SB 843

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 843 (Senator Kelley, *et al.*)
Finance

Maryland Medical Assistance Program - Eligibility Determinations

This bill establishes the process the Department of Health and Mental Hygiene (DHMH) must follow if it does not render a Medicaid eligibility determination within a specified timeframe. DHMH and the Department of Human Resources (DHR) must submit budget estimates to the Governor that enable the departments to achieve timely and accurate Medicaid eligibility determinations. These budget estimates must be considered prescribed by law under the Maryland Constitution. DHMH and DHR must report monthly to the General Assembly on specific measures and outcomes of the Medicaid eligibility determination process.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: DHMH expenditures increase by $485,100 (50% general funds, 50% federal funds) and DHR expenditures increase by $1.0 million (50% general funds, 50% federal funds) in FY 2012 to provide Medicaid eligibility determinations at administrative hearings as required under the bill. Future years reflect inflation. While the bill intends to establish mandated funding sufficient to achieve timely and accurate Medicaid eligibility determinations, according to the Office of the Attorney General, the language does not qualify as a mandate under the Maryland Constitution.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
FF Revenue	$751,400	$703,800	$738,100	$774,300	$812,600
GF Expenditure	$751,400	$703,800	$738,100	$774,300	$812,600
FF Expenditure	$751,400	$703,800	$738,100	$774,300	$812,600
Net Effect	($751,400)	($703,800)	($738,100)	($774,300)	($812,600)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: If DHMH does not render a timely Medicaid eligibility determination, it must send a notice to the applicant and the applicant's representative of the right to appeal for failure of the department to act promptly. At an administrative hearing held for failure to act with reasonable promptness, DHMH must render an eligibility determination, unless additional information is required. If DHMH requires additional information that the applicant does not have, the department must provide the applicant a list of all information that is needed and give the applicant 30 days to provide the information. DHMH must render an eligibility determination within 30 days of receiving the additional information.

DHMH and DHR must report monthly on:

- the number of pending Medicaid applications and the length of time each application has been pending;
- the number of applications that were approved in the previous month;
- the number of applications that were denied in the previous month and the reason for denial;
- the number of Medicaid recipients who previously applied for a redetermination and whose benefits were terminated in the previous month and the reason for the termination; and
- the measures taken by the departments to streamline the application process and eliminate delays in processing applications for Medicaid long-term care services.

Current Law/Background: Medicaid provides health care coverage to children, pregnant women, elderly or disabled individuals, and indigent parents who pass certain income and asset tests. Eligibility for the Maryland Children's Health Program (MCHP) currently extends to individuals younger than age 19 with family incomes up to 300% of the federal poverty guidelines (FPG). Children in families with incomes above 200% but at or below 300% FPG are enrolled in the MCHP Premium Plan. Individuals who have been eligible for employer-sponsored health insurance in the previous six months are ineligible for MCHP. Children and pregnant women who have not been legal immigrants for at least five years are ineligible for federal Medicaid and MCHP benefits. The State currently provides Medicaid benefits to legal immigrant pregnant women and children who have been in the country for less than five years using general funds only.

Emergency services are provided to all financially eligible individuals regardless of immigration status.

DHMH is responsible for administering and overseeing Medicaid and determines the eligibility rules. DHR is responsible for management of the Client Automated Resource and Eligibility System (CARES), the computer system for all eligibility information, and the initial determination and annual redetermination of eligibility for most Medicaid programs, including long-term care. DHMH staff determines eligibility for the Primary Adult Care (PAC) program, home and community-based services (HCBS) waiver programs, and MCHP.

Applications for the Medicaid program must be processed within 30 days or 60 days if a disability determination is necessary. Federal regulations require that Medicaid long-term care applications be processed within 45 days.

Chapters 613 and 614 of 2008 required DHMH and DHR to develop a plan to integrate the functions necessary for the determination of Medicaid eligibility for long-term care services. A plan was completed by DHMH and DHR, in consultation with LifeSpan Network and the Health Facilities Association of Maryland (HFAM), and a report was submitted to the General Assembly in December 2008. The report presented the following recommendations: (1) adopt uniform forms; (2) eliminate the face-to-face interview; (3) centralize long-term care eligibility functions; (4) develop a new automated eligibility system; and (5) consider transferring direct control of all long-term care eligibility functions to DHMH once a new automated eligibility system is fully operational. New forms were implemented and the face-to-face interview requirement was eliminated effective December 1, 2008.

