

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1012 (Delegate Kach)
Health and Government Operations

Nursing Homes - Undercover Patients

This bill authorizes the Department of Health and Mental Hygiene (DHMH), when it has been determined that there is an actual harm deficiency or a serious and immediate threat in a nursing home, to use an undercover patient to conduct an unannounced quality care evaluation of the nursing home. The undercover patient may be a DHMH employee or someone who contracts with the department. An individual acting as an undercover patient is immune from liability in any civil action related to the quality care evaluation if the individual conducted the evaluation in good faith. The use of an undercover patient is an intermediate sanction that may be in addition to or instead of other sanctions.

Fiscal Summary

State Effect: To the extent the Office of Health Care Quality (OHCQ) uses undercover patients, general fund expenditures could increase beginning in FY 2006, perhaps significantly. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: OHCQ inspects most health care facilities in Maryland. For health care facilities where patients or residents stay overnight, such as nursing homes and group homes, OHCQ inspects facilities on an annual basis. In addition, OHCQ investigates any complaint made about quality of care in nursing homes.

State Fiscal Effect: OHCQ advises general fund expenditures could increase by \$840,390 in fiscal 2006 to use undercover patients in nursing facilities. OHCQ reports it would be required to establish a new division within its nursing home unit to monitor and track undercover patients, issue findings, and conduct follow-up inspections. In fiscal 2004, there were 83 deficiencies that met the criteria specified in the bill. Assuming OHCQ uses undercover patients 90 times, OHCQ advises it would need to hire seven undercover patients, eight health facility nurse surveyors, one coordinator, and two support staff. Further, it is assumed an undercover patient would be required to meet a nursing facility's level-of-care standard. These patients would require a comprehensive health assessment (at \$335 each) prior to being placed in a nursing home.

Legislative Services advises the bill's language is enabling and does not mandate the use of undercover patients. It is unknown at this time how often OHCQ will choose to employ such patients when deficiencies are noted in a nursing facility. To the extent OHCQ does choose to use undercover patients, general fund expenditures could increase to pay undercover patients for hours worked, conduct comprehensive health assessments on undercover patients, monitor the health of undercover patients, and conduct follow-up surveys on facilities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Office of Health Care Quality, Medicaid), Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2005
mp/jr

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