SB 211

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 211 (Chair, Finance Committee)(By Request - Departmental - Health)

Finance

Public Health - Giving Infants a Future Without Transmission (GIFT) Act

This departmental bill alters terminology and requirements relating to HIV testing and reporting, including requiring (1) universal syphilis and HIV testing for all pregnant women at the time of delivery; (2) newborn HIV testing when the mother's HIV status is unknown; and (3) inclusion of pregnancy status when reporting an HIV diagnosis. A hospital must determine the syphilis serologic status of a mother before discharging the newborn for the purposes of neonatal evaluation and treatment. The Maryland Department of Health (MDH) may adopt rules, regulations, and standards regarding syphilis testing.

Fiscal Summary

State Effect: Medicaid expenditures increase by an estimated $783,600 (85% federal funds, 15% general funds) in FY 2025 for additional syphilis and HIV testing of pregnant women. Federal fund revenues increase accordingly. Out-years reflect annualization and 3% growth in Medicaid enrollment. Expenditures are offset by significant but indeterminate savings, as discussed below.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
FF Revenue	$667,700	$916,900	$944,400	$972,800	$1,002,000
GF Expenditure	$115,900	$159,200	$163,900	$168,900	$173,900
FF Expenditure	$667,700	$916,900	$944,400	$972,800	$1,002,000
Net Effect	($115,900)	($159,200)	($163,900)	($168,900)	($173,900)

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

Local Effect: Minimal increase in workload for local health department (LHD) personnel, as discussed below. Revenues are not affected.

Small Business Effect: MDH has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary/Current Law:

HIV Testing

Under § 18-336 of the Health-General Article, before obtaining a sample for HIV testing, a health care provider must (1) inform the individual that HIV testing will be performed unless the individual refuses; (2) provide the individual information or show a video explaining HIV infection and the meaning of positive and negative test results; (3) offer the individual an opportunity to ask questions and decline testing; and (4) if the individual refuses testing, document the refusal in the medical record.

The bill requires, unless a patient declines, that a health care provider obtain a fluid or tissue sample to test for the presence of HIV infection from the body of a pregnant woman during delivery and a newborn when the pregnant woman's HIV status is unknown.

Provider and Institutional Reporting of HIV

Under § 18-201.1 of the Health-General Article, a physician who has diagnosed a patient with HIV or acquired immunodeficiency syndrome must immediately submit a report to the local health officer that states the name, age, race, sex, and address of the patient. An institution (including a hospital, nursing home, hospice, correctional medical clinic, inpatient psychiatric facility, and inpatient drug rehabilitation facility) must submit the same report to the local health officer within 48 hours. For an infant whose mother has tested positive for HIV, a physician must submit such a report within 48 hours of the infant's birth. All reports filed by physicians or institutions are confidential, are not medical records, and are not discoverable nor admissible in evidence in any civil action.

The bill updates terminology (changing "physician" to "health care provider" and "patient" to "individual"); requires that HIV reports state the pregnancy status of the individual, if applicable; and requires health care providers to submit a report within 48 hours of a pregnant woman testing positive for HIV for the purpose of intervention.

HIV Registry

Under current law, if a newborn born to a mother who tested positive for HIV does not

become HIV positive after 18 months from the date that the HIV report was submitted, the Secretary of Health must have the infant's name removed from the HIV registry.

The bill clarifies that removal of a name from the HIV registry must occur if an infant does not become HIV positive after 18 months *from the infant's date of birth*.

Syphilis Testing

Under § 18-307 of the Health-General Article, an individual attending a woman for pregnancy must submit to a medical laboratory a blood sample taken from the woman at (1) the time of the first examination and (2) during the third trimester of the pregnancy. The medical laboratory must do a standard serological syphilis test that is approved by MDH. These provisions do not apply to a woman who objects to such testing due to her religious beliefs and practices.

The bill changes the term "individual" to "health care provider" and specifies that the blood sample taken during the third trimester must be taken at the prenatal visit at 28 weeks of gestation or the first prenatal visit after 28 weeks of gestation. A health care provider must submit a blood sample from a woman who delivers a (1) live born infant at the time of delivery or (2) a stillborn infant at 20 weeks of gestation or later or weighing at least 500 grams. The bill also requires a hospital to determine the syphilis serologic status of the mother before discharging the newborn for the purposes of neonatal evaluation and treatment. MDH may adopt rules, regulations, and standards regarding syphilis testing.

