

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 376

(Delegate Sample-Hughes, *et al.*)

Health and Government Operations

Finance

Health Insurance - Diagnostic and Supplemental Examinations and Biopsies for Breast Cancer - Cost-Sharing

This bill prohibits insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) that provide coverage for a “diagnostic breast examination” or a “supplemental breast examination” from imposing a copayment, coinsurance, or deductible requirement for such examinations, except as specified. If an insured or enrollee is covered under a high-deductible health plan (HDHP), a carrier may subject diagnostic breast examinations or supplemental breast examinations to the HDHP’s deductible requirement. By October 1, 2023, the Maryland Health Care Commission (MHCC) must study and report to the Governor and specified committees of the General Assembly on the financial impact of eliminating health insurance cost sharing for diagnostic image-guided biopsies for breast cancer. **The bill’s study and reporting requirement takes effect July 1, 2023; the bill’s cost-sharing prohibitions take effect January 1, 2024, and apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after that date.**

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2024 only from the \$125 rate and form filing fee. Review of filings can be handled with existing MIA budgeted resources. MHCC can complete the required study and report using existing budgeted resources. Any impact on the State Employee and Retiree Health and Welfare Benefits Program is indeterminate.

Local Effect: To the extent the bill increases health insurance costs, expenditures for local governments that purchase fully insured medical plans increase. Revenues are not affected.

Small Business Effect: Potential minimal, as discussed below.

Analysis

Bill Summary: “Diagnostic breast examination” means a medically necessary and appropriate examination of the breast that is used to evaluate an abnormality that is either (1) seen or suspected from a prior screening examination for breast cancer or (2) detected by another means of prior examination. A diagnostic breast examination includes an examination using diagnostic mammography, breast magnetic resonance imaging, or breast ultrasound.

“Supplemental breast examination” means a medically necessary examination of the breast that is used to screen for breast cancer when (1) there is no abnormality seen or suspected from a prior examination and (2) there is a personal or family medical history or other factors present that may increase an individual’s risk of breast cancer. A supplemental breast examination includes the usage of breast magnetic resonance imaging or breast ultrasound.

Current Law: Under Maryland law, there are more than 50 mandated health insurance benefits that specified carriers must provide to their enrollees. Carriers must cover breast cancer screenings in accordance with the latest screening guidelines issued by the American Cancer Society. Currently, the guidelines specify that (1) women ages 40 to 44 may elect to get annual breast cancer screenings with mammograms and (2) starting at age 45, women should have mammograms every year. Carriers are also required to provide coverage for digital tomosynthesis – a radiologic procedure that involves the acquisition of projection images over the stationary breast to produce cross-sectional digital three-dimensional images of the breast – if an enrollee’s treating physician determines it is medically appropriate and necessary. A deductible may not be imposed for covered digital tomosynthesis or mammograms. A carrier is not required to cover breast cancer screenings used to identify breast cancer in asymptomatic women that are provided by a facility that is not accredited by the American College of Radiology or certified or licensed in Maryland.

The federal Patient Protection and Affordable Care Act (ACA) requires nongrandfathered health plans to cover 10 essential health benefits (EHBs), which include items and services in the following categories: (1) ambulatory patient services; (2) emergency services; (3) hospitalization; (4) maternity and newborn care; (5) mental health and substance use disorder services, including behavioral health treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and (10) pediatric services, including dental and vision care.

Under § 31-116 of the Maryland Insurance Article, EHBs must be included in the State benchmark plan and, *notwithstanding any other benefits mandated by State law*, must be

the benefits required in (1) all individual health benefit plans and health benefit plans offered to small employers (except for grandfathered health plans) offered outside the Maryland Health Benefit Exchange (MHBE) and (2) all qualified health plans offered in MHBE. Beyond requiring that benefits be provided for breast cancer screening in accordance with the latest screening guidelines issued by the American Cancer Society or mandated by the ACA, the Maryland benchmark plan also includes reconstructive breast surgery or breast prosthesis – for individuals who have undergone a mastectomy – as EHBs.

Section 223 of the Internal Revenue Code permits eligible individuals to establish health savings accounts that require, among other things, that individuals be covered under an HDHP and have no disqualifying health coverage. An HDHP may not provide benefits to an individual – unless the benefits are for “preventive care” – until the individual has satisfied their annual minimum deductible. According to Internal Revenue Service guidelines, diagnostic and supplemental breast examinations do not qualify as preventive care.

State Expenditures: The State Employee and Retiree Health and Welfare Benefits Program currently covers preventive breast cancer screening with no cost sharing beginning at age 35. The Department of Budget and Management advises that any impact on the State Plan from prohibiting cost sharing for diagnostic or supplemental breast examinations is indeterminate.

Small Business Effect: Health insurance premiums in the small group market may increase to the extent cost sharing is currently required for diagnostic or supplemental breast examinations. MIA advises that the bill’s changes are not anticipated to result in more than a 0.5% increase in premiums in the small group market to cover the cost of reduced cost sharing. Alternatively, carriers could choose to raise cost sharing on other services to maintain premium neutrality.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 184 (Senator Beidle, *et al.*) - Finance.

Information Source(s): 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 6, 2023
km/jc Third Reader - March 3, 2023
Enrolled - May 4, 2023
Revised - Amendment(s) - May 4, 2023

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