HB 439

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 439 (The Speaker, *et al.*) (By Request - Administration)
Health and Government Operations Finance and Budget and Taxation

Maryland Health Improvement and Disparities Reduction Act of 2012

This Administration bill establishes a process for designation of "Health Enterprise Zones" (HEZs) to target State resources to reduce health disparities, improve health outcomes, and reduce health costs and hospital admissions and readmissions in specific areas of the State. The bill authorizes specified incentives for "Health Enterprise Zone practitioners" who practice in an HEZ, including tax credits against the State income tax. The bill also establishes a Health Enterprise Zone Reserve Fund.

The bill generally takes effect July 1, 2012, but some provisions take effect October 1, 2012. The HEZ and tax credit provisions of the bill terminate June 30, 2016.

Fiscal Summary

State Effect: General fund expenditures increase by $42,000 in FY 2013 for one-time tax form changes and computer expenses at the Comptroller's Office. Special fund expenditures increase by $4.0 million in FY 2013 for personnel, administrative expenses, and incentives for HEZs, including tax credits. The Governor's proposed FY 2013 budget includes $4.0 million in special funds for the Maryland Community Health Resources Commission (MCHRC) to implement HEZs. Future years assume annual appropriations of this amount until the HEZ and tax credit provisions in the bill terminate and continuation of certain contractual expenses. No effect on revenues.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	$0	$0	$0	$0	$0
GF Expenditure	42,000	0	0	0	0
SF Expenditure	4,000,000	4,000,000	4,000,000	4,000,000	40,000
Net Effect	($4,042,000)	($4,000,000)	($4,000,000)	($4,000,000)	($40,000)

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

Local Effect: Revenues and expenditures may increase in local jurisdictions associated with application for and designation as an HEZ. The bill's reporting requirements can be handled by community colleges within existing budgeted resources.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: A "Health Enterprise Zone" is a contiguous geographic area that (1) demonstrates measurable and documented health disparities and poor health outcomes; (2) is small enough to allow for the incentives offered under the bill to have a significant impact on improving health outcomes and reducing racial, ethnic, and geographic health disparities; and (3) is designated as an HEZ by MCHRC and the Secretary of Health and Mental Hygiene.

"Health Enterprise Zone practitioner" means a health care practitioner who is licensed or certified under the Health Occupations Article and who provides primary care (including obstetrics, gynecological services, pediatric services, or geriatric services); behavioral health services (including mental health or alcohol and substance abuse services); or dental services.

Health Enterprise Zones: To be designated as an HEZ, a nonprofit community-based organization or local government agency must apply to the Secretary of Health and Mental Hygiene. The application must include specified plans and may include plans to use tax credits to encourage HEZ practitioners to establish or expand practices in an HEZ; innovative public health strategies to reduce health disparities in the area; and other incentives or mechanisms. Nonprofit community-based organizations and local government agencies are authorized to receive grants to implement actions outlined in their HEZ applications.

MCHRC must make recommendations to the Secretary of Health and Mental Hygiene on the designation of HEZs. In designating an HEZ, the Secretary of Health and Mental Hygiene must consider geographic diversity among other factors. Priority must be given to applications that demonstrate specified criteria and factors. HEZ designation is made by the Secretary of Health and Mental Hygiene, and designation decisions are final. The Secretary may limit the number of HEZs in accordance with the State budget.

Annually by December 15, MCHRC and the Secretary of Health and Mental Hygiene must report on the number and types of incentives granted in each HEZ; evidence of the

impact of the incentives in attracting HEZ practitioners, reducing health disparities, and improving health outcomes; and evidence of progress in reducing health costs and hospital admissions and readmissions in HEZs. The Secretary of Health and Mental Hygiene, in consultation with MCHRC, may adopt regulations to carry out the bill's provisions relating to HEZs. The Secretary of Health and Mental Hygiene must consult with the Office of Minority Health and Health Disparities in implementing the bill's HEZ provisions.

