

December 22, 2022

Senator Delores G. Kelley, Chair
Senate Finance Committee
Miller Senate Office Building, 3 East
11 Bladen Street
Annapolis, MD 21401

Delegate Joseline A. Peña-Melnyk, Chair
House Health and Government Operations
Committee
Taylor House Office Building, Room 241
6 Bladen Street
Annapolis, MD 21401

Re: HB 937, 2022/Ch. 56(3), 2022 (MSAR #14160) – Abortion Care Coverage Consumer Information Workgroup

Dear Chairs Kelley and Peña-Melnyk,

Pursuant to House Bill 937 of the 2022 Session of the Maryland General Assembly, the Maryland Health Benefit Exchange (MHBE) submits this report on the recommendations of the Abortion Care Coverage Consumer Information Workgroup. All eleven members of the Workgroup voted to approve this report and its recommendations.

If you have any questions regarding this report, please contact Johanna Fabian-Marks, Director of Policy and Plan Management at (443) 890-3518 or at johanna.fabian-marks@maryland.gov.

Sincerely,

A handwritten signature in black ink that reads "Michele Eberle". The signature is written in a cursive, flowing style.

Michele Eberle
Executive Director

cc: Sarah Albert, Department of Legislative Services (5 copies)



HB 937 Abortion Care Coverage Consumer Information Workgroup

Co-Chairs:

Emily Hodson, Chase Brexton Health Care

Allison Mangiaracino, Kaiser Permanente

December 22, 2022

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Executive Summary

The HB937 Abortion Care Coverage Consumer Information Workgroup (“the workgroup”) recommends that MHBE add “abortion care” under a new category on the Plan Details page on the Maryland Health Connection plan shopping web pages.

The workgroup also recommends that carriers use a standardized, plain-language description of abortion care in carrier contracts. Carriers should also include plain-language information about cost-sharing in that contract description that is specific to whether the plan is a Health Savings Account-compatible high deductible health plan.

Over five meetings, the workgroup discussed how to improve the transparency and accessibility of consumer information about abortion care coverage. The group often encountered the challenge that to achieve these goals, tradeoffs must be made between clarity, consistency, accuracy, and practicality. Despite a variety of perspectives on the workgroup, the recommendations here are actionable and would result in progress if implemented.

Background

This report is pursuant to House Bill 937 (Abortion Care Access Act) of the 2022 session of the Maryland General Assembly, which requires that the Maryland Health Benefit Exchange, in consultation with the Maryland Insurance Administration, convene a workgroup to make “recommendations to improve the transparency and accessibility of consumer information about abortion care coverage.” The recommendations are to be reported by January 1, 2023 to the Senate Finance Committee and Government Operations Committee, in accordance with § 2–1257 of the State Government Article.

The Abortion Care Access Act had many other provisions. It established the Abortion Clinical Care Training Program and extended the qualification to administer abortion care to include health care practitioners beyond physicians. It required Maryland Medicaid and individual and small group health plans, except for Health Savings Account-eligible High-Deductible Health Plans, to cover abortion care. Individual and small group plans subject to the requirement must cover abortion care without cost-sharing. The Act required plan documents to use the terminology “abortion care” to describe coverage. It also required MHBE to use Young Adult Subsidy funds to cover the cost of premiums attributable to non-Essential Health Benefits for Young Adult Subsidy recipients who are eligible for 0% premium contribution.

Workgroup Members

Member	Affiliation
Cynthia Baur	Horowitz Center for Health Literacy, University of Maryland
Kathryn Boyd	carafem
Robyn Elliott	Planned Parenthood of Maryland
Maya Greifer	UnitedHealthcare
Emily Hodson	Chase Brexton Health Care FQHC
Allison Mangiaracino	Kaiser Permanente
Patricia O'Connor	Office of the Attorney General, Health Education and Advocacy Unit
Zachary Peters	Aetna
Deb Rivkin	CareFirst
Laureen Rodgers	Consumer Advocate
Jamie Sexton	Maryland Insurance Administration

Summary of Workgroup Meetings

The HB937 Abortion Care Coverage Consumer Information Workgroup met five times between October and December of 2022. Presentations and minutes for each meeting are available on the MHBE website at marylandhbe.com/policy/work-groups/abortion-care-coverage-consumer-information-workgroup/.

Meeting 1

In the first meeting, the members voted to approve the workgroup charter. The workgroup members also approved the co-chairs: Allison Mangiaracino, Regulatory Consultant at Kaiser Permanente and Emily Hodson, Social Work Case Management Supervisor at Chase Brexton Health Care.

