SB 953

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 953 (Senators Kasemeyer and Middleton)
Budget and Taxation and Finance

Medicaid Sustainability Commission

This bill establishes a Medicaid Sustainability Commission to study and make recommendations on current State funding sources; short- and long-term funding needs; short- and long-term options to reduce growth in costs; and short- and long-term options for sustainable, long-term revenue sources for the Medicaid program. The commission must report to the Governor and specified committees of the General Assembly, by December 15, 2012, on the commission's interim findings and recommendations, and by June 30, 2013, on the commission's final findings and recommendations.

The bill takes effect July 1, 2012, and terminates June 30, 2014.

Fiscal Summary

State Effect: Commission staffing can be provided by the Department of Budget and Management (DBM) and the Department of Health and Mental Hygiene (DHMH) within existing budgeted resources. To the extent that the commission implements recommendations to replace the current hospital assessment with at least an equivalent amount of general funds, as specified in the bill, Medicaid general fund expenditures increase by at least $354.7 million annually beginning in FY 2015. Depending on the commission's recommendations, separate authorizing legislation may be needed to implement some or all of the recommendations. As the commission is also tasked with identifying long-term revenue sources, general fund revenues could increase to support these expenditures, but the exact amount of any revenues cannot be reliably estimated at this time and would require separate authorizing legislation.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Public members of the commission must be stakeholders with expertise in the Medicaid program and include physician, hospital, nursing home, and managed care organization representatives. To the extent practicable, commission membership should reflect regional, ethnic, and gender diversity. The Governor must designate the chair of the commission. Commission members may not receive compensation but are entitled to reimbursement for expenses as provided in the State budget. Commission staff must be provided by DBM and DHMH.

The recommendations made by the commission must have the impact of increasing the State general funds supporting Medicaid by at least the amount of a specified current assessment on hospital rates. It is the intent of the General Assembly that the recommendations of the commission be implemented by fiscal 2015, with the effect of replacing the specified current assessment on hospital rates.

Note: While the bill references the assessment under § 19-214(d)(1)(ii) of the Health-General Article (the assessment that funds the Maryland Health Insurance Plan or MHIP), Legislative Services notes that this is a typographical error and is meant to instead reference the hospital assessment imposed by Section 16 of Chapter 397 of 2011.

Current Law: Section 16 of Chapter 397 of 2011 (the Budget Reconciliation and Financing Act of 2011) required the Health Services Cost Review Commission (HSCRC) to approve a combination of additional hospital assessments and remittances in the amount of $389.8 million to support Medicaid operations in fiscal 2012. For fiscal 2013 and thereafter, HSCRC and DHMH are required to adopt policies that continue to generate at least $389.8 million annually in special fund revenues and/or general fund savings from reduced Medicaid hospital or other payments. HSCRC and DHMH must, to the maximum extent possible, adopt policies that preserve the State's federal Medicare waiver.

Section 19-214(d) of the Health-General Article requires HSCRC to impose an assessment on hospital rates to (1) reflect the aggregate reduction in hospital uncompensated care realized from the expansion of Medicaid eligibility under Chapter 7 of the 2007 special session; and (2) operate and administer MHIP. The uncompensated care assessment must be equal to 1.25% of projected regulated net patient revenue. The MHIP assessment is currently imposed at a rate of 1% of net patient revenue, or about $133 million annually.

Background: Medicaid is a joint federal and state program that provides assistance to indigent and medically indigent individuals. Medicaid eligibility is limited to children, pregnant women, elderly or disabled individuals, and low-income parents. To qualify for

benefits, applicants must pass certain income and asset tests. Federal law requires Medicaid to assist Medicare recipients with incomes below the federal poverty level in making their coinsurance and deductible payments. In fiscal 2011, average monthly enrollment in the Maryland Medicaid program was 762,657.

