Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1510 (Delegate Hubbard)
Health and Government Operations

Public-Private Partnership for Health Coverage for All Marylanders

This bill expands health care coverage for State residents by changing eligibility requirements in the Medicaid program, the Maryland Children's Health Program (MCHP), the Maryland Health Insurance Plan (MHIP), and the small group health insurance market, and establishes a Canada Drug Mail Order Program. In addition, the bill increases the tobacco tax, imposes an assessment on businesses with fewer than 10,000 employees that do not spend a specified amount on employee health benefits, and imposes a tax surcharge on specified uninsured individuals. The bill takes effect July 1, 2006. The provisions that require waivers take effect upon waiver approval.

Fiscal Summary

State Effect: Tobacco tax revenues increase by $211.1 million to fund the Health Maryland Initiative Fund in FY 2007. General fund revenues from tobacco taxes increase by $900,000 in FY 2007 from increased sales tax revenues. Total special fund expenditures increase by $66.5 million in FY 2007 to fund Medicaid expansion, legal immigrant coverage, other health programs, and the Small Business Health Care Incentive Program. Future year estimates reflect: (1) decline in tobacco tax revenues from fewer sales; (2) full implementation of Medicaid and MCHP expansion in FY 2008; (3) no mandated funding for the Small Business Health Care Incentive Program in FY 2011 and beyond; (4) the implementation of the Canada Rx Mail Order Plan; and (5) inflation. Other indeterminate fiscal effects are not reflected in the chart, but are discussed below.

($ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	$.9	$3.0	$5.2	$7.3	$9.3
SF Revenue	211.1	182.0	176.1	170.3	164.6
GF Expenditure	0	1.3	1.6	1.9	2.1
SF Expenditure	66.5	81.5	93.9	147.8	139.0
FF Expenditure	0	36.3	49.3	104.8	111.5
GF/SF/FF Exp.	0	(8.2)	(9.3)	(10.6)	(12.1)
Net Effect	$145.5	$74.2	$45.8	($66.3)	($66.7)

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

Local Effect: None.

Small Business Effect: Meaningful. A larger enrolled population in the small group market would spread risk sharing and stabilize health care costs.

Analysis

Bill Summary: *The bill expands several existing programs and creates new ones to deliver health care to Maryland citizens.*

Medicaid Expansion: The bill requires the Medicaid program to cover parents who have a dependent child living with them and whose annual household income is 75% or below the federal poverty level guidelines (FPG) in fiscal 2008 and 100% FPG or below in fiscal 2009, and 200% FPG or below each year thereafter. The Department of Health and Mental Hygiene (DHMH) must notify the federal Centers for Medicare and Medicaid Services of an amendment to the State Medicaid plan that would allow the State to phase in expanded coverage.

MCHP Expansion: The bill removes the income limitation in MCHP to permit any child under age 19 to enroll, subject to certain premium requirements. A parent of an eligible child whose family income is above 400% of FPG must pay an actuarially fair premium determined by DHMH. DHMH must apply for federal waiver approval for the expansion.

Mental Health and Substance Abuse Treatment: The bill specifies DHMH will only provide mental health care services to: (1) an uninsured person; (2) a person enrolled in Medicaid; or (3) a person who has health coverage in a public or private program, if the individual is charged at full cost for mental health services.

The bill repeals the Alcohol and Drug Abuse Administration's authority to establish facilities and services, including evaluation facilities to determine if an individual is a substance abuser or is dependent on alcohol or drugs.

Canada Mail Order Program: This bill requires the Department of Health and Mental Hygiene (DHMH), in coordination with the Secretary of Budget and Management, to develop a Canadian Mail Order Plan for the purchase and importation of prescription drugs. The plan must provide prescription drugs to: (1) State Employee and Retiree Health and Welfare Benefits Program (State plan) enrollees; (2) Medicaid and Maryland Pharmacy Assistance Program enrollees; (3) any other State prescription drug program that DHMH considers appropriate; (4) any local jurisdiction or local boards of education that requests participation for local government and board of education employees and retirees; and (5) any individual in the State without health insurance or prescription drug coverage.

Small Group Health Insurance Market Expansion: The bill amends eligibility requirements in the small group market to include: (1) an individual under an individual policy; and (2) an individual whose annual family income is above 350% FPG and who does not accept employer-sponsored insurance. The bill also expands the size of a small employer from one that employs 2-50 employees to one that employs 2-100 employees.

