HB 1093

Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 1093 (Delegate Hurson)
Health and Government Operations

Maryland Medical Assistance Program - Pharmaceutical Products - Access, Coverage, and Cost-Saving Protections and Programs

This bill establishes a 12-member State Pharmacy and Therapeutics Committee within the Department of Health and Mental Hygiene (DHMH). The committee must: (1) review, to the extent feasible, all drug classes included on a preferred drug list at least once every six months; (2) develop a preferred drug list; (3) make a written determination that placing a single source drug on prior authorization or restricting the drug's use will not impede the quality of patient care or increase costs in other parts of the Medicaid program; (4) provide a specific set of clinical criteria for any drug subject to prior authorization that is available to physicians and patients and specifies when the drug is authorized for coverage; and (5) make recommendations for certain issues related to a preferred drug list.

Fiscal Summary

State Effect: Medicaid expenditures could increase by at least $4.4 million (50% general funds, 50% federal funds) in FY 2004 from increased medication costs. Future year estimates reflect annualization and inflation. Potential decrease in Medicaid expenditures for hospitalization from increased effectiveness of medication therapy. No effect on revenues.

($ in millions)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	$0	$0	$0	$0	$0
GF Expenditure	2.20	2.46	2.76	3.09	3.46
FF Expenditure	2.20	2.46	2.76	3.09	3.46
GF/FF Exp.	(-)	(-)	(-)	(-)	(-)
Net Effect	($4.40)	($4.93)	($5.52)	($6.18)	($6.92)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A preferred drug list developed by the committee must: (1) provide for coverage of drugs in every therapeutic chemical class; (2) offer a choice of pharmaceuticals or biological entities without an administrative preference for each therapeutic chemical class in which there are two or more pharmaceutical or biological entities approved by the U.S. Food and Drug Administration; and (3) provide that drugs in the same therapeutic chemical class that have been selected for the preferred drug list may be excluded from the preferred drug list and be subject to prior authorization unless a prescriber has written "dispense as written" or has signed the prescriber's name on the "dispense as written" signature line.

DHMH may not establish prior authorization requirements or restrict coverage for medications used to treat: (1) mental illnesses and brain disorders; (2) HIV or AIDS; or (3) end-stage renal disease.

The bill provides for timely responses to prior authorization requests or other telecommunication requests. DHMH must: (1) inform the committee of any decisions regarding prescription drugs subject to prior authorization; (2) maintain an updated version of the preferred drug list on DHMH's web site; (3) ensure that any new products are reviewed at the next regularly scheduled committee meeting; and (4) provide all interested parties, including manufacturers, authorized prescribers, and the general public, with an opportunity to present clinical data through both oral and written testimony to the committee.

DHMH must implement other program benefits to offset Medicaid, the Maryland Pharmacy Assistance Program (MPAP), or the Maryland Pharmacy Discount Program (MPDP) expenditures, including: (1) intensified benefits management programs for certain enrollees; (2) drug product donation programs; (3) drug utilization control programs; (4) counseling and education with an emphasis on cost-effective drug therapies; (5) initiatives to prevent fraud and abuse; and (6) other services or administrative programs to reduce expenditures.

If DHMH contracts for pharmaceutical benefit management services to administer, develop, manage, or implement any of the bill's provisions, DHMH must establish the fee paid to any contractor based on the reasonable costs of service provided. DHMH may not offer or pay directly or indirectly any material inducements, bonuses, or other

financial incentive to a program contractor based on the: (1) denial or administrative delay or medically appropriate prescription drug therapy; (2) decreased usage of a particular drug or class of drugs; or (3) reduction in the proportion of beneficiaries who receive prescription drug therapy.

DHMH may not negotiate supplemental rebates with manufacturers.

Current Law: Regulations implemented March 3, 2003 permit DHMH to use a preferred drug list, established a Pharmacy and Therapeutics Committee, and implemented a prior authorization requirement for certain drugs not on the preferred drug list. These cost-saving initiatives apply to enrollees in Medicaid, MPAP, the Maryland Children's Health Program (MCHP), and MPDP.

Background: DHMH administers several different drug programs. Medicaid covers most drugs for certain low-income individuals. MCHP provides drug coverage to children whose families earn up to 300% of the federal poverty level guidelines (FPG). MPAP provides drug coverage to individuals who earn less than 116% FPG. MPDP provides a 35% discount on prescription drugs to Medicare beneficiaries, beginning July 1, 2003.

Chapter 464 of 2002 requires DHMH to use alternative cost containment measures in pharmacy programs, such as implementing disease management programs, before implementing a Medicaid pharmacy reimbursement reduction. As a result, DHMH implemented several cost-saving measures, such as a tiered copayment system in Medicaid's fee-for-service program, to reduce or at least control prescription drug costs. DHMH also recently implemented, through regulations, a preferred drug list for the drug assistance programs. Prior to the adoption of these regulations, 80% of Medicaid recipients were enrolled in HealthChoice and subject to prior authorization requirements from their respective Medicaid managed care organizations (MCOs). The remaining 20%, as well as approximately 48,000 enrollees in MPAP, were not subject to any prior authorization requirements. The preferred drug list in the Medicaid program is expected to save the State $16 million (50% general funds, 50% federal funds) in fiscal 2004.

State Fiscal Effect: Medicaid expenditures (50% federal funds, 50% general funds) could increase by at least $4.4 million, beginning October 1, 2003. DHMH recently developed a preferred drug list, effective March 3, 2003, and any drug that is not on the preferred drug list requires prior authorization. When the current preferred drug list was being developed, several types of drugs, including anti-psychotics, were excluded from the prior authorization requirements. The bill's provisions would expand this exclusion to all mental health drugs. The newly-implemented preferred drug list is expected to save DHMH $16 million in fiscal 2004. Mental health drugs account for approximately one-fifth of drugs prescribed under the various pharmacy assistance programs. Accordingly,

excluding mental health drugs from prior authorization requirements could reduce the expected $16 million savings by one-fifth, or $2.4 million in fiscal 2004.

In addition, the bill prohibits DHMH from negotiating supplemental rebates from pharmaceutical manufacturing companies. These rebates are estimated to save DHMH approximately $2 million annually.

The bill's provisions permitting prescribers to override the preferred drug list requirements by writing "dispense as written" would further erode the projected $16 million savings. There are insufficient data at this time to estimate expenditures resulting from this provision of the bill. Future year estimates reflect annualization and 12% prescription drug cost inflation. Revenues would not be affected.

Excluding mental health drugs from prior authorization requirements could reduce overall hospitalization costs for mental health treatment. Psychotherapeutic medications do not produce the same effect in everyone and some people may respond better to a particular medication than another. Consequently, prescribers may need to try more than one medication to find the most clinically appropriate drug for an enrollee. If only one class of psychotherapeutic drugs, such as atypical anti-psychotics, is excluded from prior authorization requirements, some prescribers may tend to prescribe them more often than other drugs. Facilitating access to all mental health drugs may increase the effectiveness of medication therapy and reduce the need for hospitalization in certain cases. There are insufficient data at this time to reliably estimate actual cost savings for prevented hospitalizations.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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lc/jr

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