

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 728 (Senator Lam)
 Finance

Health Insurance – Qualified Resident State Subsidy Program (Access to Care Act)

This bill requires the Maryland Health Benefit Exchange (MHBE), in consultation with the Insurance Commissioner and as approved by the MHBE Board, to submit a federal State Innovation Waiver application by July 1, 2023. The waiver application must seek to establish a Qualified Resident State Subsidy Program and request federal pass-through funding to allow “qualified residents” to obtain coverage, including State premium assistance and cost-sharing reductions (CSRs), through MHBE. If the waiver is approved, MHBE, in consultation with the Commissioner and as approved by the MHBE Board, must establish and implement the program. By January 1, 2024, MHBE must adopt regulations to carry out the program. Beginning January 1, 2024, funding for the program may be made using any federal pass-through funds received under an approved federal waiver and any funds designated by the federal or State government to provide health coverage for qualified residents.

Fiscal Summary

State Effect: No effect in FY 2023 as MHBE can apply for the waiver using existing budgeted resources. If the wavier is granted, MHBE expenditures increase by \$53.2 million in FY 2024 to implement the waiver, increasing to \$200.6 million in FY 2027, as discussed below; receipt of federal pass-through funding increases accordingly.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
FF Revenue	\$0	\$7.4	\$18.6	\$24.8	\$28.8
SF Expenditure	\$0	\$45.8	\$118.8	\$156.2	\$171.8
FF Expenditure	\$0	\$7.4	\$18.6	\$24.8	\$28.8
Net Effect	\$0.0	(\$45.8)	(\$118.8)	(\$156.2)	(\$171.8)

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: “Qualified resident” means an individual, including a minor, regardless of immigration status, who at the time of enrollment (1) is seeking to enroll in a qualified health plan (QHP) through the exchange; (2) resides in the State; (3) is not incarcerated, other than incarceration pending disposition of charges; and (4) is not eligible for the federal advanced premium tax credit (APTC), Medicaid or the Maryland Children’s Health Program, Medicare, or employer-sponsored minimum essential coverage.

Qualified Resident State Subsidy Program

The program must (1) provide State premium assistance and CSRs to qualified residents; (2) meet the requirements of a specified federal waiver; and (3) be consistent with federal and State law. The program must be designed to make individual market health insurance coverage offered through MHBE affordable to qualified residents.

By December 31, 2023, the Commissioner may waive any notification or other requirements that apply to a carrier under the Insurance Article in calendar 2023 due to the implementation of an approved waiver.

Based on available funds, MHBE, in consultation with the Commissioner and as approved by the MHBE Board, must establish subsidy eligibility and payment parameters for calendar 2024 and each subsequent calendar year. The parameters must, to the greatest extent possible, mirror those applicable to qualified individuals.

Beginning January 1, 2024, funding for the program may be made by using (1) any federal pass-through funds received under an approved federal waiver; (2) any funds designated by the federal government to provide health coverage for qualified residents; and (3) any funds designated by the State to provide health coverage for qualified residents.

Implementation of the program must be contingent on approval of the waiver from the U.S. Secretary of Health and Human Services and the U.S. Secretary of the Treasury.

The purpose and allowed uses of the MHBE Fund are expanded to include providing funding for the establishment and operation of the program. The MHBE Fund includes any funds designated by the State to provide State-based health insurance subsidies to qualified

residents in the State. The MHBE Board must maintain a separate account within the fund for the program. Administration and operation of the program may include functions delegated by MHBE to a third party.

Current Law: MHBE was created during the 2011 session to provide a marketplace for individuals and small businesses to purchase affordable health coverage. Through the Maryland Health Connection, Maryland residents can shop for health insurance plans, compare rates, and determine their eligibility for federal APTCs, CSR plans, and public assistance programs such as Medicaid. MHBE is funded in part from a mandated \$32.0 million diversion of premium tax revenues that would otherwise go to the general fund. However, any of these special funds that remain unspent at fiscal year closeout revert to the general fund. In recent years, MHBE has not spent all of the mandated appropriation.

MHBE submitted a [report](#) in response to the 2021 *Joint Chairmen's Report*, on costs, feasibility, and a review of activity in other states to serve individuals ineligible for Medicaid or QHPs without APTCs. The report noted that the largest population of non-incarcerated individuals ineligible for Medicaid or QHP coverage are undocumented immigrants. Individuals with a family member whose employer offers affordable self-only coverage but not affordable family coverage are also ineligible for exchange subsidies (due to what is known as the “family glitch”).

State Fiscal Effect: Assuming a waiver is granted and the program is operational for calendar 2024, MHBE expenditures (special and federal funds) increase by a total of \$53.2 million in fiscal 2024. This estimate reflects \$1.3 million in special fund expenditures for administrative costs to implement the program (including \$1.0 million in ongoing annual costs for the consumer assistance team and a one-time expenditure of \$300,000 for information technology changes), the cost of providing subsidies to eligible qualified residents, and the receipt of federal pass-through funds. The information and assumptions used in calculating the estimate are stated below:

- The State subsidy mirrors subsidies and cost-sharing provided by the federal government prior to the enhanced subsidies offered under the federal American Rescue Plan Act, which are set to expire at the end of calendar 2022.
- An estimated 160,000 individuals are eligible for the program.
- An estimated 29,413 individuals enroll in the program in calendar 2024, increasing to 51,380 by calendar 2027.
- Based on an actuarial analysis, the gross cost of the program is \$105.1 million for calendar 2024, increasing to \$206.7 million for calendar 2027.
- Federal pass-through funding of \$14.8 million is received for calendar 2024, increasing to \$30.5 million for calendar 2027.

- The net cost to the State for the program is \$90.3 million for calendar 2024, increasing to \$176.2 million for calendar 2027.
- Half of calendar 2024 costs are incurred in fiscal 2024 and half in fiscal 2025.
- In fiscal 2025, MHBE expenditures increase by \$137.4 million, reflecting costs for the second half of calendar 2024 and the first half of calendar 2025.
- In fiscal 2026, MHBE expenditures increase by \$181.0 million, reflecting costs for the second half of calendar 2025 and the first half of calendar 2026.
- In fiscal 2027, MHBE expenditures increase by \$200.6 million, reflecting costs for the second half of calendar 2026 and the first half of calendar 2027.
- Should lower subsidies be provided, enrollment numbers and the cost to provide subsidies decrease.

Due to the enrollment of new, generally healthy entrants to the individual market risk pool, the program is estimated to reduce premiums in the individual market by 2.3% in calendar 2024, increasing to 3.9% by calendar 2028. The program is estimated to reduce the total proportion of uninsured in the State by 0.6 percentage points, from 6.0% to 5.4%.

This analysis assumes that sufficient funds are available to fund the program, which may include federal pass-through funds, any other funds that may be designated by the federal government to provide health coverage for qualified residents, and/or any funds *designated* by the State to provide health coverage for qualified residents.

Additional Comments: To date, no states have an approved State Innovation Waiver to cover undocumented immigrants. California submitted a waiver application that would have permitted undocumented immigrants to purchase coverage through the state exchange without subsidies, but the application was withdrawn. California's Medicaid program now covers otherwise eligible undocumented children from birth through age 18 and young adults ages 19 through 25, regardless of immigration status.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1035 (Delegate Pena-Melnyk) - Health and Government Operations.

Information Source(s): Kaiser Family Foundation; 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 28, 2022
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