Small Business Health Care Incentive Program: The bill establishes this program within the Department of Business and Economic Development (DBED) to provide grants to eligible employees for a portion of the costs of providing the Comprehensive Standard Health Benefit Plan (standard plan) as part of an employee benefit package. The program terminates on June 30, 2010.

MHIP Expansion: The bill renames the Maryland Health Insurance Plan (MHIP) to MDCare and repeals coverage provisions for medically uninsurable persons. Instead, MDCare provides health insurance coverage to an uninsured individual who: (1) is a resident of the State; (2) whose annual family income is, in fiscal 2007, below 150% FPG, and in fiscal 2008 and each year thereafter, below 350% FPG; and (3) whose employer offers health insurance coverage that does not offer comparable benefits to the Comprehensive Standard Health Benefit Plan (CSHBP) or costs more than 3% of the individual's income for individual coverage or more than 6% of the individual's income for family coverage. The bill specifies other program requirements.

The bill establishes the Maryland Quality Institute to: (1) focus on improving the quality of health care for State residents; and (2) develop standardized clinical practice guidelines to be distributed to private and public health plans and provider organizations. The bill also establishes the MDCare Universal Coverage Oversight Commission to study the

implementation of universal health coverage. This commission must be staffed by the Maryland Health Care Commission (MHCC).

Healthy Maryland Initiative Fund: The bill establishes the Healthy Maryland Initiative Fund to provide health care services and incentives. The fund consists of monies generated from the increased tobacco tax. After making required distributions from the tobacco tax revenues, the Comptroller must distribute the remaining tax revenue to the Healthy Maryland Initiative Fund. The fund may be used only for: (1) activities aimed at reducing tobacco use in Maryland; (2) the Medicaid program, including coverage for all legal immigrant children under the age of 18 and pregnant women, and expansion of Medicaid eligibility for parents; (3) the Specialty Care Network; and (4) the Small Business Health Care Incentive Program.

For each fiscal year, monies in the fund must be appropriated as follows: (1) at least $30 million annually for activities aimed at reducing tobacco use in Maryland; (2) at least $50 million annually to expand Medicaid eligibility for all parents who have a dependent child living with them and whose household income is 75% or below FPG in fiscal 2008 and 100% or below FPG in fiscal 2009, and 200% FPG or below in fiscal 2010 and each year thereafter; (3) at least $7 million annually for comprehensive medical care for all legal immigrant children under the age of 18 and pregnant women who arrived in the United States on or after August 22, 1996, who meet Medicaid eligibility standards, and who do not qualify for federally-funded coverage; (4) at least $10 million annually for the Specialty Care Network; (5) for fiscal 2007 through 2010 only, at least $15 million for the Small Business Health Care Incentive Program; and (6) for fiscal 2007 through 2009 only, at least $1.5 million for the Office of Minority Health and Health Disparities to develop and implement a statewide health disparities reduction plan.

After allocating funds as required, any remaining balance in the fund must be distributed: (1) for fiscal 2008 through 2010, 75% to the Medicaid program and 25% to the Small Business Health Care Incentive Program; and (2) for fiscal 2011 and each year thereafter, to the Medicaid program. Money from the fund must supplement and may not supplant funding for the Medicaid program.

Other Mandated Appropriations: For fiscal 2008 and each year thereafter, the Governor must include at least $35 million in the annual budget for activities aimed at reducing tobacco use. Thirty million dollars of this must come from the Healthy Maryland Initiative Fund and $5 million from the Cigarette Restitution Fund (CRF).

For fiscal 2007, funds may be appropriated and transferred by budget amendment from the Healthy Maryland Initiative Fund in the amount and for the purposes specified: (1) at least $30 million for tobacco cessation; (2) at least $10 million for Medicaid, including $7 million for legal immigrant children and pregnant women and $3 million to begin the

Medicaid expansion; (3) at least $10 million for the Specialty Care Network; and (4) at least $15 million for the Small Business Health Care Incentive Program.

The bill increases existing taxes and implements new assessments and surcharges on other individuals and businesses to generate revenue to help defray costs in program expansions and fund additional programs.

