Department of Legislative Services

Maryland General Assembly
1999 Session

FISCAL NOTE
Revised

House Bill 68 (Chairman, Environmental Matters Committee)
(Departmental - Health and Mental Hygiene)
Appropriations

Developmental Disabilities - State Plan - Private Community-Based Services - Billing Rate Appeals

This departmental bill alters the billing rate appeal process within the Department of Health and Mental Hygiene (DHMH) and the Office of Administrative Hearings for developmental disability community service providers. It specifies the circumstances under which DHMH can recover payments to providers, stipulates the process and deadline by which DHMH must reconcile a provider's year-end report, requires DHMH to conduct an audit of each private provider every four years, and prohibits unspent fiscal 2000 Waiting List Initiative general funds from reverting to the general fund. Any unspent funds must remain available for Waiting List Initiative expenditure in fiscal 2001. The bill takes effect July 1, 1999.

Fiscal Summary

State Effect: Potential decrease in FY 2001 revenues accruing to the State general fund from the bill's Waiting List Initiative carryover provision. Indeterminate effect on FY 2001 Waiting List Initiative general fund expenditures, depending on whether carried over funds are used to supplement or supplant FY 2001 expenditures.

Local Effect: None.

Small Business Effect: The Department of Health and Mental Hygiene has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Fiscal Analysis

Bill Summary: The bill prohibits a provider from requesting a billing rate appeal for those rates set by regulation. It specifies that DHMH can recover payments made to community service providers only for client attendance, client fees, or sanctions allowed through regulations. DHMH is required to follow the bill's provisions concerning the process by which it must reconcile a provider's year-end report beginning with fiscal 1999 year-end reports. The bill establishes a deadline by which a private provider must submit a year-end report. If DHMH fails to conduct an audit of a private provider every four years, it is prohibited from auditing the private provider for that four-year period, unless fraud is suspected.

Background: DHMH recently adopted regulations that establish a new system of paying providers of community-based services for people with developmental disabilities. The new regulations, which took effect July 1, 1998, set one flat rate for residential services and another flat rate for day services. Under the previous payment system, rates for two different providers providing the same services to the same level of clients in the same area could differ substantially. DHMH advises that there should be fewer individual appeals now that the rates for services are uniform.

In fiscal 1998 the Developmental Disabilities Administration (DDA) within DHMH had a $17 million surplus for the community services program. The surplus is the result of overestimates and financial management problems, as follows: (1) overestimate of payments to community providers in fiscal 1997; (2) overestimate of utilization rates in day/residential services in fiscal 1998; (3) higher than expected vacancy rates in residential services in fiscal 1998; (4) overestimate of human services contracts in fiscal 1997; (5) recovery of overpayments for vacancies in fiscal 1995 to 1997; and (6) recovery of federal reimbursement for services in 1997. Another fiscal management problem has been the timeliness of reconciliation of providers' accounts. After this issue was cited by the legislative auditors, DDA dedicated more resources to the task and is now up-to-date with reconciliations. The most recent legislative audit report also found that it will take DHMH's Audit Division ten years to audit all major providers at the current pace.

The fiscal 2000 DDA budget includes $22.5 million in Waiting List Initiative general funds for the purpose of reducing the number of individuals waiting for day, support, and residential services. Over the next four years, a total of $64.3 million in general funds is proposed for the Waiting List Initiative. Chapter 697 of 1998 prohibits unspent fiscal 1999 Waiting List Initiative general funds from reverting to the general fund and provides that any unspent funds must remain available for Waiting List Initiative expenditure in fiscal 2000.

State Effect: General funds could decrease by an indeterminate amount as a result of prohibiting unexpended Waiting List Initiative funds from reverting to the general fund at the end of fiscal 2000. Any such decrease in general fund revenues could result in an increase in general fund Waiting List Initiative expenditures. Alternatively, Waiting List Initiative funds unspent at the end of fiscal 2000 could be used to supplant funds that otherwise would have been appropriated in fiscal 2001. As a point of reference, the fiscal 1999 unspent balance is expected to be around $3 million. Because fiscal 1999 was the start-up year for the Waiting List Initiative, the unspent balance in fiscal 2000 is expected to be lower.

Any savings under the billing rate appeals provision would be minimal because the number of billing rate appeals currently handled by DHMH is only about two to three each year. The Office of Administrative Hearings currently handles only one a year.

DHMH advises that the bill's provisions concerning recovery of payments to providers, reconciliation of providers' year-end reports, and auditing providers would have no effect because these provisions either codify current practice or codify practices that it is in the process of implementing.

Small Business Effect: Waiting List Initiative general funds are used to procure community services such as supported employment and group homes to individuals with developmental disabilities and mental disorders. Thus, increases in fund balances could result in increased revenues to small business contractors providing such services. Further, several other provisions of the bill could favorably affect small business community service providers: (1) specification of the circumstances under which DHMH can recover payments to providers; (2) specification of the process and deadline by which DHMH must reconcile a provider's year-end report; and (3) prohibiting DHMH from auditing a private provider for a four-year period if it has not conducted an audit during that time frame.

Information Source(s): Department of Health and Mental Hygiene (Developmental Disabilities Administration, Budget Management Office), Office of Administrative Hearings, Department of Legislative Services

Fiscal Note History:	First Reader - February 4, 1999
nncsjr	Revised - House Third Reader - March 31, 1999
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