

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

Senate Bill 545

(Chair, Budget and Taxation Committee)

Budget and Taxation and Finance

Appropriations and Health and Government
Operations

Health Care Funds - Transfers and Disbursements

This bill requires, in fiscal 2009, \$83.3 million of the balance remaining in the Rate Stabilization Account (RSA) at the end of fiscal 2008 to be transferred for specified Medicaid and Health Care Coverage Fund purposes. Up to \$15.0 million in specified revenue over-attainment is authorized for transfer to Medicaid in fiscal 2009 as well. The bill also authorizes the Department of Health and Mental Hygiene to use \$17.0 million for specified long-term care services related to Medicaid determination rather than the purpose for which it is allocated, with a reporting requirement. Finally, the bill modifies a legislative audit requirement.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: General fund revenues could decrease, and DHMH special fund revenues increase, by up to \$13.0 million in FY 2008 to the extent that lottery revenues exceed estimates in FY 2008. This could result in up to \$13.0 million in DHMH special fund expenditures and \$6.6 million in federal fund expenditures in FY 2009 to provide an additional inflationary adjustment to community providers. In future years, these expenditures are assumed to be ongoing as general and federal funds and include inflation. Medicaid special fund expenditures of \$10.0 million from RSA are also authorized in FY 2009, which could result in a corresponding general fund expenditure increase and special fund expenditure decrease for Medicaid in FY 2010. Contingent on the enactment of this provision, FY 2009 budget bill language implements a \$21.3 million general fund reduction in Medicaid expenditures. Maryland State Department of Education special fund expenditures could increase by \$1.0 million in FY 2009 for nonpublic textbooks. Maryland Technology Development Corporation

special fund expenditures could increase by \$1.0 million in FY 2009 for stem cell research grants.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	(\$13.0)	\$0	\$0	\$0	\$0
SF Revenue	13.0	0	0	0	0
GF Expenditure	0	(21.3)	23.3	13.5	13.8
SF Expenditure	0	25.0	(10.0)	0	0
FF Expenditure	0	6.6	6.8	6.9	7.1
Net Effect	\$0	(\$10.3)	(\$20.0)	(\$20.4)	(\$20.8)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: In fiscal 2009, \$83.3 million of the balance remaining in RSA at the end of fiscal 2008 must be transferred as follows: • \$7.0 million to the Medical Assistance Program Account to increase fee-for-service dental rates in fiscal 2009; • \$3.0 million to the Health Care Coverage Fund for expenses in fiscal 2009; and • \$73.3 million to the Health Care Coverage Fund for expenses in fiscal 2010 and 2011.

The bill also authorizes the transfer of up to \$15.0 million in specified revenue over-attainment to Medicaid for fiscal 2009: • up to \$13.0 million of any fiscal 2008 State lottery revenue over-attainment via a special fund; and • up to \$2.0 million of any fiscal 2009 revenue over-attainment in the Cigarette Restitution Fund (CRF).

DHMH is authorized to use \$17.0 million in total funds currently allocated for nursing home reimbursements in fiscal 2009 to fund an increase in utilization of long-term care services resulting from any changes in the level of care used to determine Medicaid eligibility. By November 1, 2008, DHMH must report on the changes made in the level of care, the number of additional individuals eligible for care as a result of the changes, and the fiscal implications of the change.

The bill also alters the legislative audit requirement of the Medical Mutual Liability Insurance Society of Maryland to apply in each year in which the society receives a disbursement from RSA, rather than annually. Within one year of the date of an audit report, the Legislative Auditor must conduct a follow-up audit.

Current Law/Background:

Maryland Health Care Provider Rate Stabilization Fund: The Maryland Health Care Provider Rate Stabilization Fund receives money from the 2% premium tax imposed on HMOs and managed care organizations. The fund was established to retain health care providers in the State by allowing insurers to charge lower premium rates for medical professional liability insurance and increasing Medicaid payment rates. Money in the fund is transferred to one of two accounts: the Rate Stabilization Account, which is used to pay insurers for subsidies to health care providers, and the Medical Assistance Program Account, which is used to increase Medicaid payments to health care providers. After fiscal 2009, all monies in the fund are to be allocated to the Medical Assistance Program Account to continue increased payments to health care providers and to support the Medicaid program. **Exhibit 1** displays the required distribution of funds among the two accounts.

Exhibit 1
Statutory Distribution of Funds under the
Maryland Health Care Provider Rate Stabilization Fund

<u>Fiscal Year</u>	<u>Rate Stabilization Account</u>	<u>Medical Assistance Program Account</u>
2005	\$0	\$3.5 million
2006	52.0 million	30.0 million
2007	45.0 million	45.0 million
2008	35.0 million	65.0 million
2009	25.0 million	Remaining revenue
2010	\$0	100% of revenue

Funds from RSA are paid primarily to the Medical Mutual Liability Insurance Society of Maryland, which insures 70% to 75% of private practice physicians in the State. However, after realizing surpluses of \$43.7 million in 2005 and \$45.9 million in 2006, Medical Mutual announced in September 2007 its intent to declare a dividend of \$68.6 million (later increased to \$97.9 million) and withdraw from the subsidy program in 2008. Following Maryland Insurance Administration proceedings in December 2007, the Insurance Commissioner and Medical Mutual announced that the insurer would return \$84.0 million to the State. This figure represents the amount that Medical Mutual received in the prior three years and would have received in 2008 in premium subsidies.