Tobacco Tax: The bill doubles the tobacco tax from $1.00 to $2.00 per pack of 20 cigarettes, from $0.50 to $1.00 per pack of 10 cigarettes, from $0.05 to $0.10 for each cigarette in a package over 20, and from $0.05 to $0.10 for each cigarette in a free sample. The tobacco tax rate for other tobacco products increases from 15% to 25% of their wholesale price.

Assessment Against Employers: The bill creates the Fair Share Health Care Fund. The funds may be used only to support the operations of the Medicaid program. An employer with fewer than 10,000 employees that does not spend at least 3% of total wages (for a nonprofit employer) or 4.5% of total wages (for a for-profit employer) on health insurance costs must pay DLLR an amount equal to the difference between what the employer spends on health insurance and the required percentage of total wages paid. The funds collected must be deposited in the Fair Share Health Care Fund, which may be used only to support the operations of the Medicaid program.

Income Taxes on Individuals: For an individual who cannot prove health insurance coverage comparable to CSHBP, and whose federal adjusted gross income is equal to or greater than 350% of FPG, the individual must pay as additional State income tax an amount equal to the hospital share of CSHBP for the taxable year, as established by MHCC. If an individual's federal adjusted gross income is less than 350% FPG, the individual must be enrolled in the most appropriate public health program and charged premiums, if applicable.

Current Law:

Public Health Programs: An adult may qualify for Medicaid if the adult is: (1) aged, blind, or disabled; (2) in a family where one parent is absent, disabled, unemployed, or underemployed; or (3) a pregnant woman. Adults must also have very low incomes to qualify for Medicaid (about 46% FPG). MCHP covers children with family incomes up to 300% FPG and pregnant women with incomes up to 250% FPG.

Prescription Drugs: The U.S. Federal Food, Drug, and Cosmetic Act (21 U.S.C. sections 331(d), and 355(a)), administered by FDA, prohibits the interstate shipment (which includes importation) of unapproved new drugs.

Health Insurance: CSHBP is a standard health benefit package (standard plan) that carriers must sell to small businesses (2-50 employees). Carriers must offer the standard plan to all small businesses, but may sell additional benefits or enhancements through riders. Any riders must be offered and priced separately. CSHBP includes guaranteed issuance and renewal, adjusted community rating with rate bands, and the elimination of preexisting condition limitations. In order to maintain affordability, the average CSHBP premium rate per employee must remain below 10% of Maryland's average annual wage.

An employer with 10,000 or more employees that does not spend at least 6% of total wages (for a nonprofit employer) or 8% of total wages (for a for-profit employer) on health insurance costs must pay DLLR an amount equal to the difference between what the employer spends on health insurance and the required percentage of total wages paid. Any funds paid by employers are deposited into the Fair Share Health Care Fund. The funds may be used only to support the operations of the Medicaid program.

MHIP is a high-risk pool that covers medically uninsurable individuals in the State.

Background: The Maryland Citizens' Health Initiative established the Maryland Health Care for All Coalition in 1998. The coalition is comprised of 2,000 diverse organizations, including religious, health, community, labor, and business groups from across the State. The coalition seeks to provide all State citizens with access to comprehensive, affordable health care. In September 2001, the coalition released a draft plan for achieving "health care for all" in Maryland. Since then it has revised the draft based on hundreds of comments sent by coalition members and the general public. In October 2003, the coalition released its final plan. This bill reflects many of the recommendations made by the coalition.

Two bills this session contain provisions similar to this bill. HB 441 of 2006 creates the Healthy Maryland Initiative Fund, funded by an increase in the tobacco tax. Funds are used to expand Medicaid coverage to parents, increase funding for tobacco cessation programs, and implement a new Small Business Health Care Incentive Program. SB 568 of 2006 requires DHMH to develop a Canadian Mail Order Plan for the purchase and importation of prescription drugs.

State Revenues:

Tobacco Tax: Special fund revenues for the Healthy Maryland Initiative Fund could increase by $211,119,000 beginning in fiscal 2007 from the $1.00 increase in the tobacco tax. This estimate assumes that cigarette consumption would decline by 16.9% due to the severe price increase per pack of cigarettes. Further, sales tax from the price increases would increase by $857,000 general funds in fiscal 2007. Future years assume the tobacco tax is $182.0 million in fiscal 2008 and then declines by about 3% annually.

