

Maryland Senate Bill 1080 - COVID-19 Public Health Emergency Protection Act of 2020

The bill establishes a series of protections for individuals who are either directly affected by COVID-19 or more broadly affected under the state of emergency and the catastrophic health emergency – due to difficulties in obtaining specified goods and services or of employers maintaining operations.

Health Insurance and Medicaid

The bill authorizes the Governor to take a series of actions that would facilitate access to health care and provision of that care and mitigate costs to individuals for COVID-19 diagnosis and treatment. Specifically, the Governor may:

- prohibit cost-sharing by an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) for COVID-19 testing (and associated costs) conducted based on testing protocols recommended by the Secretary of Health;
- order MDH to cover the cost of COVID-19 testing and associated costs if the costs would not otherwise be paid for by a carrier or another third party;
- require carriers and Medicaid to cover a COVID-19 immunization (should one be determined to prevent the disease) and any associated costs, without cost-sharing, if the patient belongs to a category of individuals to whom MDH has determined cost-sharing should not apply;
- establish or waive telehealth protocols for COVID-19, including authorizing health care professionals licensed out-of-state to provide telehealth to patients in the State;
- order MDH to reimburse synchronous and asynchronous telehealth services for COVID-19 provided to a patient, without regard to whether the patient is at a clinical site, if the service is covered by Medicaid, provided by a participating Medicaid provider, and authorized under the health care provider's scope of practice; and
- consult, as appropriate, with MDH, the Maryland Insurance Commissioner, and the Maryland Health Benefit Exchange to develop and implement orders relating to COVID-19 to minimize disruption in enrollment in health insurance and Medicaid, facilitate reimbursement by carriers of telehealth services provided to patients in the State, and facilitate reimbursement of essential services to minimize the risk to public health.

Retail Profits

The Governor may prohibit a retailer from increasing the sale or rental price of any good or service to a price that increases the retailer's value of profit by more than 10%, including food, fuel, water and ice, medicine, medical supplies and equipment, cleaning products, building supplies and equipment, energy sources, and storage space. The Governor may publish a list of goods and services to which this prohibition applies.

Notwithstanding the provisions of the Commercial Law Article, if the Governor prohibits a retailer from increasing the sale or rental price of any good or service as provided under the bill, a violation of the prohibition is an unfair, abusive, and deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Employer Actions

The Governor may prohibit an employer from terminating an employee solely on the basis that the employee has been required to be isolated or quarantined.

Staffing of Health Care Facilities Owned or Operated by the State

The Governor may order MDH to authorize an alternative workweek for an employee (1) of a health care facility that is owned or operated by MDH and open 24 hours a day and seven days a week and (2) who is subject to a memorandum of understanding with the American Federation of Teachers (which applies to registered nurses at some State facilities). If so, the alternative workweek may allow the employee to work hours or shifts that are not typical for State employees and work less than 40 hours in a week. An employee who is authorized to work an alternative workweek must be (1) considered a full-time State employee and (2) entitled to compensation or overtime work. The time worked by an employee who is authorized to work an alternative workweek includes only the hours actually worked and does not include paid leave hours taken by the employee during the workweek. These provisions are intended to allow MDH to offer more flexibility in staffing its behavioral health facilities during the COVID-19 emergency. State facilities can move to a 12-hour shift, three days per week (the standard for the health care industry) for State direct care employees instead of a traditional 8-hour shift for 40 hours per week.

Increased Unemployment Insurance Eligibility Due to COVID-19

The bill authorizes the Secretary of Labor, notwithstanding any other provision of State UI law, to determine that an individual, who need not separate from the individual's employment, is eligible for UI benefits if:

- the individual's employer temporarily ceases operations due to COVID-19, preventing employees from coming to work;
- the individual is quarantined due to COVID-19 with the expectation of returning to work after the quarantine is over; or
- the individual leaves employment due to a risk of exposure or infection of COVID-19 or to care for a family member due to COVID-19.