Background: MDH advises that the bill is intended to protect Maryland infants by addressing recent increases in congenital syphilis (CS) and perinatal HIV transmission in Maryland.

Congenital Syphilis

From 2012 to 2021, CS cases in Maryland increased by more than 200% (from 12 to 37 cases). Screening during delivery helps identify pregnant women with syphilis who were not tested and/or treated during their pregnancy or who were infected after the currently required test during the third trimester.

Infants with CS who are not evaluated and treated within the first three months of life are more likely to have lifelong, severe complications such as deafness, blindness, and intellectual disability. The majority of infants with a reported CS diagnosis in 2020 and 2021 were covered by Medicaid. MDH advises that the Medicaid fee-for-service costs for treating infants with a CS diagnosis from birth to age 23 months increased more than fivefold from 2020 to 2021 (from $233,503 to $1,186,980) and the average cost

per member per month for a child with CS in a Medicaid managed care organization nearly doubled during the same period (from $1,366 to $2,552).

Perinatal HIV Transmission

Historically, perinatal HIV transmission was rare in Maryland with only six confirmed cases from 2016 to 2020. However, since July 2022, five infants from four different jurisdictions have acquired HIV through perinatal transmission. MDH notes that pregnant women are becoming infected with HIV after the currently required third trimester test.

State Fiscal Effect: Medicaid expenditures increase by an estimated $783,563 (85% federal funds, 15% general funds) in fiscal 2025, which accounts for the bill's October 1, 2024 effective date. This estimate reflects the cost of one HIV and one syphilis test at delivery as required under the bill, as well as any confirmatory testing required as a result of syphilis testing. The information and assumptions used in calculating the estimate are stated below:

- Medicaid covered 31,238 live births in calendar 2020.
- Medicaid enrollment is assumed to have increased by 3% since calendar 2020.
- Effective July 1, 2023, Medicaid covers noncitizen pregnant women (who comprise an estimated 19.75% of total Medicaid births).
- Medicaid will cover 32,175 births in fiscal 2025, including 6,355 noncitizen pregnant women.
- The average reimbursement per HIV test for pregnant women is $24.31.
- The average reimbursement per syphilis test for pregnant women is $8.16.
- 1.31% of individuals require an additional confirmatory syphilis test, which is reimbursed at a rate of $4.32.
- Federal matching funds are provided at a rate of 65% for noncitizen pregnant women and 90% for other pregnant women.

Expenditures increase by an additional indeterminate amount if newborns are tested in addition to the pregnant woman and to the extent that the bill results in increased screenings of partners covered by Medicaid. It is assumed that, if a pregnant woman's HIV status is unknown, the newborn will be tested at approximately the same rate per test. This estimate does not reflect any increases in managed care organization capitation rates.

Medicaid expenditures increase by $1,076,093 (85% federal funds, 15% general funds) in fiscal 2026, increasing to $1,175,876 (85% federal funds, 15% general funds) in fiscal 2029. Future years reflect annualization and 3% annual growth in the Medicaid population.

Any expenditures for additional testing of pregnant women are likely offset by significant long-term savings due to the early identification and treatment of CS and HIV. MDH advises that a 2017 modeling study found that the cost savings between prompt and delayed CS treatment is more than $650,000 per infant. Furthermore, according to a 2019 study, the estimated average lifetime HIV-related medical cost for an individual with HIV ranged from $420,285 to $1,079,999.

Local Fiscal Effect: LHDs are required to conduct partner services for all new cases of syphilis and HIV. This includes (1) contacting the delivery hospital to follow up on treatment provided to the newborn if that information is not available in the statewide electronic health information exchange; (2) contacting the mother diagnosed with syphilis or HIV to elicit names of partners to ensure they are tested and treated and coordinate referrals for supportive services; and (3) completing the Congenital Syphilis Case Report form. Thus, the bill may result in a minimal increase in workload for LHD staff. Any such workload is assumed to be handled with existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: HB 119 (Chair, Health and Government Operations Committee)(By Request - Departmental - Health) - Health and Government Operations.

Information Source(s): Maryland Association of County Health Officers; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2024
km/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES
Maryland Department of Health
Session 2024

BILL TITLE: Public Health - Giving Infants a Future Without Transmission (GIFT) Act

BILL NUMBER: SB0211

PREPARED BY:
(Program\Unit): Prevention and Health Promotion Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposal has no economic impact.