Employer Assessment: To the extent employers with fewer than 10,000 employees do not spend at least 3% or 4.5% on health insurance costs as required, Fair Share Health Care Fund special fund revenues could increase from employers' paying the difference between the required and actual amounts spent on health insurance. The bill also imposes civil penalties ($250 for failure to report and $250,000 for failure to make required payments). There are approximately 477,000 businesses in Maryland, of which almost all are small businesses. There are insufficient data to reliably estimate any revenue increase from either the required payments or penalties.

Income Tax: The bill requires an uninsured individual who earns more than 350% FPG to pay as additional State income tax an amount equal to the hospital share under CSHBP. There are about 200,000 individuals who earn more than 350% FPG and who do not have health insurance. There are insufficient data to reliably estimate how many people would pay a tax, the amount of the tax, or how many people would purchase health insurance to avoid the tax.

State Expenditures: State special fund expenditures increase by $66.5 million in fiscal 2007 to pay for mandated funding in a variety of programs and to implement the Small Business Health Care Incentive Program. State expenditures increase by an additional $67.9 million (50% special funds, 50% federal funds) to expand the Medicaid program, and $3.6 million (35% general funds, 65% federal funds) to expand MCHP. Impact by program is discussed below.

Medicaid: DHMH expenditures could increase by $67,940,093 (50% special funds, 50% federal funds) in fiscal 2008 to expand Medicaid coverage to parents with household incomes up to 75% FPG, which assumes federal waiver approval and that enrollment begins July 1, 2007. The estimate reflects the following facts and assumptions:

- 11,137 parents newly enroll in Medicaid at a cost of $4,775 per parent;
- 9,411 children newly enroll ("woodwork effect") at a cost of $1,836 per child;
- administrative costs are $594,032; and
- enrollment in the Primary Adult Care (PAC) program declines as adults enroll in comprehensive Medicaid coverage, reducing PAC costs by $3,111,710.

Future year estimates reflect increased enrollment as the income caps increase, 6.5% medical inflation in the Medicaid program, and 1% increases in annual operating costs.

It is important to note that the bill specifically excludes Medicaid-eligible or MCHP-eligible individuals from enrolling in MDCare but it also requires Medicaid to enroll newly eligible Medicaid parents in MDCare. This estimate assumes that Medicaid does

not enroll any individuals in MDCare since MDCare coverage may not be as comprehensive as Medicaid benefits, and could be more expensive.

MCHP: MCHP general fund expenditures could increase by $3,586,733 (65% federal funds, 35% general funds) in fiscal 2008, which assumes waiver approval and that enrollment begins July 1, 2007. This estimate reflects the following facts and assumptions:

- 951 children under 400% FPG enroll at a cost of $1,430 each; and
- 2,928 children 400% FPG and above enroll at a cost of $787 each.

While this estimate assumes federal waiver approval in order to illustrate the potential fiscal impact, it is unknown if MCHP could receive federal waiver approval, or to what extent the federal government would provide matching funds, if any. Future year estimates reflect increased enrollment and 6.5% medical inflation in the MCHP program.

Changes to the delivery of mental health and substance abuse services could be handled with existing budgeted DHMH resources.

Maryland Health Care Commission: MHCC special fund expenditures could increase by an estimated $450,000 in fiscal 2010 to staff the new MDCare Universal Coverage Oversight Commission and provide the required reports. This estimate reflects the cost of contracting with a consultant to assist with data collection. Staffing the new commission could be handled with existing MHCC budgeted resources.

Canada Mail Order Drug Program: Assuming federal waiver approval, total State expenditures on prescription drugs could decrease by $8,215,882 total funds, beginning in fiscal 2008. This estimate assumes the mail order program saves 1% on prescription drug costs.

Small Business Health Care Incentive Program: DBED special fund expenditures increase by $15 million in fiscal 2007 to provide grants to small businesses in order to increase the number of insured in the small group market. DBED would grant $15 million annually from the Healthy Maryland Initiative Fund in fiscal 2007 through 2010 and may pay for administrative costs using grant monies. Administrative costs are estimated at $309,903 in fiscal 2007. The program terminates June 30, 2010.