The Governor's proposed fiscal 2013 budget for Medicaid includes a total of $7.3 billion (50% federal funds, 35% general funds, 13% special funds, and 1% reimbursable funds), including $211.0 million in cost containment. In recent years, the Medicaid budget has reflected an increased reliance on special funds. Of the $939.7 million in special funds included in the proposed fiscal 2013 budget, assessments on hospitals continue to provide the bulk of the funding, with almost $414.0 million derived from the hospital assessment earmarked to support Medicaid and almost $153.0 million anticipated from the 1.25% assessment derived from averted uncompensated care as a result of the expansion of Medicaid to parents and relative caretakers. An additional $130.7 million is generated from the Medicaid nursing home assessment. In calendar 2011, Medicaid also received $93.2 million in special funds to support Medicaid from the Maryland Health Care Provider Rate Stabilization Account, which is funded by a 2% premium tax on health maintenance organizations and Medicaid managed care organizations.

Chapter 395 of 2011 (the fiscal 2012 budget bill) included language withholding funds pending the receipt of a report on the sustainability of special fund revenue sources that finance the Medicaid program, as well as program cost drivers. DHMH issued a report in December 2011, which noted that the two key drivers of Medicaid costs are enrollment and an unbalanced approach to long-term care. With the exception of the Primary Adult Care program, federal restrictions limit the State's ability to control enrollment. Furthermore, Maryland is significantly behind the nation in how it treats the elderly and physically disabled, relying to a far greater extent on higher-cost institutional care. DHMH has established the following strategic framework for cutting Medicaid expenditures: (1) rebalancing long-term care; (2) analyzing the upward and downward substitution of higher-cost services; (3) implementing medical homes; (4) improving efficiency and quality through electronic health records; and (5) ensuring that Medicaid is the payor of last resort. The Governor's proposed fiscal 2013 Medicaid budget reflects this framework.

DHMH's report also discussed how provider assessments, particularly hospital assessments, have become a major part of Medicaid's financing. DHMH noted that, overall, provider assessments grew by $494.0 million from fiscal 2008 to 2012, which is significantly lower than the increase in total Medicaid expenditures of $2.6 billion during the same time period. DHMH indicated that, in the process of developing the report through the Maryland Medicaid Advisory Committee, the department was urged to view special fund revenues as a temporary solution to the State's Medicaid budget challenges. In response, DHMH reported that it has no desire to make these assessments a permanent

component of Medicaid financing and that it is up to the Governor and the General Assembly, in each budget cycle, to determine whether the provider assessments remain necessary to finance Medicaid.

State Fiscal Effect: The bill requires that recommendations made by the commission have the impact of increasing State general fund support of Medicaid by at least the amount of the current assessment on hospital rates imposed by Section 16 of Chapter 397 of 2011, a minimum of $389.8 million annually. For fiscal 2013, this assessment is set to generate nearly $414.0 million in special funds for Medicaid. Furthermore, the bill states that it is the intent of the General Assembly that the commission's recommendations be implemented by fiscal 2015 with the effect of replacing the assessment.

Based on the recommendations of the commission, Medicaid general fund expenditures will be on a path to increase by at least $354.7 million annually beginning in fiscal 2015. This estimate assumes elimination of at least $389.8 million in assessments on the hospital system. As Medicaid pays approximately 18% of hospital charges (50% federal funds, 50% general funds), Medicaid general fund expenditures would decline by about $35.1 million from elimination of the assessment, but the net effect would be an increase of at least $354.7 million to replace the special fund revenue loss. To the extent that separate legislation is needed to implement some of the commission recommendations, some portion of the additional general fund costs will be attributable to future bills.

The commission is required to study short-term and long-term options for sustainable, long-term revenue sources for Medicaid, including revenue measures that will not negatively impact the State's Medicare waiver or federal health care provider tax requirements. Thus, based on the commission's recommendations, general fund revenues may increase and offset anticipated general fund expenditures. The exact amount of any revenues cannot be reliably estimated at this time and will depend on the commissions's recommendations and any implementing legislation.

Additional Comments: Maryland has a unique Medicare waiver from the federal government that allows the State to have an "all-payor" system in which every payor for hospital care – including Medicaid, Medicare, commercial insurance, and uninsured individuals – pays the same rates for hospital services. Hospital revenues are split among payors: approximately 44% from commercial insurance, 37% from Medicare, 18% from Medicaid, and 1% from other payors. Elimination of the current assessment on hospital rates would reduce hospital rates and in turn reduce hospital expenditures for all payors.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 1341 (Delegate James - Health and Government Operations and Appropriations) is not identical.

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

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