HB 1070

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 1070 (Delegate Eckardt, *et al.*)
Health and Government Operations

Health Services Cost Review Commission - Repeal of Commission and Study of Alternative Financing of Uncompensated and Undercompensated Care

This bill abolishes the Health Services Cost Review Commission (HSCRC) and repeals its duties related to setting hospital rates in the State. The Maryland Health Care Commission (MHCC), in consultation with the Maryland Insurance Administration (MIA), must conduct a study on: (1) consumer-based methods of providing health insurance to the uninsured; and (2) consumer-based methods of funding uncompensated and undercompensated care. MHCC must report its findings to the Governor and the General Assembly by October 1, 2009.

The provisions repealing HSCRC and its rate-setting functions take effect July 1, 2010. The provisions requiring MHCC to conduct a study take effect July 1, 2007 and terminate December 31, 2009.

Fiscal Summary

State Effect: MHCC special fund expenditures and revenues would each increase by $200,000 in FY 2008 only to conduct the required study. Total State expenditures would decrease by an estimated $95.2 million in FY 2010 as HSCRC is repealed and MHCC assumes its remaining duties. Total State revenues would decline by a total of $183.5 million, including $95.5 million for HSCRC and $88.5 million in MIA special fund revenues for the Maryland Health Insurance Program (MHIP). Medicaid and State Employee and Retiree Health and Welfare Benefits Program expenditures could increase or decrease by a significant amount, beginning in FY 2010, depending on whether hospital rates increase or decrease as a result of the bill. Future year estimates reflect inflation.

($ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	$.2	$0	($183.7)	($192.3)	($201.2)
SF Expenditure	.2	0	(95.2)	(100.1)	(105.4)
Net Effect	$0	$0	($88.5)	($92.1)	($95.9)

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

Local Effect: Beginning in FY 2010, local jurisdiction employee health benefits expenditures would be impacted to the extent hospital rates increase or decrease.

Small Business Effect: Potential meaningful. Beginning in FY 2010, small business health benefits expenditures would be impacted to the extent hospital rates increase.

Analysis

Current Law: Maryland's all-payor system applies to hospitals only. HSCRC sets hospital rates, which every payor, including Medicare, Medicaid, third-party payors, and patients, must pay the same rate for services provided.

Background: In 1977, HSCRC negotiated a Medicare waiver with the federal government permitting Maryland to establish an "all-payor" system, in which every payor, including Medicaid and Medicare, pays the same hospital rates set by HSCRC. In order to maintain this waiver, HSCRC must ensure that all payors pay the same set rates and that rate of growth of Medicare payments to hospitals in the State does not increase as rapidly as it does in the rest of the nation. Growth in Maryland Medicare expenditures has consistently remained below the national average, mirroring national trends. The most recent waiver test results indicate that payment per admission for Medicare patients nationally increased 280.0% from January 1, 1981 through June 30, 2005, compared to a 235.5% increase in Maryland over the same time period.

The primary benefit of an all-payor system is the prevention of cost-shifting among payors. By requiring hospitals to charge all patients and their payors according to the resources consumed in treating them, hospitals are encouraged to reduce their actual costs rather than merely shift costs to other payors. In addition, maintaining an all-payor system helps create more financial predictability for hospitals and discourages patient "dumping" of uninsured patients on to other facilities.

Experience with Repealing All-payor System in New York: On January 1, 1997, New York ended its regulation of hospital rates with the intent of using competitive markets to control prices and increase efficiency. By the late 1990s, many studies supported the belief that the growth of managed care and the associated increase in the

intensity of price competition were successful in lowering health insurance premiums, hospital expenses, and other health care cost components.

In the first three years after New York repealed its system, one study shows that while price competition increased in the short term, in the longer term the resulting increase in hospital concentration may have counteracted the observed effect on hospital prices. Hospitals in more competitive markets initially tended to accept lower prices. Ultimately, hospitals compensated for lowered reimbursement rates by becoming members of systems that included potential competitors. The resulting series of mergers led to major structural changes in many hospital markets, with a corresponding decrease in the competitiveness of many of these markets, thus eroding payors' abilities to negotiate lower rates.

Maryland Health Insurance Plan: MHIP is an independent unit of MIA. Created by Chapter 153 of 2002, this high-risk pool plan provides health insurance coverage to medically uninsurable individuals. MHIP is funded by enrollee premiums and an assessment on each hospital's base rate.

State Fiscal Effect: Total State expenditures and revenues would each increase by $200,000 for MHCC in fiscal 2008 to conduct the required study, and each decrease by $94,449,411 in fiscal 2010 when HSCRC is abolished and some remaining duties are transferred to MHCC. Impact by commission is discussed below.

HSCRC: HSCRC special fund expenditures would decrease by an estimated $95,529,618 in fiscal 2010 when HSCRC is repealed. This estimate includes abolishing: (1) the Uncompensated Care Fund; and (2) the commission's operating budget. This is based on a fiscal 2008 budget of $82.0 million for the fund and $4.3 million for HSCRC's operating budget increased for inflation. Further, approximately 30 positions would be abolished in 2010.

HSCRC special fund revenues would decrease by the same amount in fiscal 2010. HSCRC receives its funding from user fees assessed on rate-regulated facilities to exactly cover estimated operating costs. HSCRC also assesses a fee on all acute general hospitals to pay for the financing of the reasonable costs of hospital uncompensated care. Total revenues from user fees (approximately $4.3 million in fiscal 2008) and uncompensated care assessments ($82.0 million in fiscal 2008) would cease, beginning fiscal 2010.

MHCC: MHCC special fund expenditures and revenues each increase by $200,000 in fiscal 2008, which reflects the bill's July 1, 2007 effective date. MHCC must study alternative ways of financing uncompensated and under-compensated care, and would

hire an outside vendor at $200,000 to assist with gathering and analyzing data. Further, MHCC special fund expenditures would increase by $765,043 in fiscal 2010 to assume some of the functions of the defunct HSCRC. This estimate reflects the cost of hiring three program managers, three health care analysts, and $250,000 for contractual services to assume the remaining duties of HSCRC, including analysis of the hospital community benefit reports. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	$473,168
Contractual Services	250,000
Operating Expenses	41,875
Total FY 2010 MHCC Expenditures	**$765,043**

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

MHCC special fund revenues would also increase by the same amount in fiscal 2008, 2010, and beyond. MHCC is specially funded by user fees imposed on payors and providers. As a result of the increased expenditures, MHCC would increase fees by an amount to exactly offset estimated expenditures. Future year estimates reflect inflation.

Maryland Health Insurance Plan: MHIP special fund revenues would decrease by an estimated $88.5 million in fiscal 2010 due to the abolishment of the assessment on hospital rates that provides a substantial portion of MHIP's funding. This is based on a fiscal 2008 budget of $84.9 million increased for inflation. It is unclear how MHIP would be funded in the absence of the assessment. To the extent that general funds might be used to fund MHIP, general fund expenditures could increase substantially beginning in fiscal 2010.

Additional Information

Prior Introductions: Substantially similar bills were introduced in 2006 as SB 528 and HB 1422. No action was taken on SB 528. HB 1422 received an unfavorable report from the House Health and Government Operations Committee.

Cross File: SB 620 (Senator Pipkin) – Finance.

Information Source(s): *Has Competition Lowered Hospital Prices?,* Jack Zwanziger & Cathleen Mooney (Spring 2005); Department of Health and Mental Hygiene (Maryland Health Care Commission, Health Services Cost Review Commission); Maryland Insurance Administration; Department of Legislative Services

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