DLLR Collection of Employer Health Benefits Coverage Reports: General fund expenditures for DLLR could increase by as much as $13 million in fiscal 2008 to manage employer reports on health insurance coverage. This estimate reflects approximately $7 million in personnel and administrative costs, as well as $6 million in the first year of operation to develop and implement new computer systems, network

design, and software programs. DLLR's unemployment tax division is 100% federally-funded and none of its existing staff or resources would be permitted to perform the functions required under this bill without the loss of federal funds. This new division must collect a form from every employer in the State (about 477,000) that specifies the number of employees, the amount spent on health insurance, and the percentage of payroll that was spent on health insurance costs.

Other Expenditures: MDCare must provide health insurance coverage to an uninsured individual with specified income. In addition, MDCare must develop a state-of-the-art Internet based e-CM system. There are insufficient data to reliably estimate premium revenues or health care and administrative expenditures under MDCare.

Other Mandated Appropriations: There are several mandated funding provisions in the bill, as well as uncodified language that authorizes funds in fiscal 2007 to be appropriated and transferred by budget amendment from the Healthy Maryland Initiative Fund to specified programs. It is assumed funding would occur in the earliest possible fiscal year permitted by law.

For fiscal 2007 only, $30 million may be appropriated and transferred by budget amendment from the Healthy Maryland Initiative Fund for activities aimed at reducing tobacco use. For fiscal 2008 and each year thereafter, the Governor must include at least $35 million in the annual budget for these activities. This appropriation includes at least $30 million from the Healthy Maryland Initiative Fund and $5 million from the CRF. This mandate increases mandated funding from $21 million annually, thereby increasing annual expenditures by $14 million.

The bill mandates that at least $7 million from the Healthy Maryland Initiative Fund be transferred for comprehensive medical care for all legal immigrant children under the age of 18 and pregnant women who arrived in the United States on or after August 22, 1996, who meet Medicaid eligibility standards, and who do not qualify for federally-funded coverage. The bill permits the appropriation by budget amendment for the same amount in fiscal 2007. Therefore, Medicaid special fund expenditures increase by $7 million, beginning in fiscal 2007, to provide this care.

The bill authorizes the appropriation by budget amendment for $3 million for Medicaid start-up costs in fiscal 2007 to expand Medicaid to eligible parents. Medicaid special fund expenditures increase by $3 million in fiscal 2007. For fiscal 2007 through 2009 only, at least $1.5 million must be transferred from the Healthy Maryland Initiative Fund for the Office of Minority Health and Health Disparities to develop and implement a statewide health disparities reduction plan. Therefore, DHMH special fund expenditures increase by this amount, for fiscal 2007 through 2009 only, to fund the reduction plan.

After allocating monies in the Healthy Maryland Initiative Fund as required under the bill, any remaining balance in the fund must be distributed, for fiscal 2008 through 2010, 75% to the Medicaid program and 25% for the Small Business Health Care Incentive Program, and for fiscal 2011 and each year thereafter, to the Medicaid program. Medicaid and DBED expenditures could increase by a significant amount, beginning in fiscal 2008. It is estimated there would be about $100 million remaining in the fund, allowing up to $75 million to be distributed to Medicaid and $25 million to DBED for the Small Business Health Care Incentive Program. These monies are not intended to supplant funding for the Medicaid program; therefore, any use of funds would be for future program expansion. There are insufficient data to reliably estimate the type and scope of any Medicaid program expansion or associated costs. The extent of the remaining funds decrease in future years because tax revenues decrease, while programs funded by the Healthy Maryland Initiative Fund expend more each year as enrollment and health care costs increase.

Additional Comments:

Exhibit 1
2006 Federal Poverty Guidelines by Family Size

FPG Percentage	Family of One	Family of Two	Family of Three
75%	$7,350	$9,900	$12,450
100%	$9,800	$13,200	$16,600
150%	$14,700	$19,800	$24,900
200%	$19,600	$26,400	$33,200
250%	$24,500	$33,000	$41,500
300%	$29,400	$39,600	$49,800
350%	$34,300	$46,200	$58,100
400%	$39,200	$52,800	$66,400

Additional Information

Prior Introductions: Similar bills have been introduced the past three years. HB 1144 of 2005 was reported unfavorably by the Health and Government Operations Committee. HB 1008 of 2004 was not reported by the Health and Government Operations Committee. SB 557 of 2003 was reported unfavorably by the Senate Finance Committee.

Cross File: None.

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

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