

Department of Legislative Services  
Maryland General Assembly  
2015 Session

**FISCAL AND POLICY NOTE**

Senate Bill 796

(Senator Nathan-Pulliam, *et al.*)

Finance

Health and Government Operations

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**Public Health - Maryland AIDS Drug Assistance Program - Expansion of Eligibility and Services - Pharmaceutical Rebate Coverage**

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This bill authorizes rebates received by the Department of Health and Mental Hygiene (DHMH) from the Maryland AIDS Drug Assistance Program (MADAP) to be used to fund any other services to eligible individuals allowable under Part B of the federal Ryan White HIV/AIDS Program.

The bill takes effect July 1, 2015.

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**Fiscal Summary**

**State Effect:** Special fund expenditures for DHMH increase by a potentially significant amount beginning as early as FY 2016 due to the ability to use MADAP drug rebates to fund additional services for individuals with HIV/AIDS. Revenues are not affected.

**Local Effect:** Local health departments (LHDs) may receive additional funding to support individuals living with HIV.

**Small Business Effect:** Potential meaningful. Small business health care providers may receive additional reimbursement for services to individuals living with HIV.

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**Analysis**

**Current Law/Background:** Any rebates received by DHMH from MADAP must be distributed to a special fund to be used only for MADAP and MADAP-Plus. Annual rebates have averaged \$42.4 million for the past five fiscal years and reflect an upward trend in revenues. The closing fund balance for the special fund at the end of fiscal 2014 was \$66.5 million.

MADAP helps low- to moderate-income Maryland residents pay for certain drugs to treat HIV/AIDS. To qualify for MADAP, a person must (1) be diagnosed with HIV; (2) have

an anticipated gross annual household income at or below 500% of the federal poverty level; and (3) be ineligible for Medicaid. MADAP-Plus offers assistance to individuals living with HIV/AIDS (at the same income levels as MADAP) to obtain or maintain health insurance by paying premiums for health insurance with prescription drug coverage for eligible clients. MADAP-Plus enrollees must pay 50% or more of their health insurance premium.

Enrollment in MADAP and MADAP-Plus in fiscal 2015 is about 5,760 and 2,164 enrollees, respectively. In fiscal 2012, MADAP and MADAP-Plus enrollment reached highs of 7,759 and 3,313 enrollees, respectively. However, MADAP enrollment has since declined. The Governor's proposed fiscal 2016 budget decreases funding for MADAP and MADAP-Plus by a total of \$1.2 million, which assumes a decline in program growth as a greater proportion of individuals are served through Medicaid or obtain private insurance due to the full implementation of federal health care reform.

The programs are funded through a combination of federal grant funds and special funds from drug rebates. Total expenditures for MADAP and MADAP-Plus are estimated to be \$55.0 million in fiscal 2015 and \$54.2 million in fiscal 2016.

In November 2012, the federal Health Resources and Services Administration (HRSA) issued guidance to states regarding pharmaceutical rebates collected on AIDS Drug Assistance Program drug purchases. HRSA advised that § 2616(g) of the federal Public Health Service Act requires that rebate funds be applied to the Part B Program with a *priority* (but *not* a requirement) that the rebates be placed back into AIDS drug assistance programs. HRSA clarified that, in addition to AIDS drug assistance programs, rebates may be used for *any authorized purpose* under the Part B Program, including core medical services, support services, planning and evaluation, and administrative expenses.

**State Expenditures:** According to DHMH, the intent of the bill is to provide the same flexibility to spend MADAP rebate dollars that is currently authorized under federal law. DHMH advises that the department plans to use this additional flexibility to expand provider capacity and provide additional services to individuals living with HIV who are not currently served by MADAP, MADAP-Plus, or other programs. The exact amount of such additional special fund expenditures cannot be reliably estimated at this time but is anticipated to be significant.

**Local Fiscal Effect:** LHDs receive funding to support individuals living with HIV from Part B of the Ryan White HIV/AIDS program. Expanding the population on which pharmaceutical rebates may be spent may increase funding to LHDs to provide those services.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1143 (Delegate Cullison) - Rules and Executive Nominations.

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

**Fiscal Note History:** First Reader - March 16, 2015  
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