

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1417 (Delegate Krimm)
 Health and Government Operations

Dialysis Patient Transportation Fund and Task Force to Study the Dialysis Patient Transportation Fund

This bill establishes the Dialysis Patient Transportation Fund for the Maryland Department of Transportation (MDOT) to offset the direct costs counties incur to provide transportation for dialysis patients. The fund consists primarily of fees paid by certified dialysis centers. The bill also establishes the Task Force to Study the Dialysis Patient Transportation Fund. By November 1, 2021, the task force must report its findings and recommendations to the Governor and the General Assembly. **The bill takes effect July 1, 2020, with the exception of the task force, which takes effect October 1, 2020, and terminates September 30, 2022.**

Fiscal Summary

State Effect: General fund expenditures increase by \$24,400 in FY 2021 and \$8,100 in FY 2022 to staff the task force and complete the required report. Transportation Trust Fund (TTF) expenditures increase by \$48,700 in FY 2021 to administer the new fund; out-years reflect ongoing costs. Special fund revenues and expenditures increase beginning in FY 2021 from collection of fees and to reimburse counties, as discussed below.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	-	-	-	-	-
GF Expenditure	\$24,400	\$8,100	\$0	\$0	\$0
SF Expenditure	\$48,700	\$42,600	\$43,400	\$45,000	\$46,500
Net Effect	(\$73,000)	(\$50,700)	(\$43,400)	(\$45,000)	(\$46,500)

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

Local Effect: Revenues increase for local governments due to reimbursement for providing transportation for patients to kidney dialysis facilities. Expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Dialysis Patient Transportation Fund

The fund consists of (1) revenue distributed to the fund from kidney dialysis centers; (2) money appropriated in the State budget to the fund; (3) interest earnings; and (4) any other money from any other source accepted for the benefit of the fund. Expenditures from the fund may be made only in accordance with the State budget.

The Secretary of Transportation must administer the fund. The fund is a special, nonlapsing fund; any interest earnings must accrue to the fund and not the State general fund. The fund is subject to audit by the Office of Legislative Audits.

Each kidney dialysis center *certified* by the Maryland Department of Health (MDH) must pay \$20 for each transport of a patient *to or from* the kidney dialysis center provided by a local department of transportation. These fees must be distributed to the fund. State-owned facilities and hospital facilities are not required to pay the fee.

Task Force to Study the Dialysis Patient Transportation Fund

The task force consists of one member of the Senate, one member of the House of Delegates, the secretaries of Health and Transportation (or their designees), the Administrator of the Maryland Transit Administration, and two members appointed by the Secretary of Health. The Secretary of Health must designate the chair of the task force, and MDH must provide staff for the task force. Task force members may not receive compensation but are entitled to reimbursement for expenses under standard State travel regulations.

The task force must study the impact of the Dialysis Patient Transportation Fund on patient access to dialysis treatment and offsetting (fully or partially) the direct costs counties incur to transport dialysis patients to and from kidney dialysis centers. The task force must make recommendations regarding (1) the amount of the fee imposed on certified kidney dialysis centers; (2) the effect of the fee on such centers; and (3) the amount each center will contribute to the fund if the fee is altered to adequately offset the direct costs counties are incurring to transport dialysis patients to and from kidney dialysis centers.

Current Law:

Licensure of Kidney Dialysis Centers in Maryland

MDH's Office of Health Care Quality (OHCQ) *licenses* all freestanding kidney dialysis centers under its regulations regarding freestanding ambulatory care facilities. "Kidney dialysis center" means a facility that provides hemodialysis or chronic peritoneal dialysis, but it does not include a center or service owned or operated by a hospital. Under these regulations, a kidney dialysis center must be in compliance with all applicable federal, State, and local laws and regulations and must also submit a Medicare certification as a condition of licensure. The administrator of a kidney dialysis center must ensure that the center has a quality assurance program.

Maryland Kidney Disease Program and Fund

In Maryland, there is a Kidney Disease Program and Fund (KDF), which was established to assist citizens with the costs of treatment for kidney disease as a payor of last resort. To receive funding from KDF, a person must meet medical, residency, and other nonmedical eligibility requirements, as established by MDH. One of these requirements is that a program recipient has to apply for Medicaid *and* Medicare Part B or Part D, within 60 days of notification to do so by MDH. KDF is the payor of last resort, which means the program may provide financial assistance to certified Maryland end-stage renal disease patients only after all other federal, State, and private medical insurance coverage has been pursued.

