

Department of Legislative Services  
 Maryland General Assembly  
 2005 Session

FISCAL AND POLICY NOTE

House Bill 1147 (Delegates Rosenberg and Hubbard)  
 Health and Government Operations

**Building Bridges - Access to Benefits for Individuals with Psychiatric Disabilities on Release from Incarceration**

This bill facilitates access to Medicaid benefits for individuals with psychiatric disabilities when they are released from incarceration.

**Fiscal Summary**

**State Effect:** State net expenditures could increase by \$11.1 million in FY 2006, which includes expenditures of \$4.4 million for the Department of Human Resources (DHR) and \$6.7 million for the Department of Health and Mental Hygiene (DHMH). DHMH general fund expenditures could decrease if more individuals obtain mental health services under Medicaid than under the public mental health system, beginning in FY 2006. Department of Public Safety and Correctional Services (DPSCS) general fund expenditures could increase by a significant amount, beginning in FY 2006, to provide medication to individuals released from incarceration.

(\$ in millions)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	7.3	6.6	7.0	7.4	7.9
FF Expenditure	3.8	2.9	3.0	3.0	3.1
Net Effect	(\$11.1)	(\$9.5)	(\$10.0)	(\$10.5)	(\$11.0)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential expenditure reduction for local health departments if more people qualify for Medicaid.

**Small Business Effect:** None.

## Analysis

### **Bill Summary:**

#### *Incarcerated Medicaid Enrollees*

The bill requires DHMH to ensure that: (1) when a Medicaid enrollee with a psychiatric disability is incarcerated, the individual's Medicaid eligibility will be suspended rather than terminated; (2) a suspended individual is placed on inactive status so that the individual remains eligible and enrolled in Medicaid, but Medicaid benefits are not payable for services provided; and (3) when a suspended individual is released from incarceration, the individual's eligibility is fully restored on the day of release unless DHMH determines the individual is no longer eligible for Medicaid.

#### *Restoration of SSI and SSDI Benefits*

DPSCS must seek to ensure expedited restoration of benefits for inmates with psychiatric disabilities whose eligibility for Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) has been suspended while incarcerated and that cash benefits under SSI and SSDI are reinstated in the month of release. DPSCS must negotiate prerelease agreements with the federal Social Security Administration that will ensure expedited consideration by the SSA of applications for SSI or SSDI on behalf of individuals with psychiatric disabilities.

#### *Temporary Medicaid Program*

The bill specifies procedures DHMH and DPSCS must conduct to facilitate Medicaid coverage upon release, including identifying individuals who may be eligible for Medicaid and expediting the application process. DHMH must establish a temporary eligibility program for Medicaid for individuals who are released from incarceration and who have a psychiatric disability. The individual is temporarily eligible for Medicaid if: (1) the individual is not receiving Medicaid services; (2) the individual is likely to be Medicaid-eligible; and (3) an application for SSI or Medicaid was filed on the individual's behalf while incarcerated or within three months after release. DHMH must render an eligibility determination within 14 days of application. An eligible individual must be given a temporary Medicaid card, effective upon the individual's release. Temporary coverage is available for a period of six months or until an individual is found to be ineligible for SSI or Medicaid under any other Medicaid eligibility category, whichever is sooner.

### *Temporary Income Program*

An individual with a psychiatric disability is qualified for temporary income support upon release if: (1) the individual is not receiving SSI or SSDI; (2) the individual is likely to be SSI- or SSDI-eligible; and (3) an application for SSI or SSDI was filed on behalf of the individual while the individual was incarcerated or within three months after release. Within 14 days of application submission, DHR must determine whether the individual is qualified to receive temporary income support. Temporary income support must be paid monthly in an amount equal to the average SSI payment in the State. Payments must be made for a period of six months upon release from incarceration or, if the individual has already been released, for six months from the date eligibility was determined.

### *Photo Identification*

DPSCS must arrange for adults and emancipated youth with psychiatric disabilities to have photo identification when released from incarceration. The photo identification card may not disclose the individual's incarceration or criminal record and must list an address other than a correctional institution.

### *Access to Mental Health and Substance Abuse Services*

The State must ensure that inmates have access to mental health and substance abuse services while incarcerated. DPSCS is responsible for the provision of mental health and substance abuse services for Medicaid and Medicaid-ineligible individuals, upon release from incarceration, who meet or who are likely to meet the eligibility criteria for the public mental health system. MHA is responsible for providing case management services to these individuals. MHA must provide funding to core service agencies (CSAs) or allow for provider reimbursement through the public mental health system fee schedule to ensure the availability of case management services.

