HB 1422

Department of Legislative Services

Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1422 (Delegate Bromwell, *et al.*)

Health and Government Operations

Integrated Community Oncology Reporting Program

This bill establishes an integrated community oncology reporting program in the Department of Health and Mental Hygiene (DHMH). The bill exempts a health care practitioner who has a beneficial interest in and practices medicine at an integrated community oncology center that participates in the program from general prohibitions against self-referrals by health care practitioners. The Secretary of Health and Mental Hygiene, in consultation with the Maryland Health Care Commission (MHCC), must administer the program. The Secretary and MHCC must (1) adopt implementing regulations by January 1, 2017; (2) report on the performance of each participating integrated community oncology center by January 1, 2018, and by January 1 of each year thereafter; and (3) conduct a performance evaluation of each participating center and recommend whether the exemption established under the bill should become permanent by January 1, 2028.

The bill terminates September 30, 2028.

Fiscal Summary

State Effect: DHMH general fund expenditures increase by $35,800 in FY 2017 for personnel to implement the bill's requirements. Future years reflect annualization and inflation as well as additional costs for DHMH to prepare the required annual report. Revenues are not affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	$0	$0	$0	$0	$0
GF Expenditure	35,800	57,200	58,800	60,500	62,300
Net Effect	($35,800)	($57,200)	($58,800)	($60,500)	($62,300)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: "Integrated community oncology center" means a health care entity that (1) is at least 50% owned by an oncology group practice and (2) offers medical oncology services and radiation oncology services in the same group practice.

"Oncology group practice" means a group practice that, as of January 1, 2017, (1) is composed solely of oncologists, at least 50% of whom are owners and practice medicine in the State under a Maryland license; (2) received more than 50,000 physician encounters per year in the State in the previous three calendar years; (3) participated in Medicare and Medicaid for the previous three calendar years; (4) has treated patients in the State for at least the previous 10 years; and (5) can demonstrate that the practice has specified expertise and technical capabilities.

Implementing regulations must (1) allow up to five centers to participate in the program; (2) establish an application process; (3) specify ownership requirements for a participating center; (4) require a participating center to participate in Medicare, Medicaid, and, if appropriate, the Maryland Children's Health Program; (5) allow a center to participate in the program for at least 10 years; and (6) require the oncology group practice that owns the center and each contracting health insurance carrier to report specified information such as referral rates, utilization rates, and various effects on cost and health outcomes to the Secretary on a quarterly basis.

If more than five centers apply to and qualify for the program, the Secretary, in consultation with MHCC, must develop a competitive selection process that takes into account specified factors.

Current Law: Under the Health Occupations Article, a health care practitioner may not refer a patient, or direct an employee or a person under contract with the health care practitioner to refer a patient, to a health care entity (1) in which the health care practitioner or the practitioner in combination with the practitioner's immediate family owns a beneficial interest; (2) in which the practitioner's immediate family owns a beneficial interest of 3% or greater; or (3) with which the health care practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family has a compensation arrangement.

However, this prohibition does not apply to a health care practitioner who refers in-office ancillary services or tests that are (1) personally furnished by the referring health care practitioner, a health care practitioner in the same group practice as the referring health care practitioner, or an individual who is employed and personally supervised by the qualified referring health care practitioner or a health care practitioner in the same group practice as the referring health care practitioner; (2) provided in the same building where the referring health care practitioner or a health care practitioner in the same group practice as the referring health care practitioner furnishes services; and (3) billed by the health care practitioner performing or supervising the services or a group practice of which the health care practitioner performing or supervising the services is a member.

"In-office ancillary services" is defined as those basic health care services and tests routinely performed in the office of one or more health care practitioners; except for a radiologist group practice or an office consisting solely of one or more radiologists, in-office ancillary services do not include magnetic resonance imaging services, radiation therapy services, or computer tomography scan services.

Under the Insurance Article, each individual or group health insurance policy issued in the State by an entity must include a provision that excludes payment of any claim, bill, or other demand or request for payment for health care services that the appropriate regulatory board determines were provided as a result of a prohibited referral. An entity may seek repayment from a health care practitioner for any money paid for a claim, bill, or other demand or request for payment for health care services that were provided as a result of a prohibited referral. Additionally, an entity may seek a refund of a payment made for a claim, bill, or other demand or request for payment that is subsequently determined to be for a health care service provided as a result of a prohibited referral.

State Expenditures: DHMH advises that it must hire one full-time manager to administer the program, establish an application process, and collect the required information, as well as one part-time (50%) policy analyst for one year to develop program regulations.

However, the Department of Legislative Services advises that the bill's requirements can be consolidated into one part-time position. Therefore, DHMH general fund expenditures increase by $35,832 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost of hiring one part-time (50%) grade 19 program manager to develop the required application process and regulations, compile the quarterly information received from participating centers, and, beginning in fiscal 2018, submit the required annual report. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	$31,243
One-time Start-up Expenses	226
Ongoing Operating Expenses	4,363
Total FY 2017 State Expenditures	**$35,832**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including an additional $15,000 annually beginning in fiscal 2018 for DHMH to coordinate and produce the required annual report. General fund expenditures also increase in fiscal 2027 for DHMH to conduct the required performance evaluation by January 1, 2028.

DHMH additionally advises that, to the extent the bill results in increased utilization of services, Medicaid expenditures may increase (60% federal funds, 40% general funds); however, the bill may also result in cost savings to the extent the provision of oncology services are shifted to lower cost nonhospital settings.

Small Business Effect: DHMH advises that integrated community oncology centers may benefit from the exemption from current self-referral prohibitions under the bill. As an oncologist currently cannot refer patients to a radiation oncologist who is a business partner, the bill's exemption may result in increased revenue for these businesses. The insurance industry may also be affected, since the bill adds an additional exemption that would not be excluded under insurance policies.

Additional Information

Prior Introductions: None.

Cross File: SB 739 (Senator Conway, *et al.*) - Education, Health, and Environmental Affairs.

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

Fiscal Note History: First Reader - March 4, 2016
md/jc

Analysis by: Sasika Subramaniam

Direct Inquiries to:
(410) 946-5510
(301) 970-5510