MHBE staff presented an introduction to MHBE's role and scope; a background on the status of abortion rights and abortion care in Maryland; and the Abortion Care Access Act of 2022 and the abortion care coverage requirements it established.

Staff also presented on how coverage information is displayed on the plan shopping pages of MHC. Abortion is not listed in the plan details summary that consumers can use to learn more about and compare plans.

The workgroup members began discussing ideas for how abortion care information could be more accessible to consumers.

Meeting 2

MHBE staff presented an overview of an analysis of plan year 2022 carrier contracts. This analysis, performed by a consultant in collaboration with Planned Parenthood of Maryland, examined the ways abortion care was described in carrier contracts (plan documents) and found that the information used "varying terminology, inconsistent cost sharing details, and [required] varying navigation steps to access." The findings from this analysis informed the drafting of the Abortion Care Access Act, and the Act resolved many of these findings by requiring carriers to use the same terminology when referring to "abortion care," and by requiring that abortion care be covered without cost sharing by most state-regulated health plans.

Analysts at the Hilltop Institute at the University of Maryland, Baltimore County, presented an update to this analysis using 2023 plan documents. The Hilltop Institute found that although the "abortion care" terminology is now consistent, variation remains in the categorization and descriptions of abortion care. Another aspect of the analysis was a "click analysis," which found that information about abortion care coverage is now accessible in fewer clicks. One of MHBE's proposed plan certification standards for Plan Year 2024 requires that carriers link directly to the specific contract in the details for each plan on the MHC website; this would make abortion care coverage information more directly accessible as well.

The workgroup members discussed these findings and began discussing guiding principles for any recommendations that might result from the workgroup. The group decided that the third meeting should focus on recommendations specific to MHC, and the fourth meeting should focus on recommendations specific to carriers.

Meeting 3

In the third meeting, the content and discussion focused on actions that MHC can take to make abortion care information more accessible. The workgroup members discussed how to categorize abortion care in the plan details page on MHC. The purpose of the plan details page is to help consumers see what benefits are covered in a plan as they are shopping; multiple plans can also be compared based on this information using the comparison tool. Members generally agreed on recommending an additional category to this plan details page. The group discussed possible names for a new category and voted on suggested category names. The only two options to receive votes were "Reproductive Health and Pregnancy Care" with five member votes, and "Pregnancy Care (including abortion)" with two member votes. The scope of each of these category names would be different, with the second not incorporating birth control/family planning. "Reproductive Health and Pregnancy Care" would include abortion care, family planning, infertility treatment, pre- and post-natal care, and delivery and inpatient services for maternity care. The group seemed to agree that this name best achieved the goals of being both understandable and accurate. The group went on to continue discussing terminology and guiding principles.

In preparation for the fourth meeting, which was to focus on carrier-specific actions, MHBE staff presented the federal requirements for the Statement of Benefits and Coverage (SBC), a document that carriers are required to make available to consumers for each plan. The federal requirements do not allow for alteration of the template but may allow for details to be tacked onto the benefit names (for example, "abortion care" vs. "abortion care (except in certain circumstances)" or "abortion care (no limitations)").

Meeting 4

MHBE staff presented a draft recommendation that MHBE add abortion care to the MHC plan details page, under a new category called "Reproductive Health and Pregnancy Care." The category would also include family planning, infertility treatment, pre- and post-natal care, and delivery and inpatient services for maternity care. Some members responded that they do not support the use of the term "reproductive health" because it does not adhere to the plain language principle. MHBE staff committed to bring additional language options back to the workgroup at a later date.

Staff presented feedback from some carriers on the idea to alter the way abortion care is displayed on the SBC, while adhering to federal requirements for this document. Workgroup members felt that making changes to the carrier contract¹ language would be more worthwhile than making changes to the SBC. Staff also presented a draft description of abortion care for the carrier contract for the workgroup members to discuss: "Abortion care services: termination of pregnancy, elective or therapeutic. Services may be medication-based or procedural/surgical." Members discussed ways to make the draft language more consumer-friendly and settled on the description "Abortion care services: ending a pregnancy. Your

¹ Refers to the Evidence of Coverage (EOC) in small group plans or the carrier contract for individual plans.

provider may prescribe medicine, do an in-office procedure, or refer you for a procedure” for the following reasons:

- “Ending” instead of “termination” - plainer language
- Removes “elective or therapeutic” - confusing and not necessary to include
- Second sentence uses plainer language: medicine vs. medication, procedure vs procedural/surgical
- “Surgery” language should be removed because abortion is not surgery. Carrier feedback so far indicates that “procedure” includes surgery and removing the word “surgery” does not impact benefits
- Must retain “refer for a procedure” language (in-office vs. referral)

The group also discussed the timeline that carriers would require for making any changes to document language. Carriers shared that any changes would need to be made by the end of December before plans are filed.

