SB 485

Department of Legislative Services

Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 485 (Senator Teitelbaum, *et al.*)
Finance

Health - Certificate of Need - Reformation of Regulation

This bill exempts health care facilities from certificate of need (CON) requirements under the following circumstances: (1) when a facility relocates existing beds and services within its "primary service area" or between existing facilities operated under a "multifacility provider"; and (2) when a facility establishes a new open heart surgery service under specified conditions. The bill requires the Department of Health and Mental Hygiene (DHMH) to adopt quality of care standards for "special services" offered by hospitals and to adopt open heart surgery quality of care standards by January 1, 1999, using specified guidelines.

The bill's provisions regarding quality of care standards for special services takes effect July 1, 1998. The bill's provisions regarding CONs takes effect January 1, 1999.

Fiscal Summary

State Effect: General fund expenditures increase by $82,400 in FY 1999, exclusive of potentially offsetting revenues from raising hospital license fees. Future year expenditures increase with annualization and inflation, exclusive of potentially significant Medicaid savings. Potential minimal increase in general fund revenues due to the bill's penalty provisions.

(in dollars)	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
GF Revenues	--	--	--	--	--
GF Expenditures	82,400	97,300	100,500	103,800	107,300
Net Effect	($82,400)	($97,300)	($100,500)	($103,800)	($107,300)

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

Local Effect: None.

Small Business Effect: Potential meaningful. Small business health care facilities could be favorably affected by the bill's provisions regarding CON exemptions.

Fiscal Analysis

Bill Summary: The bill's provisions regarding CON exemptions do not apply to ambulatory surgical facilities that have requested or received a determination as to whether a CON is required by February 13, 1995.

DHMH is authorized to inspect a hospital to review compliance with special services standards and to investigate complaints. If a hospital is not in compliance with the standards, DHMH is authorized to issue an administrative order, impose a penalty of up to $10,000 a day, or apply to a court for legal relief. DHMH is authorized to collect statistical information from hospitals for the development of special services quality of care standards and, if a hospital fails to comply, issue an administrative order, impose a penalty of up to $1,000 a day, or apply to a court for legal relief.

State Effect:

Health Resources Planning Commission

The Health Resources Planning Commission (HRPC) advises that the commission's workload could be decreased slightly by the bill's CON exemption provision. However, staff would still be required to review applications for a CON exemption to determine whether an exemption is warranted. Expenditures would not decrease because staff resources would be assigned elsewhere within the commission.

Licensing and Certification Administration

General fund expenditures could increase by an estimated $82,400 in fiscal 1999, which accounts for a 90-day start-up delay. This estimate reflects the cost of two new Health Facility Nurse Surveyors to develop quality of care standards for special services and open heart surgery, conduct inspections of hospitals for compliance with the standards, and conduct complaint investigations. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. There are currently eight hospitals with open heart surgery services. The estimated need for two additional positions assumes that this number will increase as a result of the bill's CON exemption provision and that special services quality of care standards will generate additional workload.

Salaries and Fringe Benefits	$64,200

Other Operating Expenses	18,200
Total FY 1999 State Expenditures	**$82,400**

Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Although the bill does not provide any specific authority for DHMH to assess fees to cover its increased expenses for regulating special services, it is possible that these expenditures could be recovered through an increase in DHMH's hospital licensing fees.

DHMH may impose a penalty for violation of the bill's provisions or apply to a court for legal relief. Accordingly, general fund revenues could increase depending on the number and amount of fines imposed. Any such increase is assumed to be minimal.

Potential Medicaid Savings in Future Years

The bill allows a hospital to open new open heart surgery services only if HSCRC determines that there will be a net savings to the health care system as a result of the change in service. This means that a hospital opening a new open heart surgery program would go to the Health Services Cost Review Commission (HSCRC) and negotiate lower hospital rates. For example, in each of the last three circumstances in which a hospital went through the CON procedure to initiate new open heart surgery services, the reduction in hospital rates exceeded $3 million each. This reduction in hospital rates is across the board, i.e., in operating room and bed rates. Therefore, rates charged to almost all hospital patients could be lower, which could result in Medicaid savings whenever a hospital offers open heart surgery services.

Theoretically, Medicaid expenditures could decrease by up to $150,000 for each hospital newly offering open heart surgery services, assuming that: (1) a hospital's rate reduction totals only $1 million as a result of new open heart surgery services; and (2) Medicaid expenditures represent almost 15% of hospital charges. However, under the Medicaid managed care system, it would primarily be Medicaid managed care organizations (MCOs) that would realize savings from lower hospital rates. The State pays a fixed capitation rate to Medicaid MCOs to provide health care services to Medicaid patients; that capitation rate is negotiated each year. Hence, it is not possible to reliably determine the extent to which decreased hospital rates would translate into lower State payments to MCOs in future years, but it could be significant (in the tens of thousands of dollars). Any Medicaid savings would be 50% general funds and 50% federal funds.

Information Source(s): Department of Health and Mental Hygiene (Health Resources Planning Commission, Licensing and Certification Administration); Department of Legislative Services

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