Due to reduced payouts and funds returned from Medical Mutual, RSA is projected to have a cash balance of \$108.7 million at the end of December 2007. Approximately \$8.6 million in subsidies may be requested by carriers remaining in the program for subsidy year 2007; therefore, the available RSA balance at the end of 2007 will be \$100.1 million.

Dental Rates: During the 2007 interim, the Department of Health and Mental Hygiene formed a Dental Action Committee. The committee identified low provider participation as the main barrier to comprehensive oral health services for Medicaid enrollees. A main driver of low provider participation is low reimbursement rates. All Maryland Medicaid dental reimbursement rates are below the twenty-fifth percentile of the American Dental Association's South Atlantic charges, and many are below the tenth percentile. The committee recommended that Medicaid increase dental reimbursement rates to the fiftieth percentile of the ADA's South Atlantic charges for all dental codes and index the reimbursement rates to inflation. DHMH plans to increase rates as such over the next three fiscal years.

Health Care Coverage Fund: Chapter 7 of the 2007 special session established the Health Care Coverage Fund to expand Medicaid eligibility for parents, caretaker relatives, and childless adults up to 116% of federal poverty guidelines, establish a Small Employer Health Benefit Plan Premium Subsidy Program, and support health care services in Prince George's County. The fund consists of • \$75 million from the Maryland Health Insurance Plan Fund, to be transferred on July 1, 2008; • monies collected from any Health Services Cost Review Commission hospital assessment of uncompensated care savings achieved under Chapter 7; • investment earnings; and • any other monies from any other source accepted for the benefit of the fund. In fiscal 2011 through 2013, up to \$10.0 million per year may be transferred from the fund to support health care services in Prince George's County.

Audits of the Medical Mutual Liability Insurance Society of Maryland: The Legislative Auditor is required to conduct a fiscal and compliance audit of the society annually at the expense of the society.

State Fiscal Effect: The fiscal 2009 budget includes, contingent on enactment of legislation authorizing the use of additional funding from the Rate Stabilization Fund: • \$7.0 million in special funds from RSA to increase dental provider rates; and • \$3.0 million in special funds from RSA for the Health Care Coverage Fund to be used for the expansion of Medicaid to parents and caretaker relatives and the Small Employer Health Benefit Plan Premium Subsidy Program. The budget bill also includes \$21.3 million in general fund reductions contingent on the enactment of this provision of this bill.

The use of \$10.0 million from RSA in fiscal 2009 would reduce the balance that would otherwise be used for Medicaid expenses in fiscal 2010. Thus, \$10.0 million in special funds would not be available for this purpose in fiscal 2010, and general fund expenditures would increase by \$10.0 million to fund Medicaid.

The transfer of \$73.3 million in special funds from RSA to the Health Care Coverage Fund for fiscal 2010 and 2011 expenses helps to reduce the amount of general funds required for the Medicaid expansion and the Small Employer Health Benefit Plan Premium Subsidy Program. Thus, general fund expenditures for those purposes are projected to be \$68.8 million in fiscal 2011. However, under current law, all funds within the Maryland Health Care Provider Rate Stabilization Fund are dedicated to Medicaid in fiscal 2010, so transferring \$73.3 million from the Rate Stabilization Fund would increase general fund expenditures for Medicaid by an equivalent amount. Therefore, the \$73.3 million transfer swaps one special fund Medicaid expenditure for another, resulting in no net impact on special or general fund expenditures in fiscal 2010 and 2011.

Contingent on the enactment of provisions in this legislation authorizing the transfer of \$13.0 million from lottery revenues to support the Medicaid program, the fiscal 2009 budget authorizes up to \$13.0 million in general funds to be transferred from Medicaid to other programs in DHMH to increase the inflationary rate adjustments to community services providers. The fiscal 2009 budget includes a 1.5% inflationary adjustment for community services providers. An additional \$13.0 million in general funds for community service providers would be matched with \$6.6 million in federal funds to fund an inflationary adjustment of 3% in fiscal 2009. Future years assume • that this adjustment becomes part of the base budget matched by ongoing federal funds; and • 2% inflation.

The fiscal 2009 budget also authorizes • \$1.0 million in CRF funds to be transferred from Medicaid to MSDE for nonpublic textbooks; and • up to \$1.0 million in CRF funds to be transferred from Medicaid to TEDCO for stem cell research grants, contingent on the enactment of provisions in this bill authorizing the transfer of \$2.0 million from CRF to the Medicaid program. To the extent CRF over-attainment is less than \$2.0 million, over-attainment up to \$1.0 million must be provided to MSDE and any over-attainment in excess of \$1.0 million and up to \$2.0 million must be provided to TEDCO. To the extent additional revenues are not received, the transfers and any associated spending would not occur.

The fiscal 2009 budget includes \$3.6 million in MSDE's budget from CRF for nonpublic textbooks. Under this bill, total funding for nonpublic textbooks for fiscal 2009 could be \$4.6 million. The fiscal 2009 budget includes \$19.0 million for TEDCO's Maryland

Stem Cell Research Fund. Under this bill, total funding for stem cell research for fiscal 2009 could be \$20.0 million.

Additional Information

Prior Introductions: None.

Cross File: HB 1284 (Chair, Appropriations Committee) – Appropriations and Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Budget and Management, Department of Legislative Services

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Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510