Meeting 5

The group revisited language options for a new category on the MHC plan details page in response to member feedback during the fourth meeting. The categories newly up for discussion were “Reproductive Health and Pregnancy Care” and “Family Planning and Pregnancy Care,” the latter of which had not been considered on the poll taken by the group during the third meeting. Both category names would encompass family planning, abortion care, infertility treatment, pre- and post-natal care, and delivery and inpatient services for maternity care. Many group members expressed that the words “abortion care” should appear in the category title and suggested that it be added to one of the category name options. MHBE staff shared that including three services in the title would not be ideal from an operational standpoint, and suggested a third option of “Family Planning and Abortion Care” (which might not include all the subcategories encompassed by the other two name options). The group voted on the name options via a poll. Of the members present, two abstained, one voted for “Reproductive Health and Pregnancy Care,” one voted for “Family Planning and Pregnancy Care,” and five voted for “Family Planning and Abortion Care.”

The group discussed language options for information on cost-sharing in the abortion care description on carrier contracts. The group had previously discussed the abortion care description component, but not the cost-sharing component of the description. One option would have been a generic statement on cost-sharing for all plans, which the group agreed was not as desirable as the second option of having cost-sharing statements that are specific to whether the plan is a Health Savings Account (HSA)-compatible high deductible health plan (HDHP) or not.

For plans that are not HSA-compatible HDHPs, the group considered two phrases: “You do not have to pay for abortion care,” which was the original proposed language and received 6 votes on a poll of members present, versus “Abortion care is covered at no charge,” which received 3 votes. The latter option was added due to carrier feedback that the language would be more consistent across all plan

documents, and consistency reduces consumer confusion. Some members felt that the passive-voice sentence structure violates the plain language principle and would be more confusing to consumers than inconsistent phrasing across documents.

Proposed language for HSA-compatible HDHPs was “You may have to pay for abortion care because your plan is a Health Savings Account (HSA)-compatible high deductible health plan.” However, based on carrier feedback, MHBE staff asked the group to consider how to handle situations in which a carrier wants to include more specific cost-sharing details. Members’ opinions varied. Some said that specific information is more consumer-friendly than a generic standardized sentence, but that allowing carriers to draft their own cost-sharing sentence could lead to language that is not sufficiently plain and consumer friendly. Some members suggested that carriers should have a choice of whether to use the generic sentence or to include a plan-specific sentence. The members present voted on several options and the results were inconclusive:

- Abstain - 2
- "You may have to pay for abortion care because your plan is an HSA-compatible HDHP" with no exceptions - 3
- "You may have to pay for abortion care because your plan is an HSA-compatible HDHP." Carriers may substitute a sentence describing their specific cost-sharing instead - 1
- “You may have to pay for abortion care because your plan is an HSA-compatible HDHP." Allow brief bulleted list with specifics to that carrier - 1
- Not standardize language, require a sentence be included that reflects cost-sharing of these plans - 2

MHBE staff shared the timeline for next steps, including dissemination of the final report and the plan for a virtual vote. Members were told they would have the opportunity to submit any comments on the recommendations at the time of voting and that these comments would be included as an appendix of the report when submitted to the legislature.

Recommendations

Guiding Principles for Information Accessibility

- **Plain language:** Information about abortion care should use plain language and be easy for consumers to access and understand quickly.
- **Consistency:** Information about abortion care should be presented uniformly across carrier plan documents through a common definition of the abortion care benefit.
- **Clarity:** Maryland Health Connection and key carrier plan documents, including SBCs and plan contracts/EOCs should clearly and accurately describe abortion care coverage.
- **Searchability:** Consumers should be able to easily search and find key terms within a document using plain language terms. Documents should be machine readable by assistive devices.

Recommendation for Maryland Health Connection

MHBE should add “abortion care” under a new category on the Plan Details page on the Maryland Health Connection plan shopping web pages.

The name of the new category should adhere to best practices for plain language and describe the subsumed services accurately. It should include the term “abortion care” specifically.

The Plan Details page is populated with services listed on the Plan and Benefits template. The new category could include services such as:

- Family planning
- Abortion care
- Infertility treatment
- Prenatal and postnatal care (Currently listed under “Physician Services”)
- Delivery and all inpatient services for maternity care (Currently listed under “Hospital Services”)

Hover text should be used to clarify the terms under the new category.

Recommendation for Insurers

Carriers should use a standardized description of abortion care in the carrier contract. Carriers should also include information about cost-sharing in that description that is specific to whether the plan is an HSA-compatible HDHP.

