HB 844

Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 844 (Chair, Health and Government Operations Committee)
Health and Government Operations

Health Services Cost Review Commission - Sunset Extension and Program Evaluation

This bill modifies the Maryland Program Evaluation Act review date for the Health Services Cost Review Commission (HSCRC) from July 1, 2007 to July 1, 2017. In addition, the bill maintains the authorization for the Secretary of Health and Mental Hygiene to assess an administrative charge on HSCRC to fund services provided to HSCRC and specifies that HSCRC user fees may be used to cover these costs. The bill increases HSCRC's user fee cap from $4.0 to $5.5 million.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: HSCRC special fund revenues and expenditures would increase by $725,600 in FY 2008. General fund expenditures would decrease by $406,600 in FY 2008, contingent upon enactment of this bill or similar legislation, partially offset by an increase in Medicaid expenditures of $130,600 (50% general funds, 50% federal funds). Future year special fund revenues reflect a 4.5% increase for personnel expenses and a 1.0% increase for other administrative expenses. Future year Medicaid expenditures represent 18% of special fund expenditures.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	$725,600	$867,500	$1,015,200	$1,169,100	$1,329,300
GF Expenditure	(341,300)	(328,500)	(315,200)	(301,400)	(287,000)
SF Expenditure	725,600	867,500	1,015,200	1,169,100	1,329,300
Net Effect	$341,300	$328,500	$315,200	$301,400	$287,000

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

Local Effect: None.

Small Business Effect: Minimal to none.

Analysis

Bill Summary: The bill implements several recommendations from the October 2006 Department of Legislative Services' (DLS) sunset evaluation of HSCRC. The bill requires HSCRC's annual report to include an update on the status of the State's Medicare waiver, a summary of HSCRC's role in hospital quality of care activities, and fund balance information. The bill also requires the board of the Maryland Health Insurance Plan (MHIP) to annually report on or before December 1 on the number of MHIP enrollees, any increase or decrease in enrollees from the previous year, actions taken by the board to increase enrollment or benefits, and the amount of any fund surplus.

Uncodified language in the bill requires several one-time reports:

- by November 1, 2007, HSCRC, in consultation with the Maryland Hospital Association, must study and report on alternatives to the annual update factor as restrictions on increases in HSCRC's budget that would ensure that HSCRC user-fee increases are reasonable and allow adequate budget growth for the commission;
- by November 1, 2007, HSCRC must report on the implementation of the commission's plan to spend down its fund balance to 10% of total annual costs by the end of fiscal 2007;
- by December 1, 2007, HSCRC, the Maryland Health Care Commission, and the Community Health Resources Commission must determine and report on how to clarify the appropriate role for each commission in assessing the underlying causes of uncompensated care and making recommendations to the General Assembly on how to address uncompensated care;
- by October 1, 2008, HSCRC must assess and report on the impact of Medicaid day limits on Medicaid enrollees by reviewing data on average length of stay, readmissions, and discharge patterns for Medicaid hospital patients; and
- by October 1, 2008, HSCRC must report on the implementation of the nonstatutory recommendations of DLS contained in the sunset evaluation report.

Current Law: HSCRC was established in 1971 to address escalating health care costs and increase the quality of health care through hospital rate regulation. HSCRC is an independent commission within the Department of Health and Mental Hygiene (DHMH).

In addition to developing methodologies to assist hospitals in financing uncompensated care, HSCRC is required to assess the underlying causes of hospital uncompensated care and make recommendations to the General Assembly on the most appropriate alternatives to reduce uncompensated care and assure the integrity of the system.

HSCRC is special funded by user fees assessed on hospitals. The annual user fee cap is $4.0 million. User fee revenues may only be used to cover direct costs, and the percentage increase in total user fees in any year cannot exceed the percentage increase in the annual update factor applicable to general acute-care hospitals.

DHMH may impose an administrative cost assessment of 18% of base salaries on HSCRC to defray the cost of shared services, including personnel services and access to DHMH's budget management office. However, HSCRC is not authorized by law to pay that assessment with user fee revenues.

The Maryland Program Evaluation Act, § 8-401 *et seq.* of the State Government Article, provides for a system of periodic legislative review of the regulatory, licensing, and other governmental activities of various units of State government. The Act is informally referred to as the "sunset law" and the associated review process as "sunset review" or "sunset evaluation" because governmental units subject to the Act are usually scheduled to terminate unless they are affirmatively reestablished by the General Assembly. The goal of the sunset review process is to promote accountability in government operations. Although HSCRC is subject to evaluation, it does not have a termination date.

Background: The Budget Reconciliation and Financing Acts of 2004 and 2005 (Chapter 430 of 2004 and Chapter 444 of 2005) authorized DHMH to charge HSCRC an administrative cost assessment, increased the commission's user fee cap from $4.0 to $4.5 million, and allowed the commission to use the fees to cover administrative costs for fiscal 2005 and 2006 only. Chapter 107 of 2006 extended DHMH's authority to assess HSCRC administrative costs, but did not increase the commission's user fee cap. Moreover, the statutory requirement that user fee revenues be used only to cover direct costs was not modified, thus prohibiting HSCRC from paying the administrative cost assessment with user fee revenues.

