

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 765 (Delegate Bridges, *et al.*)
Health and Government Operations

Maryland Medical Assistance Program - Doula Program

This bill establishes a Maryland Medical Assistance Doula Program within the Maryland Department of Health (MDH) to provide “doula services” to pregnant and postpartum Medicaid recipients. The bill establishes (1) requirements for MDH to administer and evaluate the effectiveness of the doula program; (2) requirements for participating doulas; and (3) specifications for covered doula services, including limitations, frequency, and reimbursement rates. By June 1 each year, MDH must submit a report to the Governor and specified committees of the General Assembly on the implementation of the program.

Fiscal Summary

State Effect: The bill generally codifies pending Medicaid regulations regarding doula services; thus, there is no fiscal impact resulting from the services specified under the bill. Medicaid expenditures (50% general funds, 50% federal funds) increase by an indeterminate amount annually beginning in FY 2023 for MDH to evaluate program effectiveness, as discussed below. Federal fund revenues increase accordingly.

Local Effect: None.

Small Business Effect: None as a result of the bill. A meaningful impact has already been accounted for as a result of the regulations.

Analysis

Bill Summary:

Administration of the Program by the Maryland Department of Health

In administering the program and as permitted by federal law, MDH must (1) ensure that doulas providing care under the doula program are participating doulas; (2) review

participation in the doula program by participating doulas and Medicaid recipients; and (3) evaluate the effectiveness of the doula program, as specified.

Participating Doulas

A doula must be certified by at least one of nine specified organizations and present proof to MDH of completion of the associated certification before providing doula services. To participate, a provider must (1) meet specified regulatory requirements to participate in Medicaid; (2) maintain up-to-date certification; and (3) hold adequate liability insurance.

Doula Services

Medicaid must cover doula services that (1) are medically necessary; (2) are provided during the prenatal, labor and delivery, or postpartum period of a birthing parent; and (3) if provided remotely, comply with Medicaid telehealth regulations and other relevant State and federal law. Medicaid must cover up to eight prenatal or postpartum visits and one labor and delivery service.

Doula services are subject to the following limitations: (1) one licensed health care professional (an obstetrician-gynecologist, a family medicine practitioner, or a certified nurse midwife) must be present while doula services are provided during labor and delivery; (2) doula services provided during labor and delivery may not be delivered via telehealth; (3) payment for doula services must be limited to direct services provided and expenses may not be reimbursed for items related to other specified expenses; and (4) multiple visits are not allowed in the same day, with the exception of a prenatal visit that occurs before a labor and delivery visit in the same day, or a labor and delivery visit that occurs before a postpartum doula visit in the same day.

Reimbursement for Doula Services

A provider must submit a request for payment in the format designated by Medicaid. Medicaid may return to the provider improperly completed or incomplete invoices. Medicaid must pay for covered services at a rate equal to the lesser of either the customary charge of the provider or the Medicaid fee schedule. A provider may not bill Medicaid or a birthing parent for completion of forms and reports, broken or missed appointments, a professional service by mail, a professional service provided by telehealth when the service is indicated as an exclusion, or providing a copy of the medical record.

Rates for doula services must be (1) for prenatal care services, \$16.62 per 15-minute unit of service for up to four units of service per visit; (2) for labor and delivery attendance, a flat rate of \$350; and (3) for postpartum care services, \$19.62 per 15-minute unit of service for up to four units of service per visit.

Current Law: Medicaid covers individuals, including pregnant women, with incomes up to 138% of federal poverty guidelines (FPG). Pregnant women with incomes between 138% and 264% FPG may also qualify for Medicaid based on their pregnancy under the “SOBRA” category.

With the inclusion of maternal and child health as a population health priority area under Maryland’s Statewide Integrated Health Improvement Strategy, the Health Services Cost Review Commission recently committed \$8.0 million in annual funding to support Medicaid initiatives to address severe maternal morbidity and pediatric asthma. Reimbursement for doula services is one of a suite of programs MDH is supporting with this funding, with an expected annual cost of \$1.4 million in combined federal and State funds.

MDH submitted regulations for Medicaid coverage of doula services in August 2021 (COMAR 10.09.39.01-.11) that were published on November 19, 2021 (48:24 MD. R. 1028). As of January 28, 2022, the regulations remain pending and have not yet gone into effect. MDH submitted a State Plan Amendment to the Centers for Medicare and Medicaid Services to allow for a federal matching rate for all direct services provided under this program. Once approved and the regulations are fully promulgated, Medicaid coverage of doula services will be available statewide to both HealthChoice managed care organization and fee-for-service Medicaid beneficiaries. Doula services will be eligible for a 50% federal match, while provider enrollment costs will be eligible for a 75% federal match.

State Fiscal Effect: MDH is set to begin Medicaid coverage of doula services once regulations are promulgated, which is anticipated to occur as early as February 2022. The bill generally codifies MDH’s planned implementation for doula services and, therefore, is cost neutral with respect to coverage of Medicaid doula services.

Medicaid expenditures increase by an indeterminate amount annually beginning in fiscal 2023 to reflect the bill’s requirement that MDH evaluate the effectiveness of the doula program, including by determining breastfeeding rates among participants (data not typically included in administrative or encounter data) and administering surveys to collect feedback from participating doulas and doula program participants. Actual costs cannot be reliably estimated at this time.

With respect to operational impact, MDH advises that codifying program regulations under the bill with such specificity limits MDH’s ability to amend, clarify, expand, or update the program, including provider rates.

Additional Information

Prior Introductions: SB 163 of 2021, a similar bill, passed in the Senate with amendments and received a hearing in the House Health and Government Operations Committee, but no further action was taken. Similar legislation, SB 110 of 2020, received a hearing in the Senate Finance Committee, but no further action was taken.

Designated Cross File: SB 166 (Senator Ellis) - Finance.

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

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