For both types of plans, the contract’s explanation of abortion care should start with: “Abortion care services: ending a pregnancy. Your provider may prescribe medicine, do an in-office procedure, or refer you for a procedure.” This explanation should be followed by a sentence about cost-sharing, as described later in this section.

The recommended description was developed after reviewing existing carrier descriptions, compiling a common description based on those existing descriptions, and then revising the description to use plain language and eliminate unnecessary or confusing terminology. For example, the recommended

description refers to “ending” a pregnancy rather than “termination,” does not include unnecessarily confusing language about “elective or therapeutic” abortions, and used the simple, understandable terms of “medicine” and “procedure” to describe the methods of abortion that might be prescribed to the individual.

For non-HSA-compatible plans, carriers should include a sentence about cost-sharing in the contract that is either “You do not need to pay for abortion care” or “Abortion care is covered at no charge,” at the carrier’s discretion.

For HSA-compatible HDHPs, carriers should also include a sentence about cost-sharing in the contract. This cost-sharing sentence should be “You may have to pay for abortion care because your plan is a Health Savings Account (HSA)-compatible high deductible health plan,” and/or a sentence or bullet points with more specific information about cost-sharing if the carrier wishes to include it. The carrier may either replace or amend the sentence in quotation marks if the new text consists of plain language, provides additional detail, and promotes consumer comprehension.

Conclusion

The HB937 workgroup recommends that MHC add abortion care to the Plan Details page under a new category. It also recommends that carriers revise abortion care descriptions in carrier contracts, including a standardized, plain-language description of abortion care and plain-language information about cost-sharing. These recommendations, if implemented, would improve the transparency and accessibility of consumer information about abortion care coverage.

Appendix A: Workgroup Charter

2022 Abortion Care Coverage Consumer Information Workgroup Charter

WORKGROUP RESPONSIBILITIES

Pursuant to HB 937 of 2022, the Abortion Care Coverage Consumer Information Workgroup (Workgroup) will make recommendations to improve the transparency and accessibility of consumer information about abortion care coverage.

MHBE will report the Workgroup's recommendations to the General Assembly before January 1, 2023.

WORKGROUP MEETINGS

The below sections contain information relevant to the business of the Workgroup meetings. All meetings of the Workgroup are open to the public.

Location, Time, and Notice The work group will meet via Google Meets on the following dates:

- October 18, 2022, 1-2:30pm
- November 1, 2022, 1-2:30pm
- November 15, 2022, 1-2:30pm
- November 29, 2022, 1-2:30pm
- December 13, 2022, 1-2:30pm

Reasonable notice of all meetings, stating the time and place, shall be given to each Member by electronic mail. Reasonable notice of all meetings shall be provided to the public by posting on the MHBE website.

<https://www.marylandhbe.com/policy/work-groups/abortion-care-coverage-consumer-information-workgroup/>

Order of Business Generally, the agenda/order of business at meetings of the Workgroup shall be as follows:

- (a) Calling the meeting to order
- (b) Consideration and approval of minutes of previous Workgroup meeting
- (c) Consideration of the topic/questions presented before the Workgroup
- (d) Determination of recommendations from the general Workgroup body – including identification of consensus recommendations
- (e) Public comments
- (f) Adjournment

Quorum A simple majority of the Members shall constitute a quorum at any meeting for the conduct of the business of the Workgroup.

Participation in Meetings Members will attend meetings via web conference. Members participating by such means shall count for quorum purposes, and their support for recommendations shall be included so long as their participation is included in attendance.

Support of Recommendations Members are entitled to voice support for recommendations for a given topic presented to the Workgroup. Support for each recommendation will be included in the meeting minutes at the member level.

CHAIR/CO-CHAIR OF THE WORKGROUP

The members of the Workgroup shall elect a chair or co-chairs. The elected chair/co-chairs terms shall last for the duration of the Workgroup. In addition to presiding at meetings, the chair/co-chairs shall take an active role in determining the policy recommendations from the general body, preside over vote counting for recommendations, and shall work with MHBE to determine actions items required of MHBE support resources.

MEMBERSHIP & MEMBER RESPONSIBILITIES

The Workgroup consists of representatives from authorized QHP Issuers, consumer/policy advocates, state government representatives, and insurance industry professionals.

Members are expected to lend their expertise, in good faith, to meet the goals of the Workgroup.

MHBE Policy and Plan Management will make resources available to provide technical/administrative assistance to the Workgroup.

FINAL WORKGROUP REPORT

The Workgroup shall produce a report detailing its recommendations.

Appendix B: Comments on Workgroup Report

Kenneth Brannan, Member of the Public:

“I sat in on all of the Workgroup sessions. I commend the members for their diversity of perspective and robust participation.”