Fiscal 2008 budget bill language includes a general fund reduction of $1.25 million contingent upon the enactment of legislation authorizing the assessment of indirect costs on the budgets of HSCRC and the Maryland Health Care Commission (MHCC). DHMH currently has authority to impose an administrative cost assessment on HSCRC, but its authority regarding MHCC terminated in fiscal 2007. HB 56 and SB 72 of 2007 would

make permanent DHMH's authority to assess MHCC administrative costs and increase MHCC's user fee cap from $10.0 to $12.0 million.

The Governor's proposed fiscal 2008 budget for HSCRC is $4.32 million, which exceeds the current user fee cap by 8%. This figure does not include funds to cover the administrative cost assessment, estimated to be $406,600. The commission's fund balance at the end of fiscal 2007 is anticipated to be $436,000.

The October 2006 DLS sunset evaluation recommended that the commission's user fee cap be increased in fiscal 2008 to allow sufficient budgetary growth through fiscal 2011. DLS specified that the user fee cap should be increased from $4.0 to $5.5 million if the administrative cost assessment continues and to $5.0 million if the administrative cost assessment is discontinued. DLS also recommended, if appropriate, authorizing payment of administrative costs with user fee revenues.

In 1977, Maryland secured a federal Medicare waiver that allowed the State to establish an "all-payor" system, in which every payor for hospital care pays the same rates for hospital services. The most recent indicators of waiver performance are typically included in HSCRC's annual report.

HSCRC established a Quality Initiative in 2003 to devise a pay-for-performance system for hospitals. HSCRC staff does not expect full implementation of the initiative before fiscal 2009. In addition to the initiative, HSCRC works with MHCC to publish the Maryland Hospital Performance Evaluation Guide and is currently undertaking a study to identify "best practices" related to health information technologies.

The commission's surplus fund balance remained at 24% of total costs at the close of fiscal 2006, more than twice the recommended level. HSCRC has submitted a plan to spend down its balance to 10% of total costs by the end of fiscal 2007, which includes paying its estimated $425,000 administrative-cost assessment from the balance.

MHIP, a State program to provide health benefits for medically uninsurable persons, is funded primarily by an annual assessment added to hospital rates. MHIP has accumulated a substantial surplus of approximately $111 million. MHIP has increased its enrollment – through July 2006, there were 9,035 enrollees (as opposed to just below 5,000 at the end of 2004) and thus the surplus may be gradually spent down in the coming years.

Medicaid day limits cap the number of days that Medicaid will pay for a hospital stay at a percentage of the average length of stay by diagnosis-related group. A hospital is not paid for additional days beyond this limit; thus, any losses incurred become

uncompensated care. HSCRC increases hospital rates in future years to adjust for the higher uncompensated care experienced by hospitals as a result of day limits. The Governor's proposed fiscal 2008 budget includes funds to discontinue Medicaid day limits in fiscal 2008.

State Fiscal Effect: Special fund expenditures would increase by up to $725,632 in fiscal 2008. This figure reflects the amount in the Governor's proposed fiscal 2008 HSCRC budget that is above the current $4.0 million user fee cap ($319,032) and the estimated fiscal 2008 DHMH administrative cost assessment ($406,600). Special fund revenues are expected to closely match expenditures to cover ongoing HSCRC operations.

Medicaid expenditures could increase by at least $130,614 (50% general funds, 50% federal funds) annually, beginning in fiscal 2008 as a result of increased hospital rates associated with the higher user fee assessment. Medicaid's share of total hospital revenues is approximately 18% annually.

Increased Medicaid expenditures would be offset by the $406,600 general fund reduction effectuated by DHMH's administrative cost assessment on HSCRC. The net fiscal impact to the general fund would be a savings of $341,293.

DLS assumes that the requirements of the bill could be handled with existing resources.

Future year special fund expenditures assume 4.5% growth in personnel expenses and 1.0% growth in other administrative expenses. For purposes of this analysis, the administrative cost assessment is held constant at $406,600. Medicaid expenditures are projected to be 18% of special fund expenditures above $4.0 million.

Additional Comments: Commercial insurance premiums could increase by an estimated $270,800 annually, beginning in fiscal 2008, as a result of increased hospital rates associated with the higher user fee assessment. Commercial insurance comprises 37% of total hospital revenues annually.

HB 55 and SB 71 of 2007 also maintain the authorization for the Secretary of Health and Mental Hygiene to assess an administrative charge on HSCRC to fund services provided to HSCRC by DHMH. The bill's also increase HSCRC's user fee cap from $4.0 million to $5.0 million only. While these bills would effectuate a contingent general fund reduction, they do not authorize HSCRC to pay administrative costs with user fee revenues.

Additional Information

Prior Introductions: Chapter 107 of 2006 (HB 1604) *as introduced* included a provision to increase the HSCRC user fee cap from $4.0 to $5.0 million. This provision was not included in the final bill as passed by the General Assembly

Cross File: SB 719 (Chair, Finance Committee) - Finance.

Information Source(s): Department of Health and Mental Hygiene (Health Services Cost Review Commission), Department of Legislative Services

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