When an individual is released from incarceration, the individual must be provided with a 14-day supply of any psychiatric medications the individual was taking while incarcerated. An MHA case manager must work with an individual to identify services and supports the individual desires and needs upon return to community living. DHMH must use its best efforts to obtain federal approval of any required Medicaid plan amendment needed to implement the bill's provisions.

**Current Law:** If a Medicaid enrollee is incarcerated, Medicaid benefits are terminated for the duration of imprisonment. SSI and SSDI benefits are also terminated while an individual is incarcerated. Once released, an individual is required to reapply for these

benefits. DPSCS provides mental health and substance abuse services to incarcerated individuals, including medication when appropriate.

**Background:** According to the Judge David L. Bazelon Center for Mental Health Law, the number of people with psychiatric disabilities in jails and prisons is on the rise. By the end of 2000, nearly one million adults with mental illnesses were in the criminal justice system. Nearly two million new jail admissions were of people with mental illnesses – a rate of 35,000 individuals a week – mostly for nonviolent offenses. The number of youth with mental or emotional disorders entering juvenile detention centers and correctional facilities is also climbing.

The Council of State Governments (CSG) recently completed a study of hundreds of individuals involved in criminal justice or mental health systems at the State and local levels. CSG found that individuals released from the criminal justice system without sufficient mental health services and medication, were at high risk for recidivism. This confirmed a 1991 study finding that, within 18 months of release from prison, 64% of offenders with mental illnesses were rearrested and 48% were hospitalized.

This bill is based on model legislation developed by the Bazelon Center.

**State Fiscal Effect:**

*Department of Human Resources*

DHR expenditures could increase by an estimated \$4,439,312 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. This estimate reflects \$977,500 to reprogram the eligibility system (CARES) as well as \$3,387,150 to provide cash assistance to eligible individuals. It reflects the cost of hiring income maintenance specialists to determine eligibility for Medicaid and cash assistance. It is estimated that 1,300 individuals released from incarceration would be eligible for a cash assistance monthly benefit of \$579 (equivalent to SSI). It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$62,359
CARES Programming	977,500
Cash Assistance	3,387,150
Other Operating Expenses	<u>12,303</u>
<b>Total FY 2006 DHR Expenditures</b>	<b>\$4,439,312</b>

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

*Department of Health and Mental Hygiene*

Medicaid expenditures could increase by an estimated \$6,684,438 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. This estimate reflects \$1 million to create a new coverage group on the Medicaid Management Information Systems (MMIS) mainframe, \$1.4 million to reprogram MMIS to suspend rather than terminate Medicaid coverage for incarcerated individuals, \$4,041,819 to provide temporary Medicaid coverage to qualifying individuals, and \$242,619 for administrative costs. It is estimated that 1,300 individuals released from incarceration have a psychiatric disability and would be screened to determine eligibility for Medicaid and temporary Medicaid coverage. Of these, 1,170 would receive either Medicaid or temporary Medicaid for up to six months. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It should be noted that temporary Medicaid would be a State-only program and would not be entitled to any federal matching funds.

Salaries and Fringe Benefits	\$175,589
MMIS Programming for New Coverage Group	1,000,000
MMIS Program to Suspend Medicaid Coverage	1,400,000
Medicaid Services for 1,170 Individuals	4,041,819
Other Operating Costs	<u>67,030</u>
<b>Total FY 2006 DHMH Expenditures</b>	<b>\$6,684,438</b>

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

MHA advises that under the public mental health system, it provides mental health services to incarcerated individuals and upon release, links them to community-based programs. These individuals are non-Medicaid clients, and are supported entirely by general funds. In fiscal 2006, MHA expects to expend \$2 million general funds to provide these services. Expediting Medicaid eligibility for some of these individuals could reduce general fund expenditures. There are insufficient data at this time to reliably estimate any reduction.

*Department of Public Safety and Correctional Services*

DPSCS would be responsible for (1) identifying incarcerated individuals who would be eligible for SSI, SSDI, or Medicaid; (2) providing mental health and substance abuse services for Medicaid and Medicaid-ineligible individuals upon release from incarceration; (3) providing photo identification cards; and (4) providing eligible individuals with a 14-day supply of any necessary medication upon release from incarceration. DPSCS currently has staff in place, or agreements with DHMH and DHR to provide most of these services. DPSCS general fund expenditures would increase by a potentially significant amount to provide 14-day supplies of medication to qualifying individuals. There are insufficient data to reliably estimate the increase.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judge David L. Bazelon Center for Mental Health Law, Department of Human Resources, Department of Health and Mental Hygiene (Medicaid, Mental Hygiene Administration), Department of Public Safety and Correctional Services, Department of Legislative Services

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