SB 1012

Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 1012 (Senator Hollinger)
Budget and Taxation

Nursing Facilities - Quality Assessment - Medicaid Reimbursement

This bill authorizes the Department of Health and Mental Hygiene (DHMH) to impose a quality assessment on each freestanding nursing facility with 41 or more beds. A nursing facility does not include a continuing care retirement community.

The bill takes effect July 1, 2005 and terminates June 30, 2009. The provision implementing the assessment takes effect upon federal waiver approval.

Fiscal Summary

State Effect: Assuming federal waiver approval, Medicaid special fund revenues from the quality assessment would increase by $30 million in FY 2006. Medicaid expenditures would increase by $60 million (50% special funds, 50% federal funds) to fully fund the nursing facility reimbursement system and increase Medicaid provider rates. Future year estimates reflect inflation.

($ in millions)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	$30.0	$31.7	$33.6	$35.5	$37.6
SF Expenditure	30.0	31.7	33.6	35.5	37.6
FF Expenditure	30.0	31.7	33.6	35.5	37.6
Net Effect	($30.0)	($31.7)	($33.6)	($35.5)	($37.6)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The assessment may not exceed 2% of the net operating revenue for all nursing facilities in the State for the previous three-month period, and the aggregate annual assessment may not exceed the amount necessary to fully fund the nursing facility payment system. The assessment must be paid quarterly. All monies collected for the assessment must be used to fund Medicaid reimbursements to nursing facilities. These funds must be in addition to and may not supplant funds already appropriated for this purpose.

DHMH must seek approval from the federal Centers for Medicare and Medicaid Services (CMS) of a waiver under Section 1903 of the federal Social Security Act that would allow the State to receive tax revenue without a reduction in federal financial participation, specifically by excluding a continuing care facility from the definition of "nursing facility."

The assessment will terminate if: (1) it is not permissible under the Social Security Act; or (2) the nursing home payment system is replaced with a system that is not cost-based and DHMH is unable to obtain the enhanced federal match.

Current Law: The federal Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 placed restrictions on states' use of provider-generated revenues. State provider taxes cannot exceed 25% of a state's share of Medicaid expenditures, must be broad based, uniform, and cannot hold providers harmless. A broad based tax is a health care related tax imposed with respect to a permissible class of items or services on all providers in the class. A uniform health care related tax is a tax imposed with respect to a permissible class of items or services at the same rate for all providers.

Background: Medicaid's fiscal 2006 budget contains several cost containment measures, including one that provides for a $42 million cut in nursing facility payments. Medicaid proposes to apply $24 million new and $18 million continuing cost containment actions against the nursing facility reimbursement formula.

In an effort to give states greater flexibility in raising Medicaid funds, the federal Health Care Financing Administration (now the Centers for Medicare and Medicaid Services or CMS) issued a rule in 1985 that allowed states to receive donations from private medical care providers. A hospital could "donate" money to a state, which in turn paid the hospital back with the donated money. The process of paying the hospital permitted a state to receive matching federal funds for the payment without actually paying out state funds. Some states adopted provider tax programs, which operated along the same principles as donation programs. Once states discovered they could leverage additional federal dollars in this way, many established provider tax and donation programs in the early 1990s. From 1990 to 1992 the number of states with such programs grew from 6 to 39. The ability to draw federal matching funds through the donations or provider taxes came at a time when states needed fiscal relief.

The rapid rise in federal Medicaid payments, however, caused concern among federal policymakers. To resolve the issue, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 was enacted. Key provisions included: (1) the elimination of provider donations; (2) capping provider taxes so that provider tax revenues could not exceed 25% of the state's share of Medicaid expenditures; (3) imposing provider tax criteria so that taxes were "broad based;" and (4) providers could not be "held harmless."

State Revenues: Medicaid special fund revenues could increase by $30 million in fiscal 2006 from the quality assessment imposed on nursing facilities. Any assessment is limited to a maximum of 2% of nursing facility revenues in any given year, and may not exceed the amount necessary to fully fund the nursing facility reimbursement system. It is estimated that nursing facility revenues would total $2.2 billion in fiscal 2006, thus allowing up to a $40 million assessment.

The information and assumptions used in calculating the estimate are stated below:

- it costs $42 million to fully fund the nursing facility reimbursement system;
- it costs $18 million to increase Medicaid rates to hold Medicaid providers harmless from the assessment; and
- Medicaid only needs to impose half of the total amount, or $30 million, because it would be permitted to receive a federal match on expenditures.

Future year estimates reflect 5.8% Medicaid inflation.

State Expenditures: Medicaid expenditures would increase by $60 million (50% special funds, 50% federal funds) in fiscal 2006 to fully fund the nursing facility reimbursement system and increase Medicaid rates to make Medicaid nursing facility providers whole. Future year estimates reflect 5.8% Medicaid inflation.

Additional Information

Prior Introductions: HB 869 and SB 508 of 2004 (The Budget Financing Act of 2004) also imposed an assessment on nursing facilities. This provision was later stricken from the bill. Similar bills, SB 624 and HB 1078 were introduced in 2002, but later withdrawn.

Cross File: None.

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

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