

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

Senate Bill 483
 Finance

(Senators Kelley and Della)

**Medical Assistance - Pharmaceutical Products - Accessibility and Coverage
 Protection for Enrollees**

This bill prohibits the Medicaid program from implementing a formulary that is covered by prior authorization unless: (1) the formulary is established by a pharmaceutical and therapeutics (P&T) committee that includes practicing Maryland physicians, specialists, pharmacists, patient advocates, and others; and (2) the decision of the P&T committee regarding any limitations imposed on drugs must be based on sound clinical evidence.

The bill takes effect June 1, 2002.

Fiscal Summary

State Effect: Department of Health and Mental Hygiene (DHMH) expenditures could increase by an estimated \$3 million (50% general funds, 50% federal funds). Future year estimates reflect 15% prescription drug inflation.

(\$ in millions)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1.5	1.7	2.0	2.3	2.6
FF Expenditure	1.5	1.7	2.0	2.3	2.6
Net Effect	(\$3.0)	(\$3.4)	(\$4.0)	(\$4.6)	(\$5.2)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Department of Health and Mental Hygiene (DHMH) cannot restrict coverage of a drug approved by the federal Food and Drug Administration (FDA) for an indication unless DHMH has at least six months of data regarding use of the drug for treating patients in the program. In addition, DHMH cannot limit or exclude coverage of a drug when prescribed for a Medicaid enrollee's medical condition if the drug previously had been approved by DHMH for the enrollee's condition.

A formulary that is covered by prior authorization and developed by DHMH must provide for coverage of drugs in every therapeutic class and offer a choice of at least two pharmaceutical or biological entities without an administrative preference for each therapeutic class.

Current Law: For fee-for-service Medicaid enrollees, the Medicaid program covers most drugs and does not utilize any type of closed formulary for therapeutic or cost-containment purposes. Medicaid enrollees who are enrolled in HealthChoice managed care organizations (MCOs) are subject to the MCO's drug benefit, which may include a formulary.

Background: For fiscal 2002, the Medicaid program's projected deficit is \$316 million. In an effort to reduce Medicaid's underfunding, the Governor's fiscal 2003 proposed budget allowance contains a deficiency appropriation for \$277 million. The proposed allowance also includes \$56.9 million in cost containment actions and \$18 million in savings from early recoveries of excess payments to nursing homes. Cost containment actions include implementing a step therapy procedure for drugs covered under the Medicaid program. Under step therapy, certain drugs are not covered unless enrollees have tried one or more specified, lower-cost, medications first. If medically necessary, a prescriber can request coverage of a more expensive drug. For certain classes of drugs (ulcer, arthritis, etc.), Medicaid will require the use of the least costly alternative first. The step therapy procedure is projected to save Medicaid approximately \$3 million (50% general funds, 50% federal funds) in fiscal 2003. The bill would prohibit use of the step therapy procedure.

State Fiscal Effect: DHMH Medicaid expenditures could increase by an estimated \$3 million (50% federal funds, 50% general funds) in fiscal 2003. This estimate reflects the failure to implement the step therapy cost containment measure that has been accounted for in the fiscal 2003 proposed budget. Future year estimates reflect 15% prescription drug cost inflation. Revenues would not be affected.

Additional Information

Prior Introductions: None.

Cross File: HB 674 (Delegates Owings and Redmer) – Environmental Matters.

Information Source(s): Department of Health and Mental Hygiene (Medicaid), Maryland Insurance Administration, Department of Legislative Services

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