

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 970

(Delegate Kelly, *et al.*)

Health and Government Operations

Finance

Managed Care Organizations and Health Insurance Carriers - Prior
Authorization for HIV Postexposure Prophylaxis - Prohibition

This bill prohibits an insurer, a nonprofit health service plan, and a health maintenance organization (collectively known as carriers), as well as a Medicaid managed care organization (MCO) from applying a prior authorization requirement for a prescription drug used as postexposure prophylaxis (PEP) for the prevention of HIV if the prescription drug is prescribed for use in accordance with U.S. Centers for Disease Control and Prevention guidelines. **The bill takes effect January 1, 2023, and applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after that date.**

Fiscal Summary

State Effect: To the extent that utilization of PEP by MCO enrollees increases under the bill, Medicaid expenditures (and associated federal matching revenues) increase in the near term; however, such expenditures are likely offset by indeterminate savings due to the prevention of HIV infections, as discussed below. No impact on the State Employee and Retiree Health and Welfare Benefits Program, as discussed below.

Local Effect: Any impact on health care expenditures for local governments that purchase fully insured health benefit plans is anticipated to be minimal. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 431 of 2019 established the Pilot Program for Preventing HIV for Rape Victims to prevent HIV infection for victims of an alleged rape or sexual offense or victims of alleged child sexual abuse. A qualifying victim must be provided with a full course of treatment and follow-up care for PEP for the prevention of HIV, at the victim's request, and as prescribed. This treatment must be provided free of charge under specified circumstances. The Criminal Injuries Compensation Board (CICB) must reimburse a physician, qualified health care provider, or hospital for services and treatments provided. The total amount paid by CICB may not exceed \$750,000 annually. The program terminates September 30, 2022.

Chapter 581 of 2017 prohibits carriers from applying a prior authorization requirement for a prescription drug (1) when used for treatment of an opioid use disorder and (2) that contains methadone, buprenorphine, or naltrexone.

State Fiscal Effect: Medicaid's fee-for-service program does not require prior authorization for HIV prevention drugs. All Medicaid MCOs cover PEP drugs; however, some have prior authorization requirements. Minimal system changes would be necessary to remove prior authorization requirements. To the extent the prohibition against prior authorization requirements increases utilization of PEP by MCO enrollees, MCO costs – and consequently MCO capitation rates (general and federal funds) – increase in the near term. However, the Maryland Department of Health may realize indeterminate savings due to the prevention of HIV infections due to usage of PEP drugs.

The State Employee and Retiree Health and Welfare Benefits Program is largely self-insured for its medical contracts and, as such, except for the one fully insured integrated health model medical plan (Kaiser), is not subject to this mandate. However, the program generally provides coverage for mandated health insurance benefits. The Department of Budget and Management advises that the program currently covers PEP without prior authorization. Thus, there is no impact on the program.

Additional Comments: PEP is the use of antiretroviral medication to prevent HIV infection after a potential exposure. PEP should be used only in emergency situations and must be started within 72 hours after a possible exposure to HIV. Prescriptions must be taken daily for 28 days.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 787 (Senator Feldman) - Finance.

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

Fiscal Note History: First Reader - February 15, 2022
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