commissioner regarding appeals and grievances filed with the carrier. Title 15,

Subtitle 10D of the Insurance Article requires carriers to establish an internal appeals process for coverage decisions. Decisions of the carrier may be appealed to the Commissioner. The Commissioner must make final decisions on coverage decisions.

Background: According to the Maryland Insurance Administration (MIA), most institutions of higher education require evidence that a student has health insurance in place. Students have three choices: (1) until age 26, they may remain on their parents policy; (2) they may obtain an ACA-compliant individual policy either on or off the Maryland Health Benefit Exchange; or (3) they may obtain a fully insured student health insurance plan through one of the carriers currently offering such plans in Maryland, including CareFirst of Maryland; Group Hospitalization and Medical Services, Inc.; United; Aetna; Tufts; and National Guardian Life Insurance Company.

According to the Maryland Independent College and University Association, only one independent institution of higher education, Johns Hopkins University, administers a self-funded student health plan. Johns Hopkins operates two self-funded plans – one at the Homewood Campus and one at the East Baltimore Campus. The plans have been offered for several years. According to Johns Hopkins, many of the university’s “peer” institutions offer self-funded student health plans either under their respective state statute or by administrative policy with their state insurance regulator. MIA advises that Johns Hopkins lacks the legal authority to offer these plans in Maryland.

Additional Information

Prior Introductions: None.

Cross File: HB 1247 (Delegate Hayes, *et al.*) - Health and Government Operations.

Information Source(s): Johns Hopkins University, Maryland Independent College and University Association, Maryland Insurance Administration, Department of Legislative Services

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