HB 37

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 37 (Delegate Manno)
Ways and Means

Medicare Part D "Donut Hole" Tax Assistance Act

This bill creates a subtraction modification under the State income tax for 50% of the qualified prescription drug expenses incurred by an individual who is eligible for prescription drug benefits under Part D of the Medicare Program and is enrolled in the Senior Prescription Drug Assistance Program (SPDAP).

The bill takes effect July 1, 2008 and applies to tax year 2008 and beyond.

Fiscal Summary

State Effect: General fund revenues would decrease $130,300 in FY 2009 and $138,100 in FY 2010 due to subtraction modifications being claimed against the personal income tax. General fund expenditures would increase by $19,700 due to one-time tax form and computer programming expenses at the Comptroller's Office.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	($130,300)	($138,100)	$0	$0	$0
GF Expenditure	19,700	0	0	0	0
Net Effect	($150,000)	($138,100)	$0	$0	$0

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

Local Effect: Local income tax revenues would decrease by $82,300 in FY 2009 and by $87,200 in FY 2010. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Bill Summary: Individuals who incur out-of-pocket prescription drug expenses, are eligible for prescription drug benefits under Medicare Part D, and are enrolled in SPDAP 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. Deductions claimed for federal purposes flow through to State income tax purposes and typically result in a lower State income tax liability.

Background: The federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established for the first time a voluntary comprehensive prescription drug benefit for Medicare beneficiaries ("Part D"). The Centers for Medicare and Medicaid (CMS) state that it is the most significant improvement to senior health care in nearly 40 years. Individuals can gain coverage from private prescription drug plans available to all enrollees in a geographic area, from managed care plans that participate in the Medicare Advantage program, and from employer- or union-sponsored plans. Typically, enrollees pay 25% of the cost of their drugs until their total drug costs reach an initial coverage limit ($2,510 in 2008). 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 ($4,050 in 2008). Once this threshold is exceeded, Medicare pays 95% or more of drug costs. Maryland enrollees could select from among 56 prescription drug plans in 2007, with the lowest minimum monthly premium $12, maximum $103, and average premium $58.

During 2007, almost 30 million people in the U.S., about 73% of all Medicare beneficiaries, were enrolled in the drug benefit. The net cost of the program in federal fiscal year 2007 was $41 billion, with the net cost in the next 10 years totaling $948 billion; well above original estimates of the cost of the program.

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

SPDAP provides a subsidy of up to $25 per month toward premium expenses for eligible low-income participants. To qualify, an individual must • 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 • have an income of less than 300% of federal poverty guidelines (in 2008, $31,200 for an individual and $42,000 for a couple).

Funding for SPDAP is provided by CareFirst as a condition of earning its premium tax exemption as a nonprofit health service plan. CareFirst's subsidy of SPDAP may not exceed $14 million or the value of CareFirst's premium tax exemption. Chapter 509 of 2007 extended the termination date of the program to December 31, 2009.

The Maryland Health Insurance Plan, which administers SPDAP, estimates that about one-quarter of SPDAP enrollees incur "donut hole" expenses. **Exhibit 1** lists the estimated number of enrollees who incur expenses by the average amount of out-of-pocket prescription drug expenses.

Exhibit 1
SDAP Enrollees with Donut Hole Expenses
January 2008

Donut Hole Expenses	SPDAP Enrollees	Average Expenses
$0-$500	3,631	$397
$501-$1,000	1,632	885
$1,001-$1,500	930	1,258
over $1,500	1,307	2,146
Total	**7,500**	**$915**

Source: MHIP

State Revenues: The subtraction modification could be claimed beginning in tax year 2008. As a result, general fund revenues could decrease by $130,300 in fiscal 2009 and by $138,100 in fiscal 2010. This estimate is based on data provided by MHIP and the following facts and assumptions:

- The total number of SDAP enrollees is expected to remain constant.
- Out-of-pocket prescription drug expenses will increase by 6% annually.
- Individuals who do not have sufficient tax liability to claim the subtraction modification reduce the total cost of the subtraction modification by 20%.
- The bill's provision limiting the subtraction modification for individuald who itemize to 7.5% FAGI is expected to decrease revenue losses minimally.

This estimate assumes that SPDAP terminates December 31, 2009. To the extent future legislation extends the program, similar annual revenue losses would occur for each year the program is in effect.

State Expenditures: The Comptroller's Office reports that it would incur a one-time expenditure increase of $19,740 in fiscal 2009 to add the subtraction modification to the personal income tax form. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Additional Information

Prior Introductions: Similar bills, SB 859 and HB 1073 of 2007, provided a subtraction modification for 100% of eligible drug expenses to all individuals in the State eligible for prescription drug benefits under Part D of the Medicare Program. The bills were not reported from the Senate Budget and Taxation Committee and the House Ways and Means Committee, respectively.

Cross File: None.

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

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