Health Enterprise Zone Practitioner Incentives and Grants: HEZ practitioners that practice in an HEZ are eligible, under specified circumstances, for (1) State income tax credits; (2) loan repayment assistance; (3) priority to enter the Maryland Patient Centered Medical Home (PCMH) Program; and (4) priority for receipt of any State funding available for electronic health records.

HEZ practitioners may apply to the Secretary for a grant to defray the cost of capital or leasehold improvements to, or medical or dental equipment to be used in, an HEZ. A grant may not exceed the lesser of $25,000 or 50% of the cost of the equipment and must be for improving or expanding the delivery of care in the HEZ.

Tax Credits for Health Enterprise Zone Practitioners: An HEZ practitioner who practices in an HEZ may be eligible for a State income tax credit if the individual (1) demonstrates competency in cultural, linguistic, and health literacy in a manner determined by the Department of Health and Mental Hygiene (DHMH); (2) accepts and provides care for Medicaid and uninsured patients; and (3) meets any other criteria established by DHMH.

A nonprofit or community-based organization or a local government agency that submits an HEZ proposal to DHMH and MCHRC may also submit to DHMH a request for certification of eligibility for certain income tax credits on behalf of an HEZ practitioner.

If DHMH approves a request for certification, an HEZ practitioner can claim a credit against the State income tax in an amount equal to 100% of the amount of the tax expected to be due from the HEZ practitioner from income to be derived from practice in the HEZ (as certified by DHMH) for the taxable year.

An HEZ practitioner may additionally claim a refundable credit of $10,000 against the State income tax for hiring for a "qualified position" in the HEZ (as certified by DHMH) for the taxable year. An HEZ practitioner may create one or more qualified positions during any 24-month period. This refundable credit must be taken over a 24-month period, with one-half of the credit amount allowed each year. If the qualified position is filled for less than 24 months, the tax credit must be recaptured as specified.

A "qualified position" means a "qualified employee" position that pays at least 150% of the federal minimum wage, is full time and of indefinite duration, is located in an HEZ, is newly created as a result of the establishment or expansion of services in an HEZ, and is filled. A qualified position does not include a position that is filled for less than 12 months. A "qualified employee" means an HEZ practitioner, community health worker, or interpreter who provides direct support to an HEZ practitioner and expands access to services in an HEZ.

Eligibility for these tax credits is limited by availability of budgeted funds, as determined by DHMH. Certificates of eligibility are subject to approval by DHMH on a first-come, first-served basis, as determined by DHMH in its sole discretion.

DHMH must certify to the Comptroller the applicability of the credit provided for each HEZ practitioner and the amount of each credit assigned to an HEZ practitioner for each taxable year. The tax credits issued in any fiscal year may not exceed the amount provided in the State budget for that fiscal year. DHMH, in consultation with the Comptroller, must adopt regulations to implement the tax credit. The tax credit applies to tax years 2013 through 2015.

Health Enterprise Zone Reserve Fund: The bill establishes a Health Enterprise Zone Reserve Fund to be administered by MCHRC. Money in the special, nonlapsing fund must be used for HEZs, in accordance with the designation of an HEZ by the Secretary of Health and Mental Hygiene, and the State income tax credit for HEZ practitioners. Any investment earnings of the fund must be credited to the general fund.

Racial and Ethnic Variations in Quality and Outcomes: The Maryland Health Care Commission (MHCC), as part of its system of comparative evaluation of the quality of care and performance of health benefit plans, has to implement a standard set of measures regarding racial and ethnic variations in quality and outcomes and provide information on carriers' actions to track and reduce health disparities. MHCC must consider recommendations of specified nationally recognized organizations and adopt regulations to establish this system of evaluation. MHCC must consult with specified stakeholders to determine national standards for evaluating the effectiveness of carriers in addressing health disparities and to implement a set of measures that can be easily replicated in other states. MHCC may contract with a private, nonprofit entity to implement the system. These provisions take effect October 1, 2012, and are not subject to termination.

