SB 859

Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 859 (Senator Raskin)
Budget and Taxation

Medicare Part D "Donut Hole" Tax Assistance Act

This bill creates a subtraction modification under the State income tax for the qualified prescription drug expenses incurred by an individual who is eligible for prescription drug benefits under Part D of the Medicare Program.

The bill takes effect July 1, 2007 and applies to tax year 2007 and beyond.

Fiscal Summary

State Effect: General fund revenues would decrease by $1.6 million in FY 2008 due to subtraction modifications being claimed against the personal income tax. Future year revenues reflect estimated number of eligible individuals and increased prescription drug expenses. Expenditures would not be affected.

($ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	($1.6)	($1.8)	($1.9)	($2.0)	($2.2)
Expenditure	$0	$0	$0	$0	$0
Net Effect	($1.6)	($1.8)	($1.9)	($2.0)	($2.2)

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

Local Effect: Local income tax revenues would decrease by $1.0 million in FY 2008, $1.1 million in FY 2009, $1.2 million in FY 2010, $1.3 million in FY 2011, and $1.4 million in FY 2012. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Bill Summary: Individuals who incur out-of-pocket prescription drug expenses and are eligible for prescription drug benefits under Medicare Part D would qualify for the subtraction modification. Eligible prescription drug expenses are costs that are not reimbursed and are not a deductible or coinsurance and are above the initial coverage limit of the individual's prescription drug plan but below the annual out-of-pocket threshold as defined by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173). This gap in the prescription drug benefit where individuals incur out-of-pocket costs is commonly referred to as the "donut hole" in the coverage of the Medicare prescription drug benefit. If an individual itemizes for State income tax purposes, the subtraction modification is limited to 7.5% of the individual's federal adjusted gross income (FAGI).

Current Law: No similar State income tax credit or subtraction modification exists. Under federal law, individuals who itemize can deduct qualifying medical expenses, including prescription drug expenses. The deduction is limited to qualifying medical expenses in excess of 7.5% of an individual's FAGI.

Background: The federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established a voluntary prescription drug benefit for Medicare beneficiaries ("Part D"). Prior to the Act, individuals did not have any prescription drug coverage. Typically, enrollees pay 25% of the cost of their drugs until their total drug costs reach an initial coverage limit ($2,400 in 2007). Once an initial coverage limit is met, enrollees enter a coverage gap (or "donut hole") and must pay all drug costs until they reach an annual out-of-pocket threshold ($3,850 in 2007). Once this threshold is exceeded, Medicare pays 95% or more of drug costs.

According to the Centers for Medicare and Medicaid Services (CMS), 39 million individuals were provided prescription drug coverage in 2006 under the plan. Beneficiaries reduced prescription drug expenses on average by $1,200. The prescription drug benefit plan is expected to cost a total of $445 billion through federal fiscal year 2013. According to the Kaiser Family Foundation, the lowest monthly premium available in the State for a prescription drug plan in 2006 was $12.20 with the average plan costing $36.44.

Assistance with monthly premiums, annual deductibles, and prescription copayments are available for low-income individuals through the Social Security Administration (SSA).

Maryland's Senior Prescription Drug Assistance Program (SPDAP) provides a subsidy of up to $25 per month toward premium expenses for eligible low-income participants. To qualify, an individual must: (1) be a Maryland Medicare recipient enrolled in a Medicare Rx or Medicare Advantage Prescription Drug plan who is not eligible for full federal assistance as determined by SSA; and (2) have an income of less than 300% of federal poverty guidelines (in 2007, $30,630 for an individual and $41,070 for a couple).

More than 150 pharmaceutical companies offer patient assistance programs. These programs help low-income individuals without prescription drug coverage access medications. Since the establishment of Part D, some patient assistance programs have discontinued assistance to Part D enrollees due to their new Medicare drug coverage and in part due to concerns that the programs could violate federal anti-kickback rules.

State Revenues: The subtraction modification could be claimed beginning in tax year 2007. As a result, general fund revenues could decrease by $1.6 million in fiscal 2008. This estimate is based on the following facts and assumptions:

- CMS estimates that 183,800 Marylanders are enrolled in a Medicare stand-alone prescription drug plan. Estimates vary on the percentage on individuals who fall into the "donut hole" coverage. The Kaiser Family Foundation estimates that 28% of beneficiaries have a plan with a coverage gap.
- Based on data provided by the Maryland Health Insurance Plan, the average "donut hole" expense of individuals enrolled in SPDAP is estimated to be $831.
- CMS estimates that prescription drug expenditures increased by 6.5% in 2006 and will increase by about 8% annually through 2011.
- Twenty-five percent of individuals do not have sufficient tax liability to claim the subtraction modification.
- The bill's provision limiting the subtraction modification for individual who itemize to 7.5% FAGI is expected to decrease revenue losses minimally.

Additional Information

Prior Introductions: None.

Cross File: HB 1073 (Delegate Manno, *et al.*) – Ways and Means.

Information Source(s): Centers for Medicare and Medicaid Services, Comptroller's Office, Kaiser Family Foundation, Maryland Health Insurance Plan, Department of Legislative Services

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