

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 460
 Finance

(Senators Augustine and Hester)

Health and Government Operations

Health - Insurance Coverage Information

This bill establishes a Consumer Health Access Program for Mental Health and Addiction Care to provide “consumer assistance services” to program participants and collect and analyze data from participants and providers to identify and help resolve barriers to behavioral health treatment. The program must be administered by the “incubator entity” (the University of Maryland Baltimore School of Social Work Center for Addiction Research, Education, and Services) and a “hub entity.” The bill also establishes a Consumer Health Access Program for Mental Health and Addiction Care Fund and a Consumer Health Access Program Advisory Council. In fiscal 2024 through 2026, the Governor must include in the annual budget bill a \$1.0 million appropriation to the fund. The advisory council terminates contingent on the termination of the pilot program, which the program must conduct for a three-year period.

Fiscal Summary

State Effect: General fund expenditures increase by an indeterminate amount in FY 2023 for the incubator entity to select a hub entity. General fund expenditures and special fund revenues and expenditures increase by \$1.0 million in FY 2024 through 2026 to reflect the mandated appropriation. To the extent a State public university is selected as a hub entity, higher education revenues and expenditures increase in FY 2024 through 2026. **This bill establishes a mandated appropriation in FY 2024 through 2026.**

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$0	\$1.0	\$1.0	\$1.0	\$0
Higher Ed Rev.	\$0	-	-	-	\$0
GF Expenditure	-	\$1.0	\$1.0	\$1.0	\$0
SF Expenditure	\$0	\$1.0	\$1.0	\$1.0	\$0
Higher Ed Exp.	\$0	-	-	-	\$0
Net Effect	(\$-)	(\$1.0)	(\$1.0)	(\$1.0)	\$0.0

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Connector entity regions” means the eight geographical regions in Maryland designated by the Maryland Health Benefit Exchange for purposes of insurance-related outreach, education, and enrollment under the federal Patient Protection and Affordable Care Act (ACA).

“Consumer assistance services” means services with the purposes of (1) providing administrative assistance to enroll in health coverage plans; (2) assisting program participants to access treatment for behavioral health disorders; (3) communicating and coordinating with health coverage plans on behalf of program participants and their providers regarding behavioral health treatment, as specified; (4) offering to connect program participants to governmental agencies or authorities that provide assistance, as specified; (5) assisting program participants to pursue complaints against health coverage plans, as specified; (6) providing outreach and education regarding access to behavioral health services; and (7) providing consumer education materials regarding accessing coverage for behavioral health disorders under health coverage plans and rights under federal and State law, as specified.

“Hub entity” means the private, community-based, nonprofit corporation or organization with offices located in the State or a public university in the State selected by the incubator entity and responsible for operating the program.

“Specialty entity” means a private, community-based, nonprofit corporation or organization with offices located in the State that enters a contract with the hub entity to assist in the delivery of consumer assistance services.

“Spoke entity” means the private, community-based, nonprofit corporation or organization with offices located in the State that enters into a contract with the hub entity to provide consumer assistance services in one of the eight connector entity regions.

The bill specifies that the Health Education and Advocacy Unit (HEAU) of the Office of the Attorney General (OAG) is the State’s office of health insurance consumer assistance under the ACA.

Consumer Health Access Program for Mental Health and Addiction Care Fund

The purpose of the fund is to provide funding to the incubator entity, hub entity, and spoke and specialty entities to carry out the responsibilities of the program. The incubator entity and the hub entity must administer the fund. The fund is a special, nonlapsing fund that consists of money appropriated in the State budget to the fund; interest earnings; and any other money from any other source accepted for the benefit of the fund. Expenditures from the fund may be made only to carry out the purpose and activities of the program and in accordance with the State budget. Money expended from the fund for the program is supplemental to and not intended to take the place of funding that otherwise would be appropriated for the program.

Structure and Implementation of the Program

Contingent on the receipt of State funding for the program, the incubator entity must implement the program by (1) issuing a request for proposals (RFP) for a hub entity by January 1, 2023; (2) selecting an entity that meets specified criteria to serve as the hub entity by July 1, 2023; (3) selecting and entering into agreements, directly or through a hub entity, to deliver consumer assistance services with one spoke entity in each of the eight connector entity regions; (4) selecting and entering into agreements, directly or through a hub entity, to deliver consumer assistance services with one or more specialty entities; and (5) offering technical assistance to the hub entity under an agreement for a three-year pilot period.

The program must be composed of the hub entity, eight spoke entities, a specialty entity (as needed), and specified volunteers. The program must conduct a three-year pilot program to provide consumer assistance services. The program must promote equity in access to behavioral health services, as specified.

Within one year after the receipt of State funds, the program must (1) begin providing customer assistance services; (2) establish and operate a toll-free helpline and an online assistance portal to allow access to consumer assistance program services; (3) collect and analyze data on all consumer assistance services provided by the program; (4) based on data acquired from program participants and their providers and health coverage plans, identify trends and gaps in coverage of and access to behavioral health services, identify trends in violations of the federal Mental Health Parity and Addiction Equity Act (MHPAEA), and recommend policies and practices to resolve deficiencies in coverage and access to services; (5) make data, trend analyses, and recommendations available, as specified; (6) work with government agencies and the General Assembly to address systemic gaps in access to behavioral health services and violations of MHPAEA; and (7) issue an annual report, with specified contents.