Nonprofit Community Benefit Reports: Each nonprofit hospital's annual community benefit report must include a description of the hospital's efforts to track and reduce health disparities. This requirement takes effect October 1, 2012, and is not subject to termination.

Reporting by Certain Institutions of Higher Education: Annually by December 1, each Maryland institution of higher education that offers a program necessary for the licensing of health care professionals must report on the actions taken by the institution to reduce health disparities. This requirement takes effect October 1, 2012, and is not subject to termination.

Racial and Ethnic Performance Data Tracking: Uncodified language requires the Health Services Cost Review Commission (HSCRC) and MHCC to study the feasibility of including racial and ethnic performance data tracking in quality incentive programs and, in coordination with the evaluation of the PCMH program, measure the impact of the program on eliminating disparities in health outcomes. The commissions must report to the General Assembly, by January 1, 2013, data by race and ethnicity in quality incentive programs, if feasible, and recommendations for criteria and standards to measure the impact of the PCMH program on the elimination of disparities in health care outcomes.

Cultural and Linguistic Competency Workgroup: The Maryland Health Quality and Cost Council (MHQCC) must convene a workgroup to examine appropriate standards for cultural and linguistic competency for medical and behavioral health treatment and the feasibility and desirability of incorporating these standards into reporting by health care providers and tiering of reimbursement rates by payors; assess the feasibility of and develop recommendations for criteria and standards establishing multicultural health care; and recommend criteria for health care providers in the State to receive continuing education in multicultural health care. The academic centers of health literacy and health disparities research must assist MHCC and DHMH in staffing and leading the workgroup. The workgroup must submit its findings and recommendations to MHQCC by December 1, 2013.

Current Law/Background:

Maryland Health Quality and Cost Council Recommendations: MHQCC formed a workgroup to examine ways to reduce health disparities in the State. That workgroup recommended the creation of HEZs modeled after the Harlem Children's Zone and Promise Neighborhood programs to reduce health and health care disparities, improve outcomes, and stem the rise in health care costs.

In HEZs, community-based organizations apply for funds specifically to improve health in a zone. A zone can be designated using various criteria including high rates of chronic disease, health disparities, and a lack of access to primary care. Additional parts of the HEZ model include access to loan assistance repayment to support existing and new primary care clinicians in an HEZ, as well as income, property, and/or hiring tax credits; assistance for health information technology; and other practice expenses. Ultimately, the goal of HEZs is to work with existing providers, insurers, the public health system,

nonmedical community agencies, and other stakeholders to create an integrated health care system with improved health care access.

The MHQCC workgroup also called for the collection of performance incentive data by race and ethnicity. Performance tracking, currently undertaken by HSCRC for hospital care and MHCC for primary care (in the PCMH program), does not track incentives by race or ethnicity and, therefore, there are no incentives or penalties based on race-specific or ethnic-specific performance. Adding this level of tracking, according to the workgroup, will identify areas of racial and ethnic disparities in health care quality metrics, determine whether the current race- and ethnic-neutral incentive formats improve minority health care and reduce health care disparities, and determine whether different incentive formats are required.

Loan Assistance Repayment Programs: Under the Maryland Dent Care Loan Assistance Repayment Program (MDC-LARP), practicing dentists can qualify for loan repayment for each year of obligated service and receive supplements to help defray associated tax liabilities. Individuals must agree to remain employed full time as dentists, with Medicaid recipients comprising at least 30% of the patient population. The Maryland Loan Assistance Repayment Program (MLARP) assists physicians who practice primary care for a nonprofit organization or government entity in an area of the State that has been federally designated as having a shortage of primary care or mental health providers. Awards are capped at $35,000 per year. Financial aid awards are also available to assist in repaying loans owed by a medical resident specializing in primary care who agrees to practice for at least two years for a nonprofit organization or government agency in a geographic area of the State that has been federally designated. Federal funds under MLARP can only be used in federally designated Health Professional Shortage Areas, which may or may not coincide with an HEZ as designated under the bill.

