

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 182 (Delegate Stifler, *et al.*)
Health and Government Operations

Health Insurance - Coverage for Breast Cancer Screening - American Cancer Society Guidelines

This bill alters the health insurance mandate regarding coverage of mammograms by requiring insurers, nonprofit health service plans, and health maintenance organizations (HMOs) to cover breast cancer screening according to American Cancer Society (ACS) guidelines that existed on January 1, 2010.

The bill takes effect June 1, 2010.

Fiscal Summary

State Effect: The bill does not affect governmental finances. The State Employee and Retiree Health and Welfare Benefits Plan incorporates current ACS guidelines into its plan, and the guidelines have not changed since January 1, 2010.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Insurers, nonprofit health service plans, and HMOs must provide coverage for breast cancer screening according to the latest screening guidelines issued by ACS. Coverage of breast cancer screening is 1 of 45 mandated health insurance benefits that certain carriers must provide to their enrollees.

Background: On January 1, 2010, ACS guidelines for the early detection of breast cancer included the following recommendations:

- Women should undergo yearly mammograms starting at age 40, continuing for as long as they are in good health.
- A clinical breast exam should be part of a periodic health exam, about every three years for women in their 20s and 30s and every year for women age 40 and older.
- Women should know how their breasts normally feel and report any breast change promptly to their health care providers. Breast self-exam is an option for women starting in their 20s.
- Women at high risk (greater than 20% lifetime risk) should get an MRI and a mammogram every year. Women at moderately increased risk (15% to 20% lifetime risk) should talk with their doctors about the benefits and limitations of adding MRI screening to their yearly mammogram. Yearly MRI screening is not recommended for women whose lifetime risk of breast cancer is less than 15%.

As of January 28, 2010, the recommendations had not changed.

In November 2009, the U.S. Preventive Services Task Force revised its recommendation regarding screening for breast cancer. The new guidelines do not recommend regular, biennial screening for women younger than age 50 – guidelines previously included women aged 40-49. The task force recommendation indicates that the decision to start regular screening before the age of 50 should be an individual one and should take patient context into account, including the patient's values regarding specific benefits and harms.

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. Mammograms account for 0.3% of total premium costs for group health insurance.

Health Insurance Mandates as They Relate to State and Local Governments and the Small Group Market

Employers have two major options when providing health insurance benefits. They can purchase a fully insured plan from an insurance company or they can self-insure by assuming risk and paying all claims for services themselves, usually through a third-party administrator. The federal Employee Retirement Income Security Act (ERISA) preempts states' ability to require private employers to offer insurance coverage and exempts the coverage offered by self-insured entities from state insurance regulation. Therefore, the health insurance requirements under Title 15, Subtitles 4, 7, and 8 of the Insurance Article apply only to fully insured health benefit plans.

Government entities that self-fund their health benefit plans are *not exempt* under ERISA from state regulation and health insurance mandates. In Maryland, these entities have instead been exempt from these requirements based on the State definition of “insurance business.” An insurance business includes the transaction of all matters pertaining to an insurance contract, either before or after it takes effect and all matters arising from an insurance contract or a claim under it. Insurance business *does not* include pooling by public entities for self-insurance of casualty, property, or health risks.

In 2008, the Maryland Association of Counties and the Maryland Association of Boards of Education conducted an informal survey of counties and county school boards about their insurance plans, to which 22 counties and 19 school boards responded. Of the 22 responding counties, 13 were self-insured, 4 were fully insured, and 5 offered both self-insured and fully insured options. Of the 19 responding county school boards, 14 were self-insured, 1 was fully insured, and 4 offered both self-insured and fully insured options. The fully insured plans offered by counties and county school boards are subject to State insurance laws.

Maryland’s small group market Comprehensive Standard Health Benefit Plan (CSHBP) is not subject to mandated benefits applicable to the large group market. Rather, MHCC reviews CSHBP on an annual basis and considers making benefit or cost sharing changes at that time. CSHBP currently covers biennial screening for breast cancer for women aged 40-49, and annual screening for women starting at age 50.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): CareFirst Blue Cross/Blue Shield, Department of Budget and Management, Maryland Health Insurance Plan, Department of Health and Mental Hygiene, Maryland Insurance Administration, American Cancer Society, U.S. Preventive Services Task Force, Department of Legislative Services

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