

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 685
Finance

(Senator Lam)

Insurance Law - Application to Direct Primary Care Agreements - Exclusion

This bill defines a “direct primary care agreement” and specifies that it is not health insurance, a health benefit plan, a nonprofit health service plan, or long-term care insurance provided such an agreement meets specified conditions. The bill also defines a “direct primary care provider” and exempts such a provider from insurance producer licensing requirements. The Health Education and Advocacy Unit (HEAU) in the Office of the Attorney General (OAG) is authorized to assist health care consumers in understanding their direct primary care agreements and in identifying and reporting any billing or coverage problems. If HEAU requests information from a direct primary care provider to assist a consumer, the primary care provider must provide the information to HEAU within seven working days of the request.

Fiscal Summary

State Effect: OAG can likely handle the bill’s requirements using existing budgeted resources. To the extent a significant number of consumers seek assistance with their direct primary care agreements, expenditures may increase. Revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Direct primary care agreement” means a written contract between a patient (or a legal representative of the patient) and a “direct primary care provider” that (1) requires a primary care provider to provide direct primary care services to an individual

patient for a specified fee and period of time; (2) describes the direct primary health care services to be provided and any ongoing care for which an additional fee will be charged; (3) specifies the amount of the periodic fees and any additional fees; (4) specifies the duration of the agreement and any automatic renewal periods; (5) authorizes either party to terminate the agreement on written notice; (6) is signed by the patient (or the patient's legal representative) and the direct primary care provider; and (7) includes specified consumer protections.

“Direct primary care provider” means a primary care provider that is licensed under the Health Occupations Article, provides direct primary care services within the scope of practice of the provider's license and the ordinary course of business or practice of a profession, and provides direct primary care services for a periodic fee in accordance with a direct primary care agreement. “Direct primary care provider” includes an agent, as specified.

“Direct primary care services” means routine health care services, including screening, assessment, diagnosis, and treatment for the purpose of promoting health as well as detection, management, or prevention of disease or injury.

Exemptions from the definition of health insurance, a health benefit plan, a nonprofit health service plan, or long-term care insurance (and from insurance producer licensing requirements) apply only if a direct primary care agreement does not allow the direct primary care provider to (1) bill a third party on a fee-for-service basis for direct primary care services covered under the direct primary care agreement; (2) charge a per-visit fee greater than the monthly equivalent of the periodic fee provided for in the direct primary care agreement; (3) require a patient to pay more than 12 months of a periodic fee in advance; and (4) decline to accept a new patient or discontinue care to an existing patient solely because of the health status of the patient, except under specified situations.

The bill specifies the situations under which a direct primary care agreement may allow a direct primary care provider to decline to accept a patient or discontinue care for a patient.

Current Law: “Health insurance” means insurance of human beings against (1) bodily injury, disablement, or death by accident or accidental means or the expenses of bodily injury, disablement, or death by accident or accidental means; (2) disablement or expenses resulting from sickness or childbirth; and (3) expenses incurred in prevention of sickness or dental care. “Health insurance” includes accident insurance, disability insurance, and each insurance appertaining to health insurance. “Health insurance” does not include workers' compensation insurance.

For purposes of premium rate review conducted by the Maryland Insurance Administration, “health benefit plan” means (1) a health insurance contract, a nonprofit

health service plan contract, or a health maintenance organization contract that includes benefits for medical care or (2) a certificate of health insurance issued or delivered to a Maryland resident under a contract issued to an association located in the State or any other state. “Health benefit plan” does not include coverage only for accident or disability income insurance, coverage issued as a supplement to liability insurance, liability insurance, workers’ compensation, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, and other specified coverage. “Health benefit plan” is similarly defined with respect to the Maryland Health Benefit Exchange.

Before a person acts as an insurance producer in the State, the person must obtain an insurance producer license and, if acting for an insurer, an appointment from the insurer. Insurance producer licensing requirements do not apply to insurers; specified officers, directors, or employees of an insurer; specified individuals who perform administrative services related to mass marketed property and casualty insurance; specified employers and associations and related officers, directors, employees, and trustees; specified employees of an insurer or organization employed by an insurer; persons whose activities are limited to advertising without the intent to solicit insurance; specified nonresidents who sell, solicit, or negotiate contracts of insurance for commercial property and casualty risks; and salaried, full-time employees who counsel or advise their employer relative to the insurance interests of the employer.

Small Business Effect: Although several direct primary care (DPC) practices already exist in Maryland, the bill may make it easier or more attractive for physicians to establish a DPC practice.

Additional Information

Prior Introductions: Similar legislation has been introduced in prior legislative sessions. SB 727 of 2020 received a hearing in the Senate Finance Committee, but no further action was taken. SB 315 of 2019 received a hearing in the Senate Finance Committee, but no further action was taken. HB 315 of 2019 received a hearing in the House Health and Government Operations Committee but was withdrawn. HB 718 of 2018 received a hearing in the House Health and Government Operations Committee and was withdrawn. Its cross file, SB 531, received a hearing in the Senate Finance Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Maryland Insurance Administration; Department of Legislative Services

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Analysis by: Jennifer B. Chasse

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