Maryland Patient Centered Medical Home Program: Chapters 5 and 6 of 2010 established the PCMH program to improve patient health and elevate the role of the primary care provider. According to MHCC, participating practices receive a fixed transformation payment for each patient in addition to standard fee-for-service payments. The fixed transformation payment covers the cost of care management and other features of the PCMH model. Practices receive a share of savings that result from the program. Practices report up to 21 quality measures to MHCC. More than 50 pilot sites with over 300 physicians and nurse practitioners started in May 2011.

State Expenditures: General fund expenditures increase by $42,000 in fiscal 2013 only. The Comptroller's Office reports that it will incur this one-time expenditure to add the tax credit to the income tax forms. This amount includes data processing changes to the

SMART income tax return processing and imaging systems and systems testing. Administration of the new credit can be handled with existing personnel.

Special fund expenditures increase by a total of $4.0 million in fiscal 2013: $252,109 for administrative expenditures and $3.7 million for incentives for HEZs and HEZ practitioners, including grants and loan repayment assistance.

This estimate reflects the cost of hiring 1.5 contractual positions: one full-time position at MCHRC to issue requests for proposals, award grants to HEZs, monitor performance of HEZ designees, provide technical assistance, and issue an annual report; and one part-time (50%) position in DHMH's Family Health Administration to work with localities to designate HEZs, administer loan repayment activities, and certify eligibility for tax credits. Personnel costs account for a July 1, 2012 effective date. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses through fiscal 2016 only, after which time these provisions of the bill terminate.

Additional expenditures include contractual expenses for MHCC (joint with HSCRC) for a one-time study and report on the feasibility of including racial and ethnic performance data tracking in quality incentive programs and ongoing costs for MHCC to implement a standard set of measures regarding racial and ethnic variations in quality and outcomes and provide information on carriers' actions to track and reduce health disparities.

	FY 2013	**FY 2014**
Contractual Positions	1.5	
Salaries and Fringe Benefits	$101,759	$97,370
Annual External Evaluation of Impact of HEZs	75,000	75,000
One-time MHCC Contractual Costs to Study Racial and Ethnic Performance Data Tracking	25,000	0
MHCC Contractual Costs to Implement Measures on Racial and Ethnic Variations in Quality and Outcomes	40,000	40,000
One-time Start-up Costs	8,970	0
Operating Expenses	1,380	1,395
Total Administrative Expenditures	*252,109*	*213,755*
Total Incentives Available for HEZs	3,747,891	3,786,245
Total Special Fund Expenditures	**$4,000,000**	**$4,000,000**

Future years reflect salaries with annual increases and employee turnover, and annual increases in ongoing operating expenses. Legislative Services assumes that funding for the bill is maintained at a level of $4.0 million annually through fiscal 2016.

Reporting by public higher education institutions can be handled with existing resources.

To the extent the bill's provisions reduce health care costs in HEZs, State expenditures may decline over time.

Additional Comments: Similar legislation, HB 227 of 2012, would provide up to $250,000 per year in State income tax credits for physicians and dentists who donate health care services to community health organizations in tax years 2012 through 2015.

Additional Information

Prior Introductions: None.

Cross File: SB 234 (The President, *et al.*) (By Request - Administration) - Finance and Budget and Taxation.

Information Source(s): Anne Arundel, Garrett, and Montgomery counties; Comptroller's Office; Department of Budget and Management; Department of Health and Mental Hygiene; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2012
mlm/mwc Revised - House Third Reader - April 2, 2012

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Health Improvement and Disparities Reduction Act of 2012

BILL NUMBER: SB 234/HB 439

PREPARED BY: DHMH

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_ __ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__X__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This bill allows non-profit community-based organizations or local health departments to apply on behalf of a geographic area to be designated as a Health Enterprise Zone. As part of their application to be part of a Health Enterprise Zone, the organization or department must specify what type of grants or incentives would reduce disparities in their area. Health care practices and other entities in an approved Health Enterprise Zone could receive grants or tax incentives, depending on the nature of the approved application. To the extent that these grants or incentives go to small businesses, the economic impact of this bill could be quite positive.