

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 725

(Chair, Finance Committee)(By Request - Departmental -
Maryland Insurance Administration)

Finance

Health and Government Operations

Insurance - Product and Service Offerings

This departmental bill specifies that certain provisions of insurance law do not prohibit a life insurer, health insurer, nonprofit health service plan, health maintenance organization (HMO), or property or casualty insurer from offering or providing products or services in conjunction with a policy at no charge or at a discounted price under certain circumstances. Generally, the risk of loss must be associated with risks insured against by the policy or be substantially related to the insurance provided under the policy, and the offer or provision of products or services must be available to all policyholders. An offer or provision of products or services may be included in an applicable contract or form or rate filing. The Insurance Commissioner may determine by regulation the types of products and services that may be offered. **The bill takes effect July 1, 2023, and must be construed to apply only prospectively.**

Fiscal Summary

State Effect: Any impact on the Maryland Insurance Administration (MIA) can be absorbed within existing budgeted resources. Revenues are not materially affected.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Life and Health Insurers

For a life insurer, health insurer, nonprofit health service plan, or HMO, products or services may be offered or provided (1) to educate persons regarding – or to assess, monitor, control, or prevent – risk of loss to persons or (2) to enhance the health of the insured or beneficiary. The risk of loss must be associated with risks insured against by the policy or be substantially related to the insurance provided under the policy, and the offer or provision of products or services must be available to all policyholders.

An offer or provision of products or services may be included in an applicable contract or form or rate filing. If so, the insurer, nonprofit health service plan, or HMO may not discontinue the products or services during the term of the policy or contract unless consented to in writing by the policyholder or as the result of a uniform modification. An insurer, nonprofit health service plan, or HMO is not prohibited from otherwise terminating a contract. An insurer, nonprofit health service plan, or HMO may not increase the premium or deny a claim of a policyholder if the policyholder accepts, rejects, uses, or fails to use a product or service.

A product or service offered or provided in conjunction with an insurance policy or annuity contract that is primarily designed to enhance financial wellness must be allowed if the Commissioner determines that the product or service includes an enhancement to the financial protection component of the insurance policy or annuity contract.

Property and Casualty Insurers

For a property and casualty insurer, products or services may be offered or provided to educate persons regarding – or to assess, monitor, control, or prevent – risk of loss to persons or property if the risk of loss is associated with risks insured against by the policy and the offer or provision of products or services is available to all policyholders.

A property and casualty insurer may include an offer or provision of products or services in an applicable contract or form or rate filing. A property and casualty insurer may not increase the premium or deny a claim of a policyholder if the policyholder accepts, rejects, uses, or fails to use a product or service.

Current Law:

Life and Health Insurers

Generally, a person, including an HMO, may not knowingly:

- allow, make, or offer to make a contract of life insurance or health insurance or an annuity contract or an agreement about the contract other than as plainly expressed in the contract;
- pay, allow, or give (or offer to do so) – whether directly or indirectly – specified types of inducements to the insurance or annuity (specifically, a rebate of premiums payable on the contract, a special favor or advantage in the dividends or other benefits under the contract, paid employment or a contract for services of any kind, or any valuable consideration not specified in the contract);
- directly or indirectly give, sell, or purchase (or offer or agree to do so or allow as inducement to/in connection with the insurance or annuity) an agreement that promises specified types of returns, profits, or securities (or interest in securities) of an insurer or other corporation, association, or partnership; or
- offer, promise, or give any valuable consideration not specified in the contract, except for educational materials, promotional materials, or articles of merchandise that cost no more than \$50.

A person may not make receipt of any educational materials, promotional materials, or articles of merchandise contingent on the sale or purchase of insurance.

Property and Casualty Insurers

Except to the extent provided for in an applicable filing with the Commissioner, an insurer, employee or representative of an insurer, or an insurance producer may not pay, allow, give, or offer to pay, allow, or give directly or indirectly as an inducement to insurance or after insurance has become effective:

- a rebate, discount, abatement, credit, or reduction of the premium stated in the policy;
- a special favor or advantage in the dividends or other benefits to accrue on the policy; or
- any valuable consideration or other inducement not specified in the policy.

An insured named in a policy or an employee of the insured may not knowingly receive or accept directly or indirectly a rebate, discount, abatement, credit, reduction of premium, special favor, advantage, valuable consideration, or inducement.

A person may not knowingly offer, promise, or give any valuable consideration not specified in the policy, except for educational materials, promotional materials, or articles of merchandise that cost no more than \$50. A person may not make receipt of any educational materials, promotional materials, or articles of merchandise under this provision contingent on the sale or purchase of insurance.

Background: MIA advises that, in recent years, insurers have increasingly sought to offer certain noninsurance products and services to covered persons that are related to the insurance product being offered or are intended to prevent or reduce the risk of loss insured against (such as wearable medical devices or wireless property monitors). However, Maryland's anti-rebating statutes have been interpreted to mean that such offers cannot be made without making the offer part of the policy or contract, which can be cumbersome to initiate and maintain as the technologies improve over time. The bill is intended to allow insurance companies to provide value-based services outside of a contract with the consumer without violating current anti-rebating laws.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 556 and HB 1341 of 2020.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 27, 2023
rh/ljm Third Reader - March 29, 2023
Revised - Amendment(s) - March 29, 2023

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Product and Service Offerings

BILL NUMBER: SB 725

PREPARED BY: Kory Boone

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

There is no economic impact on small business associated with this proposal.