HB 6

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

House Bill 6 (Delegate Taylor, *et al.*)
Economic Matters and Environmental Matters Finance and Budget and Taxation

Senior Prescription Drug Relief Act

This bill creates the Maryland Pharmacy Discount Program (MPDP) and the Maryland MEDBANK Program, both of which assist Medicare enrollees and certain low-income individuals to obtain prescription drug coverage. In addition, the bill expands the Short-Term Prescription Drug Subsidy Plan to include individuals in the Central Maryland area.

Fiscal Summary

State Effect: Assuming the Health Care Financing Administration (HCFA) approves the waiver amendment, Medicaid expenditures could increase by an estimated $5.72 million ($2.86 million federal funds, $2.86 million general funds) in FY 2002. Health Care Foundation general fund expenditures could increase by an estimated $2.5 million in FY 2002. Short-Term Prescription Drug Subsidy Plan special fund revenues could increase by $12.2 million and special fund expenditures could increase by $11.2 million in FY 2002. Future year estimates reflect annualization, inflation, and the June 30, 2003 sunset date for the MEDBANK and Short-Term Prescription Drug Subsidy programs. The FY 2002 budget contains $6.5 million in general funds contingent upon the bill's enactment, which may be used for the MPDP and MEDBANK programs.

($ in millions)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
SF Revenue	$12.20	$13.91	$0	$0	$0
GF Expenditure	5.36	9.74	7.96	9.39	11.08
SF Expenditure	11.20	13.20	0	0	0
FF Expenditure	2.86	6.74	7.96	9.39	11.08
Net Effect	($7.22)	($15.77)	($15.92)	($18.78)	($22.16)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The Maryland Pharmacy Discount Program (MPDP) will cover Medicare enrollees without other public or private prescription drug coverage. DHMH cannot enroll individuals in the program until January 1, 2002. Enrollees can purchase medically necessary prescription drugs from any pharmacy that participates in the Maryland Medicaid Program at a price that is equivalent to the price reimbursed by Medicaid, including the benefit of any federally mandated manufacturers' rebates. The bill requires the Department of Health and Mental Hygiene (DHMH) to submit an amendment to the State's existing demonstration waiver from the federal Health Care Financing Administration (HCFA) to seek matching federal funds for the MPDP.

To the extent authorized under a federal waiver, DHMH must provide a 35% subsidy on the price paid for each prescription drug under the program to each enrollee with an annual household income at or below 175% of the federal poverty level (FPL) guidelines (see **Exhibit 1**). If DHMH does not get the federal waiver, enrollment is limited to Medicare enrollees with incomes at or below 250% of FPL, and it must provide a 25% subsidy on the price paid for each prescription drug under the program to each Medicare-eligible enrollee with an annual household income at or below 175% of FPL.

In addition, participating pharmacies may charge a $1 processing fee during the first year of MPDP's operation on each prescription filled. DHMH may establish a mechanism to recoup administrative costs.

The bill also creates the MEDBANK Program, patterned after a similar private program offered by MEDBANK of Maryland, Inc. The Health Care Foundation, a not-for-profit entity, must contract with one or more entities to administer and operate the program. The foundation must use the MEDBANK of Maryland, Inc. and the Western Maryland Prescription Program as the regional offices for the Baltimore metropolitan area and Western Maryland respectively. The program will assist low-income individuals who lack prescription drug coverage by accessing medically necessary prescription drugs through patient assistance programs sponsored by pharmaceutical drug manufacturers. Program funds must be used in part to purchase interim supplies of prescription drugs for program enrollees who have been approved to participate in a manufacturer's patient assistance program but have not yet received the approved prescription drug. In addition, the foundation must ensure that the MEDBANK Program is available to residents in each geographic region of the State.

The bill expands the Short-Term Prescription Drug Subsidy Plan to include all Medicare-eligible residents over 65 and individuals who have annual household incomes at or below 300% of FPL. The bill: (1) expands the enrollment cap from 15,000 to 30,000 enrollees; (2) reduces the monthly premium from $40 to $10; and (3) increases the Short-Term Prescription Drug Subsidy Program fund from $5.4 million to 37.5% of the value of the Substantial, Available, and Affordable Coverage (SAAC) differential as of January 1, 2001, and specifies that the fund includes collected premiums, interest, and investment income. In addition, DHMH must develop an outreach plan to maximize plan participation. The outreach program must be funded through the Short-Term Drug Subsidy Plan fund.

