

Department of Legislative Services  
 Maryland General Assembly  
 2020 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1356 (Delegate Saab, *et al.*)  
 Health and Government Operations

Office of the Attorney General - Health Insurer Concentration - Study

This bill requires the Office of the Attorney General (OAG) to study health insurer concentration in the State and determine the competitiveness of the market. By December 1, 2020, OAG must submit its findings and recommendations to the Governor and specified committees of the General Assembly. **The bill takes effect July 1, 2020.**

Fiscal Summary

**State Effect:** General fund expenditures for OAG increase by an estimated \$100,000 in FY 2021 only to contract with a consultant to conduct the required study. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	100,000	0	0	0	0
Net Effect	(\$100,000)	\$0	\$0	\$0	\$0

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

**Local Effect:** None.

**Small Business Effect:** None.

Analysis

**Bill Summary:** In conducting the study, OAG must (1) examine insurer concentration by both region and product level; (2) determine if there is a correlation between health insurer concentration and market power in terms of premium costs and the effect on affordable and available services for consumers and reimbursement rates for health care providers and

pharmacists; and (3) make recommendations to address inequities between health care providers and pharmacists in their ability to negotiate with health insurers.

**Current Law/Background:** The U.S. Department of Justice and the Federal Trade Commission examine market concentration in their evaluation of proposed mergers between firms. Market concentration is measured using Herfindahl-Hirschman Indices (HHIs), a commonly accepted measure of market concentration that is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases. Markets are generally classified into three types: (1) unconcentrated (HHI below 1,500); (2) moderately concentrated (HHI between 1,500 and 2,500); and (3) highly concentrated (HHI above 2,500).

The American Medical Association report [\*Competition in Health Insurance: A Comprehensive Study of U.S. Markets\*](#) presents data on the degree of competition in health insurance markets to help identify areas where consolidation among health insurers may cause anticompetitive harm to consumers and providers. The study reports the two largest insurers' commercial market shares and HHIs for markets at the state and metropolitan statistical area (MSA) levels across the United States. Nationally, 75% of the 382 MSA-level commercial markets studied were highly concentrated in 2018. The average HHI across MSA-level markets was 3,504.

**Exhibit 1** displays market concentration for Maryland and its five MSAs, as well as the two largest insurers' market shares for all product markets combined. Maryland had an overall HHI of 2,843, with individual MSA-level market HHIs ranging from 1,883 to 4,233.

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**Exhibit 1**  
**Market Concentration as Measured by HHI and the**  
**Largest Two Insurers' Market Share**  
**As of January 1, 2018**

<u>MSA</u>	<u>HHI</u>	<u>Insurer 1</u>	<u>Market Share</u>	<u>Insurer 2</u>	<u>Market Share</u>
Maryland (statewide)	2,843	CareFirst	46%	UnitedHealth	15%
Baltimore-Columbia-Towson, MD	3,197	CareFirst	51%	Cigna	16%
California-Lexington Park, MD	4,233	CareFirst	62%	Cigna	13%
Cumberland, MD-WV	2,567	CareFirst	34%	UnitedHealth	30%
Hagerstown-Martinsburg, MD-WV	1,883	CareFirst	23%	UnitedHealth	21%
Salisbury, MD-DE	2,930	Highmark	44%	CareFirst	26%

HHI: Herfindahl-Hirschman Indices, a measure of market concentration

MSA: metropolitan statistical area

Source: American Medical Association; Department of Legislative Services

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**State Expenditures:** OAG general fund expenditures increase by \$100,000 in fiscal 2021, which reflects the bill's July 1, 2020 effective date. OAG advises that it does not have the staff or expertise to conduct the study itself and, in order to complete the study within the required five-month timeframe, must contract with an outside consultant to conduct the study at an estimated cost of \$100,000 in fiscal 2021 only.

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**Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** American Medical Association; U.S. Department of Justice; Office of the Attorney General; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2020  
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