

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 1238 (Delegate Mizeur)
 Health and Government Operations

Health Coverage Appeals Fairness Act

This bill permits a Medicaid or Maryland Children’s Health Program (MCHP) applicant or recipient aggrieved by a final decision of the Secretary of the Department of Health and Mental Hygiene concerning program eligibility or for a benefit or service under the program to seek direct judicial review.

Fiscal Summary

State Effect: General fund expenditures could increase by at least \$107,600 in FY 2008. Future years reflect annualization and inflation. No effect on revenues.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	107,600	146,200	153,600	161,400	169,600
Net Effect	(\$107,600)	(\$146,200)	(\$153,600)	(\$161,400)	(\$169,600)

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

Local Effect: Potential significant increase in expenditures and potential minimal increase in revenues due to the bill’s requirements.

Small Business Effect: None.

Analysis

Current Law: If an individual is denied Medicaid, the individual’s application is not acted upon within 30 days, or the individual is aggrieved by a Department of Health and Mental Hygiene (DHMH) decision or action that reduces or terminates benefits for the

individual, the individual must be provided with an opportunity for a fair hearing. Written notification of the right to obtain a fair hearing and the method of obtaining the hearing must be provided to the individual. The hearing examiner must provide a copy of the final decision within 90 days of the initial request for a hearing. The hearing examiner must also provide written notice of the ability to seek administrative review. The decision of the hearing examiner is final and takes effect immediately unless the individual takes an appeal. Medicaid benefits cannot be terminated or limited until the right to obtain a fair hearing has expired unexercised, a request for a hearing is withdrawn or abandoned, or a decision is made by the hearing examiner that upholds DHMH's decision.

If aggrieved by the hearing examiner's decision, an individual may appeal to DHMH's Board of Review. At least three members must sit at each hearing of the board and decisions must be by a majority of the members sitting, in writing, and state the board's reasons. A decision of the board is a final agency decision for purposes of judicial review under the Administrative Procedure Act or any other law that permits an appeal to the courts from a decision of a unit in DHMH. If aggrieved by the board's decision, an individual may seek judicial review.

Background: In fiscal 2006, 155,527 applications for Medicaid and 53,763 applications for MCHP were denied. Of those cases, 112 individuals appealed to the board of review. A total of 118 cases were heard before the board (including 6 cases unrelated to Medicaid or MCHP). Fifty-five appeals were affirmed, 19 withdrawn, 9 were reversed and remanded, 8 remanded, 5 administratively closed, 2 dismissed, and 1 reversed. Nineteen appellants failed to appear before the board. It is not known how many cases heard by the board currently seek judicial review.

State Fiscal Effect: State general fund expenditures could increase by at least \$107,588 in fiscal 2008 to comply with the bill, which accounts for the bill's October 1, 2007 effective date. This estimate assumes that cases would first be required to seek a fair hearing through the established hearing process before seeking judicial review. The estimate reflects the cost of hiring one assistant Attorney General and one paralegal in DHMH to represent the department in cases for which direct judicial review is sought.

Salaries and Fringe Benefits	\$103,593
Other Operating Expenses	<u>3,995</u>
Total FY 2008 State Expenditures	\$107,588

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

If direct judicial review is to be additionally provided in lieu of the fair hearing process, expenditures could increase by an additional and potentially significant amount. This amount cannot be reliably estimated at this time.

Local Fiscal Effect: Additional expenditures could be incurred by the circuit court depending on the number of cases that seek direct judicial review. The amount of any increase cannot be reliably estimated at this time. Local revenues could increase from court fees paid by individuals who seek direct judicial review.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2007
ncs/jr

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