The bill also requires: (1) the Comptroller of the Treasury, in consultation with DHMH, to study and report to the Governor and the General Assembly by December 1, 2001 on the feasibility of providing a tax credit for catastrophic out-of-pocket prescription drug expenses; (2) DHMH to study and report to the Governor and the General Assembly by December 1, 2001 on the feasibility of purchasing prescription drugs through federally qualified health centers and local health departments to maximize the number of people who can benefit from the purchasing power of these entities; and (3) the Maryland Health Care Foundation to report to the Governor and the General Assembly by December 1, 2001 and annually thereafter on the demographics of MEDBANK enrollees, the types and value of prescription drugs accessed through the program, and the nature and extent of outreach performed to inform Maryland residents of the program.

In addition, DHMH must study the impact of MPDP on independent and chain pharmacies that participate in the program and report its findings to the House Economic Matters Committee and the Senate Finance Committee by January 1, 2003.

The bill takes effect July 1, 2001. The bill's provisions relating to the Pharmacy Discount Program take effect upon HCFA's approval or denial of a waiver. The bill's provisions relating to the Short-Term Prescription Drug Subsidy Program and the MEDBANK Program sunset the earlier of June 30, 2003 or when Medicare offers prescription drug benefits.

Current Law: The State currently provides three major pharmacy assistance programs to senior citizens and lower-income individuals: (1) Medicaid; (2) the Maryland Pharmacy Assistance Program; and (3) the newly created Short-Term Prescription Drug Subsidy Plan. Individuals enrolled in Medicaid and the Children's Health Insurance Program (CHIP) receive comprehensive prescription drug coverage. Low-income individuals who pass certain income- and asset-level tests may enroll in the Maryland Pharmacy Assistance Program, which provides coverage for certain maintenance drugs and anti-infectives for a low copayment. The Short-Term Prescription Drug Subsidy

Program, which provides coverage for Medicare enrollees in medically underserved counties, includes a low monthly premium as well as deductibles and copayments.

State Fiscal Effect:

Maryland Pharmacy Discount Program

If HCFA approves Maryland's waiver amendment, the bill provides a 35% prescription drug cost subsidy to enrollees who earn at or below 175% of FPL. Total subsidy expenditures under the waiver are estimated to be $5.72 million ($2.86 million federal funds, $2.86 million general funds) in fiscal 2002. If HCFA denies the amendment to the waiver, total subsidy expenditures are estimated to be $4.09 million (general funds). These estimates reflect a January 1, 2002 start-up date and assume that DHMH establishes a mechanism to recoup all administrative costs associated with the MPDP. The estimates are also based on the following facts and assumptions:

102,000 Medicare-eligible individuals earn 116.4% to 175% of FPL;

- half of those eligible will enroll; and
- an enrollee's average annual out-of-pocket prescription drug expenditure is $641.

Future year expenditures reflect annualization, 18% prescription drug inflation, and assume that enrollment remains constant.

MEDBANK Program

General fund expenditures for the foundation could increase by an estimated $2.5 million in fiscal 2002. In fiscal 2002, it is assumed that approximately $2.0 million will be used to purchase interim drugs for individuals waiting to receive free medications from drug companies. The remaining $500,000 would be used to cover staffing and other administrative costs. The foundation does not currently receive any general funds. Future year expenditures reflect the program's June 30, 2003 sunset date.

The fiscal 2002 budget contains $6.5 million in general funds, of which $2.5 million may be used to fund the MEDBANK Program and the remaining $4.0 million may be used to fund the MPDP. Assuming HCFA approves the waiver amendment, DHMH will only need $2.86 million of the $4.0 million general funds budgeted for this program.

Short-Term Prescription Drug Subsidy Program

The Short-Term Prescription Drug Subsidy Program Fund is expected to have $5.1 million at the end of fiscal 2001. Special fund expenditures could increase by an additional $11.2 million in fiscal 2002 to expand the program to the Central Maryland area. This estimate is based on the following facts and assumptions:

- 20,000 (two-thirds of those eligible) will enroll;
- each enrollee purchases two drugs each month and pays an average $20 copay for each drug;
- the average total drug cost is $54;
- the average cost to the fund is $68 per member per month; and
- total fund expenditures would be $16.3 million in fiscal 2002, or an additional $11.2 million over the existing $5.1 million in the fund.

Future year estimates reflect 18% prescription drug cost inflation, assume enrollment remains constant, and reflect the program's June 30, 2003 sunset date.

CareFirst BlueCross BlueShield of Maryland, the current administrator of the program, spends $81.59 per member per month, which includes an average of $71.92 drug costs and an additional $9.67 for the dispensing fee and customer service. Under CareFirst's costs, if 20,000 individuals enrolled, expenditures could increase by $19.6 million in fiscal 2002.