Maryland Commission on Kidney Disease

The Maryland Commission on Kidney Disease promotes quality health care in the field of nephrology and transplantation by certifying dialysis and transplant centers, receiving and resolving complaints from interested parties, and setting standards for the practice of chronic dialysis and transplantation that reflect new and emergent developments. The commission is charged with adopting physical and medical standards for the operation of dialysis and transplant centers. The commission may not adopt any standard that prevents an individual from receiving federal medical or financial aid. MDH is charged with promulgating regulations that implement quality of care standards adopted by the commission to govern nonmedical eligibility criteria for recipients and reimbursement of providers and recovery of KDF expenditures from recipients and third parties.

The commission *certifies* treatment centers that meet the standards it adopts for providing services to recipients. The commission inspects certified facilities annually. Although certification is voluntary, a treatment center must be certified by the commission to receive reimbursement from KDF. However, the commission is not in charge of KDF payments, the level of payment, or how payment is disbursed. Similarly, the commission has no

jurisdiction over Medicaid or Medicare payments or standards. Treatment centers must also be licensed by OHCQ in order to treat patients, but this licensure is *separate* from certification.

State Fiscal Effect:

Dialysis Patient Transportation Fund

Special fund revenues increase as certified kidney dialysis centers pay the appropriate fees to the Dialysis Patient Transportation Fund. Special fund expenditures increase correspondingly to reimburse counties for transporting dialysis patients to and from dialysis centers. *For illustrative purposes*, MDH advises that, on average, dialysis patients receive treatments 3 times per week or approximately 12 times per month. The bill requires a certified kidney dialysis center to pay the \$20 transportation fee for each transport to or from the dialysis center provided by a local department of transportation. For a patient who requires transportation to and from the dialysis center at this frequency, and for whom transportation is provided by the local department of transportation, the dialysis center will be required to pay approximately \$480 per month to the fund for this one patient alone.

Since certification of dialysis treatment centers is voluntary, MDH advises that kidney dialysis centers may not remain certified under the bill. If a center is no longer certified by the commission, patients who qualify for KDF will not be able to receive treatment at that particular facility. MDH estimates that approximately 80% of the 120 certified dialysis treatment centers in the State may not remain certified. Patients receiving KDF benefits can only receive treatment at certified facilities, affecting their ability to receive essential dialysis treatments. Additionally, the commission’s operational budget comprises fees collected from the certification of dialysis centers and may be reduced by a significant amount under the bill.

Maryland Department of Transportation Staff Requirements

TTF expenditures increase by \$48,661 in fiscal 2021, which accounts for the July 1, 2020 effective date for the fee assessment, fund, and reimbursement provisions. This estimate reflects the cost of hiring one part-time (50%) accountant/analyst to manage the fund and administer reimbursements to local departments of transportation. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$43,453
Operating Expenses	<u>5,208</u>
Total FY 2021 MDOT Expenditures	\$48,661

Future year expenditures reflect annual increases and employee turnover and ongoing operating expenses. Although MDOT advised it could use a contractual position for this purpose, the Department of Legislative Services advises that the need for staffing is permanent.

Maryland Department of Health Staff Requirements

MDH general fund expenditures increase by \$24,377 in fiscal 2021, which accounts for the October 1, 2020 effective date for the task force. This estimate reflects the cost of hiring one part-time (50%) contractual health policy analyst to staff the task force and complete the required report. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$19,249
Operating Expenses	<u>5,128</u>
Total FY 2021 MDH Expenditures	\$24,377

Future year expenditures reflect termination of the position November 1, 2021, when the task force report is due.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Local Revenues: Revenues increase for local jurisdictions that provide transportation services for patients receiving dialysis treatments as they receive reimbursement from the fund. As discussed above, the amount of any such reimbursement cannot be reliably estimated at this time.

Small Business Effect: Certified kidney dialysis centers must pay fees to the fund for the transportation of patients to their centers by local departments of transportation. Depending on the number of patients to which the fee applies and the frequency with which they require transportation to the center, fees could be significant for some centers. However, the number of certified kidney dialysis centers that are small businesses is unknown.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Association of Counties; Maryland Department of Health; Maryland Department of Transportation; Department of Legislative Services

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