

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 173

(Senator Kelley, *et al.*)

Finance

Health and Government Operations

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Health Insurance - Mandated Benefits - Hospitalization and Home Visits  
Following a Mastectomy

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This bill requires insurers, nonprofit health service plans, and HMOs (carriers) to provide coverage for a 48-hour inpatient hospital stay following a mastectomy.

The bill applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

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Fiscal Summary

**State Effect:** Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2010 from the \$125 rate and form filing fee. Minimal increase in special fund expenditures for MIA in FY 2010 to review contract amendments for compliance with the bill. No increase in expenditures is anticipated for the State Employee and Retiree Health and Welfare Benefits Program (State plan).

**Local Effect:** To the extent health insurance premiums increase under the bill, expenditures may increase for local jurisdictions.

**Small Business Effect:** None. The bill does not apply to the small group market.

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Analysis

**Bill Summary:** A patient may request a shorter length of stay. For a patient who receives a 48-hour inpatient stay, a carrier must provide coverage for a home visit if prescribed. Carriers may not deny, limit, or impair the participation of physicians under

contract with the carrier for advocating the interest of mastectomy patients, including lengthier inpatient stays or additional home visits. Carriers must provide notice annually about the coverage provided under the bill.

**Current Law:** There are 43 mandated health insurance benefits that certain carriers must provide to their enrollees. There is no provision requiring overnight hospitalization for mastectomy patients. However, for a patient who receives less than a 48-hour inpatient stay following a mastectomy, carriers must cover (1) one home visit within 24 hours after discharge; and (2) an additional home visit if prescribed.

The federal Women's Health and Cancer Rights Act of 1998 requires that employer-sponsored health coverage that provides coverage for mastectomies also cover related reconstructive surgery and other mastectomy-related benefits, such as coverage for prostheses and physical complications (including lymphedemas).

**Background:** The estimated incidence of mastectomies nationally for women younger than age 65 is 0.018%, with 65% of patients sent home within 24 hours. Anecdotal evidence suggests that, in the absence of a mandate, 48-hour inpatient stays are often covered or approved by carriers when medically necessary or requested by the physician or patient.

In 2008, 20 states required coverage for an inpatient stay following a mastectomy, with 8 requiring a minimum 48-hour stay and the remainder generally requiring that length of stay be determined by the physician.

Every four years, the Maryland Health Care Commission (MHCC) examines the fiscal impact of mandated health insurance benefits. In 2008, MHCC found that these benefits account for 15.4% of total premium costs for group health insurance and 18.6% of total premium costs for individual policies.

**State Fiscal Effect:** The bill results in a minimal fiscal 2010 special fund revenue increase for MIA from the \$125 rate and form filing fee. Additional resources may be required to review forms and ensure compliance with the mandate, depending on the volume of forms received for review. To the extent additional resources are needed, special fund expenditures increase minimally in fiscal 2010.

The Department of Budget and Management anticipates that the bill does not have any effect on the State plan. In fiscal 2008, 79 women underwent inpatient mastectomies paid for by one of the State plan's four self-funded health insurance plans. The average length of stay for all plans was 2.81 days, higher than the minimum stay required under the bill. Therefore, no increase in expenditures associated with inpatient stays following mastectomies is anticipated.

## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 41 (Delegate Nathan-Pulliam, *et al.*) - Health and Government Operations.

**Information Source(s):** Kaiser Family Foundation State Health Facts, Carroll and Montgomery counties, Department of Budget and Management, Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2009  
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