In 2009, the State opened a Bureau of Long-Term Care Eligibility, which combines the local departments of social services offices of Anne Arundel, Baltimore, and Prince George's counties and Baltimore City. Though the bureau was intended to expedite eligibility cases, delays have continued and, to some extent, worsened.

According to LifeSpan Network, currently it takes six months to one year for an applicant to receive a long-term care eligibility determination. While eligibility is pending, a nursing facility provides care without reimbursement. In a survey conducted by LifeSpan and HFAM in November 2010, 81 out of 234 nursing facilities reported that they were owed an aggregate $21.6 million in Medicaid reimbursement for 1,676 residents awaiting eligibility determination.

In January 2011, DHMH and DHR submitted a long-term care business process analysis and reengineering work plan to address concerns repeatedly raised by the nursing facility industry and consumer advocates. The plan, much of which is based on the processes

used in Virginia, includes the goal of streamlining the application and redetermination processes.

State Fiscal Effect: The bill's requirements necessitate additional staff, reprogramming of computer systems, and staff training. According to DHMH, approximately 200 cases per month whose eligibility is determined by DHMH may be eligible for a hearing under the bill, many of which are complex applications for HCBS waiver programs. Therefore, DHMH expenditures increase by $485,104 (50% general funds, 50% federal funds) in fiscal 2012, which accounts for a 90-day start-up delay. This estimate reflects the cost of (1) hiring six appeals representatives to review requests for hearings, prepare summaries of facts, represent DHMH at administrative hearings, and determine Medicaid eligibility at hearings; (2) programming changes necessary to add appeal language to the automated delay notice and create new redetermination reports; and (3) developing and conducting staff training for all staff dealing with Medicaid eligibility (including staff at DHR's local departments of social services). It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	6
Salaries and Fringe Benefits	$251,569
Creation of New Redetermination Reports	100,000
Computer Reprogramming to Add Appeal Language to Automated Delay Notice	50,000
Other Operating Expenses	30,645
Training	28,500
One-time Start-up Costs	24,390
Total FY 2012 DHMH Expenditures	**$485,104**

According to DHR, more than 500 long-term care Medicaid applications are received by the department each month, half of which are not processed in a timely manner and are eligible for a hearing under the bill. Thus, DHR expenditures increase by $1.0 million (50% general funds, 50% federal funds) in fiscal 2012, which accounts for a 90-day start-up delay. This estimate reflects the cost of (1) hiring 16 appeals representatives to be stationed at local departments of social services throughout the State to review requests for hearings, prepare summaries of facts, represent DHR at administrative hearings, and determine Medicaid eligibility at hearings; and (2) creating new redetermination reports. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	16
Salaries and Fringe Benefits	$670,852
Creation of New Redetermination Reports	200,000
Other Operating Expenses	81,720
One-time Start-up Costs	65,040
Total FY 2012 DHR Expenditures	**$1,017,612**

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover as well as 1% annual increases in ongoing operating expenses. To the extent that additional resources are provided to the departments in future years sufficient to achieve timely and accurate eligibility determinations within the required timeframes, the need for eligibility determinations at administrative hearings will be reduced. In turn, estimated expenditures under the bill will correspondingly decline.

Article III, § 52 of the Maryland Constitution governs the State budget process. In most cases, only the Governor may determine the amount of funding for a program or purpose. However, the Maryland Constitution prohibits the Governor from "reducing an estimate for a program below a level of funding prescribed by a law which will be in effect during the fiscal year covered by the Budget, and which was enacted before July 1 of the fiscal year prior thereto." According to the Attorney General's Office (see 64 Opinions of the Attorney General 108 (1980), the mandated funding language included in this bill does not qualify as a funding mandate under the Maryland Constitution because it does not include a dollar amount or an objective basis from which a level of funding can be computed.

Additional Comments: HB 575 of 2011 requires DHMH, by October 1, 2011, to develop and implement a streamlined process for the annual redetermination of Medicaid eligibility for recipients who require a nursing facility level of care. By December 1, 2011, DHMH must report to specified committees of the General Assembly on the development and implementation of the streamlined process.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, LifeSpan Network, Department of Human Resources, Department of Health and Mental Hygiene, Department of Legislative Services

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mc/mwc

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