SB 313

Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 313 (Senator Klausmeier, *et al.*)

Education, Health, and Environmental Affairs Appropriations

Public Senior Higher Education Institutions - Financial Aid - Reduction Restrictions

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This bill regulates how a public four-year institution of higher education may reduce financial aid awarded by the institution to a student, beginning with the 2017-2018 academic year. If the total amount of financial aid awarded to a student exceeds the student's "financial need" (as defined by the bill), the amount of financial aid awarded by the institution *may* be reduced only if the amount a student receives in specified financial aid causes the amount of financial aid available to the student to exceed the student's financial need. If reduced, the amount of financial aid must be reduced in the following order: (1) loans; (2) work study; and (3) grants and scholarships. However, the amount of institutional financial aid may *not* be reduced if (1) a student has an "unmet financial need" (as defined by the bill) at the time an institution sends its award notice to the student *and* (2) the student receives additional State financial aid or private scholarships to fill all or a portion of the unmet financial need.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: If institutions are required by the bill to violate federal financial aid regulations, federal financial aid for all students who attend that institution could be jeopardized; however, it is assumed that public four-year institutions are able to reduce financial aid under all conditions required by federal regulations and laws. It is assumed that public four-year institutions of higher education can make the required changes using existing resources. The total amount of aid an institution has to distribute among students is not affected; however, individual students' award packages may be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Cost of attendance" is defined in the bill as the meaning stated in 20 USCA § 1087ll, which generally includes tuition and fees, an allowance for books, and an allowance for room and board, with adjustments made for students in various specified circumstances such as students who are enrolled less than half time.

"Financial need" is defined in the bill as the meaning stated in 20 USCA § 1087kk, which is the cost of attendance of the institution the student attends, minus the student's expected family contribution (EFC), *minus* the student's estimated financial assistance excluding specified federal financial assistance.

"Unmet financial need" is defined as the student's "financial need" minus the student's financial aid. Thus, under the bill, "unmet financial need" is a student's cost of attendance minus the student's EFC, minus the estimated specified nonfederal financial assistance, minus the student's total financial aid. (Using this calculation, a student's nonfederal financial aid is subtracted from the student's cost of attendance twice.)

Current Law/Background: Often when a student who is receiving financial aid through an institution of higher education receives a scholarship from another entity, the amount of financial aid a student receives from the institution is reduced. This practice is known as scholarship displacement. In some cases, depending on the type of aid being offered, the displacement is required by U.S. Department of Education regulations to avoid what the department considers "over awarding" based on an individual's financial need as calculated by the free application for federal student aid (better known as FAFSA). The federal regulations regarding over awarding are in 34 CFR 673.5.

According to the U.S. Department of Education, an over award exists whenever:

- a school awards aid either to a student who is ineligible for a specific program or to a student who is ineligible for any federal student aid program assistance;
- a student's award in an individual program exceeds the regulatory maximum, *e.g.*, the annual or aggregate loan limits, the annual limit on Federal Supplementary Educational Opportunity Grant awards, or a Pell Grant award based on the wrong payment schedule/enrollment status;
- a student's aid package exceeds his or her need (including when the student's EFC is revised upward after initial packaging);

- a student's award exceeds his or her cost of attendance; or
- a student is receiving a Pell Grant or Iraq and Afghanistan Service Grant at multiple schools for the same period.

In general, unless a school is liable, a student is liable for any overpayment made to him or her.

There are exceptions to when an institution must recalculate financial aid, such as if a student's Pell Grant award exceeds the cost of attendance by $300 or less.

An institution that regularly over awards students and does not remedy the situation as required by the U.S. Department of Education may lose access to federal financial aid funds related to Title IV.

The U.S. Department of Education grants institutions latitude in deciding how to remedy an over award situation. According to a survey conducted by the National Scholarship Providers Association, 80% of the institutions surveyed reduce the loans and work requirements in a student's financial aid package, while 20% reduce their own institutional grants or scholarships.

Award displacement can also happen when there is not an over award under U.S. Department of Education regulations. Some institutions have policies that leave all students with unmet need, for example, requiring every student to have a "minimum student contribution expectation" – regardless of the amount of financial aid, EFC, or income. Many of these institutions do not allow private scholarships to satisfy the student contribution expectation even though the student is not over awarded. Typically the "minimum student contribution expectation" is between $1,500 and $3,500, according to a 2013 report by the National Scholarship Providers Association. In such cases, institutions reduce total financial aid until the student has an unmet need that matches their minimum student contribution.