Special fund revenues could increase by an estimated $12.2 million in fiscal 2002. The bill increases current funding from an annual $5.4 million assessment on carriers that participate in the SAAC program to 37.5% of the entire value of the SAAC differential as of January 1, 2001. The total value of the SAAC differential is estimated to be $46.8 million (refer to **Exhibit 2**). Accordingly, up to $17.6 million total would be available to expand the program, or $12.2 million more than the current $5.4 million assessment in fiscal 2002. Future year revenue increases reflect 14% inflation in the SAAC differential and the program's June 30, 2003 sunset date.

DHMH Estimates: DHMH advises Medicaid expenditures could increase by an estimated $13.65 million (50% general funds, 50% federal funds) in fiscal 2002 if HCFA approves the amendment to Maryland's waiver, or by an estimated $9.75 million (general funds) in fiscal 2002 if HCFA denies the waiver amendment (refer to **Exhibit 3**) to

provide subsidies to MPDP enrollees whose income is at or below 175% of FPL. The Department of Legislative Services (DLS) disagrees with two of DHMH's assumptions. DHMH assumes an enrollee will spend $2,000 out-of-pocket on drugs in fiscal 2002 and DLS assumes an enrollee will spend $641. The DHMH estimate is based on Medicaid and MPAP experience and various studies, while the DLS estimate is based on various studies targeted at the actual out-of-pocket expenditures of individuals with no prescription drug coverage. DLS attempted to estimate an amount that lower-income individuals realistically spend on drugs rather than what they should spend on drugs. In addition, DHMH estimates 39,000 will qualify for the subsidies while the DLS estimate is 51,000.

Small Business Effect: There are approximately 1,300 pharmacies in Maryland, 230 of which are small businesses. Under the Pharmacy Discount Program, small business pharmacies that participate in Medicaid may be required to sell prescription drugs to Medicare beneficiaries at a loss. The bill's requirements would require these pharmacies to sell prescription drugs at the Medicaid payment rate. In general, Medicaid's payments to pharmacies are about 90% of the pharmacies' usual and customary charges. If pharmacies incur substantial losses, they may discontinue participation in the Medicaid Program. Because one in three Medicare beneficiaries who do not have prescription drug coverage live in rural areas, pharmacy pull-outs may disproportionately affect the rural areas of Maryland, including Western Maryland, the Eastern Shore, and Southern Maryland.

The bill permits participating pharmacies to charge a $1 processing fee on each prescription sold to an MPDP enrollee. Approximately 102,500 individuals are expected to participate in the program. If each enrollee fills an average 12 prescriptions annually, Maryland pharmacies could recoup as much as $600,000 from this processing fee in fiscal 2002.

Additional Comments:

Exhibit 1

2001 Federal Poverty Level (FPL) Guidelines*	
Number of Family Members	**Annual Income at 175% FPL**
Family of 1	$15,032
Family of 2	$20,317
Family of 3	$25,602
Family of 4	$30,887
Family of 5	$36,172

**Federal Register*, Vol. 66, No. 33, February 16, 2001, pp. 10695-10697.

Exhibit 2

SAAC Differential		
Participating Carrier	**Total Differential Saved by Carrier**	**Total Differential as of January 1, 2001**
CareFirst BlueCross Blue Shield of MD	$36.65 million	$46.8 million
MAMSI	$5.15 million	$46.8 million
AETNA	$5.00 million	$46.8 million

Exhibit 3

Plan	DLS Estimate – FY 2002 Expenditures	DHMH Estimate – FY 2002 expenditures
Pharmacy Discount Program – With Waiver (50% general funds, 50% federal funds)	$5.72	$13.65
Pharmacy Discount Program – Without Waiver (100% general funds)	$4.09	$9.75
MEDBANK Program (100% general funds)	$2.5	n/a
Short-Term Prescription Drug Subsidy Plan (100% special funds)	$11.2	n/a
Total Expenditures*	$19.42 ($5.36 GF/$2.86 FF/$11.2 SF)	$13.65 ($6.83 GF/$6.83 FF)

*assumes waiver approval

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): *Prescription Drug Trends – A Chartbook (2000)*, The Kaiser Family Foundation; *Medicare and Prescription Drugs (February 2001)*, The Kaiser Family Foundation; *Prescription Drugs, Report to Congressional Requesters (August 2000)*, the U.S. General Accounting Office; *Medicaid Pharmacy – Actual Acquisition Cost of Prescription Drug Products for Brand Name Drugs (April 1997)*, U.S.

Department of Health and Human Services; MEDBANK of Maryland, Inc.; CareFirst BlueCross BlueShield of Maryland; Office of the Comptroller; Maryland Health Care Foundation; Department of Health and Mental Hygiene (Maryland Health Care Commission, AIDS Administration, Boards & Commissions, Health Services Cost Review Commission, Medicaid); Department of Legislative Services

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