The program may develop consent forms that authorize one or more specifically identified hub, spoke, or specialty entities conducting consumer assistance services to request, obtain, and use the medical records of a program participant. The program must use and disclose an individual's records in compliance with specified State and federal law and privacy standards and may not disclose personal identifying information in any form other than aggregate data.

The program must request and promptly receive, with reasonable notice and the appropriate authorization, the cooperation, assistance, information, and records from State agencies specifically related to a program participant's complaint, as necessary, to enable the program to investigate the complaint.

The program must publish a notice about the program's services and must disseminate the notice to employers in the State that provide health insurance or a health coverage plan, behavioral health providers, and other entities identified by the program.

The program may apply for and accept grants, gifts, and other funds. Only HEAU may apply for grants under the ACA for federal consumer assistance program funding purposes. The full program name must be used in any advertising and in any written communications.

Consumer Health Access Program Advisory Council

The 15-member advisory council must meet quarterly to (1) advise the University of Maryland Baltimore School of Social Work Center for Addiction Research, Education, and Services on the design and operations of the program; (2) recommend improvements for the program; and (3) review data on cases handled by the program and make recommendations based on that data. The advisory council terminates contingent on the termination of the pilot program.

Current Law: Under Title 15, Subtitle 10A of the Insurance Article, consumers may appeal health insurance carriers' adverse decisions (proposed or delivered health care services are not or were not medically necessary) and contractual coverage decisions. Statute provides guidelines that carriers must follow in notifying patients of denials, establishing appeals and grievances processes, and notifying members of grievance decisions.

OAG's HEAU assists health care consumers in understanding health care bills and third-party coverage, identifying improper billing or coverage determinations, reporting billing or coverage problems to appropriate agencies, and assisting patients with health equipment warranty issues. HEAU is the State's first-line consumer assistance agency for the appeals and grievances processes. Carriers must notify patients that HEAU is available to assist them in mediating and filing a grievance or appeal of an adverse decision or

coverage decision. HEAU conducts outreach programs to increase awareness of consumer rights regarding appeals and grievances and the assistance HEAU can provide consumers.

Maryland's mental health parity law (§ 15-802 of the Insurance Article) prohibits discrimination against an individual with a mental illness, emotional disorder, or substance use disorder (SUD) by failing to provide benefits for the diagnosis and treatment of these illnesses under the same terms and conditions that apply for the diagnosis and treatment of physical illnesses. Carriers are required to submit a demonstration of mental health parity compliance when they submit their form filings in the individual, small group, or large group fully insured markets. Self-insured plans are not required to submit documentation to the Maryland Insurance Administration but rather are subject to federal fines and penalties for failure to comply.

MHPAEA requires group health plans of large employers, as well as qualified health plans sold in health insurance exchanges and in the small group and individual markets as of January 1, 2014, to equalize health benefits for addiction and mental health care and medical and surgical services in many fundamental ways. MHPAEA prohibits group health plans from imposing separate or more restrictive financial requirements or treatment limitations on mental health and SUD benefits than those imposed on other general medical benefits. MHPAEA also imposes nondiscrimination standards on medical necessity determinations.

Chapters 211 and 212 of 2020, among other things, require insurers, nonprofit health service plans, health maintenance organizations, and any other person or organization that provides health benefit plans in the State (collectively known as carriers) to submit two reports to the Insurance Commissioner, by March 1, 2022, and March 1, 2024, to demonstrate compliance with MHPAEA and conduct a specified comparative analysis.

State Fiscal Effect: The bill requires that, *contingent on receipt of State funding*, the incubator entity must implement the program by, among other things, issuing an RFP for a hub entity by January 1, 2023, and selecting a hub entity by July 1, 2023. This analysis assumes that State funding (likely general funds) is provided in fiscal 2023 for the incubator entity to issue the RFP and select a hub entity. Thus, general funds increase by an indeterminate amount in fiscal 2023 for costs associated with selection of the hub entity. To the extent funding is not provided, selection of the hub entity is delayed until fiscal 2024.

General fund expenditures and special fund revenues increase by \$1.0 million annually in fiscal 2024 through 2026 to reflect the mandated appropriation. Special fund expenditures from the fund increase beginning in fiscal 2024 by at least \$1.0 million to fund the program, which reflects mandated appropriations, any interest earnings or other funds provided to the fund, and any potential grants, gifts, or other funds obtained by the program. To the

extent that a public university in the State is selected by the incubator entity as a hub entity and is responsible for operating the program, higher education revenues and expenditures increase in fiscal 2024 through 2026.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 517 (Delegate R. Lewis) - Health and Government Operations.

Information Source(s): Department of Budget and Management; Department of Veterans Affairs; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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