Institutions that do so usually have a minimum student contribution for one of the following reasons:

- a way of rationing limited institutional financial aid funds;
- an assumption that all students are capable of contributing something to their education;
- a method for a for-profit institution to comply with the 90/10 rule, which limits the percentage of the institution's revenues that can come from Title IV federal student aid;

- a belief by the institution that a student contribution is necessary for the student to appreciate the education; or
- a belief by the institution that a student contribution improves academic performance.

Institutions are not required to inform financial aid providers when they decrease a student's institutional aid due to award displacement.

According to National Collegiate Athletic Association (NCAA) Manual Bylaw 15, "A student-athlete shall not be eligible to participate in intercollegiate athletics if he or she receives financial aid that exceeds the value of the cost of attendance as defined in Bylaw 15.02.2. A student-athlete may receive institutional financial aid based on athletics ability (per Bylaw 15.02.4.2) and any other financial aid up to the value of his or her cost of attendance."

The process of awarding financial aid without exceeding the student's financial need is known as packaging. Many institutions use packaging software to develop award packages for prospective students. The software can be configured to implement an institution's packaging philosophy.

During the 2013-2014 academic year, 225,807 undergraduate students attending an institution of postsecondary education in Maryland received financial aid. Since 593,331 financial aid awards were made during that period, many students received more than one type of financial aid. These numbers include awards made at community colleges and private institutions, which are not covered by the bill. The number of financial aid awards made by public four-year institutions is shown in **Exhibit 1**; in total, 49,839 awards were made. However, it is anticipated that only a small percentage of institutional financial aid will be reduced due to a student receiving more financial aid than the student's financial need.

Exhibit 1
Undergraduate Institutional Aid by Type of Institution and Type of Aid
2013-2014 Academic Year

	Grant	Loan	Athletic Scholarship	Other Scholarship	Work Study	Total Institutional Aid Numbers (Duplicated)
USM	22,704	-	1,482	20,749	902	45,837
MSU	1,375	-	306	955	133	2,769
SMCM	627	-	-	606	-	1,233

USM=University System of Maryland
MSU=Morgan State University
SMCM=St. Mary's College of Maryland

Source: Maryland Higher Education Commission; Maryland Student Financial Aid Support 2013-2014

State Fiscal Effect: If institutions are required by the bill to violate federal financial aid regulations, federal financial aid for all students who attend that institution could be jeopardized. For the purposes of this analysis, it is assumed that public four-year institutions are able to reduce financial aid under all conditions which federal regulations and laws require. However, public four-year institutions of higher education must remain diligent in preventing over awarding a student to avoid violating federal financial aid regulations and NCAA bylaws.

To the extent the bill changes an institution's distribution of financial aid, individual students' financial aid packages are affected, but the total amount of financial aid distributed by institutions is not affected.

Morgan State University (MSU) advises that if it awarded a student institutional aid and the institution needed to reduce its institutional aid – for example, if the student received a full scholarship from another source – MSU will not be able to reduce its aid under the bill. In some instances this could result in an institution granting a student a refund in the amount of the institutional aid award. This will reduce the amount of institutional aid available to other students.

The Department of Legislative Services (DLS) advises that, under the bill, the calculation of "financial need" *subtracts* State and private financial aid received by the student. Typically, a student's financial need is determined *without* considering any financial aid, and a student's unmet financial need reflects *all* financial aid received by the student.

Under the bill, this has the effect of reducing a student's financial need by the amount of State and private financial aid the student has received, which allows an institution to *reduce* its financial aid to a student based on a *lower* amount of need than the student actually has prior to receiving any State or private financial aid. The bill caps the allowable reduction at the student's "financial need" as defined by the bill. Under current law, this practice is also permitted (typically using a broader calculation of financial need), but it is not capped.

DLS also advises that the calculation of "unmet financial need" subtracts nonfederal financial aid *twice*.

Additional Information

Prior Introductions: None.

Cross File: HB 231 (Delegate Stein, *et al.*) - Appropriations.

Information Source(s): National Scholarship Providers Association, U.S. Department of Education, National Collegiate Athletic Association, Baltimore City Community College, University System of Maryland, St. Mary's College of Maryland, Maryland Higher Education Commission, Department of Legislative Services

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