Department of Legislative Services

Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 91 (Chair, Finance Committee)(By Request - Departmental - Health and Mental Hygiene)

Finance Health and Government Operations

Public Health - State-Identified HIV Priorities

This departmental bill requires rebates received by the Department of Health and Mental Hygiene (DHMH) from the Maryland AIDS Drug Assistance Program (MADAP) as a result of State general fund expenditures to be deposited in a special fund and used only for State-identified priorities for HIV prevention, surveillance, and care services. The Secretary of Health and Mental Hygiene must adopt regulations establishing, as appropriate, income and other eligibility criteria for the receipt of such services.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: Special fund expenditures for DHMH may increase beginning in FY 2017 due to the ability to use certain MADAP drug rebates to fund HIV prevention, surveillance, and care services. Revenues are not affected.

Local Effect: Local health departments may receive additional funding that could augment or support the delivery of new HIV prevention, surveillance, and care services.

Small Business Effect: DHMH has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Background: Any rebates received by DHMH from MADAP must be distributed to a special fund to be used only for MADAP, MADAP-Plus, and any other services to eligible individuals as allowable under Part B of the federal Ryan White HIV/AIDS Program. Part B provides grants to states primarily using a formula based on reported living cases with HIV/AIDS. Part B grants fund core medical services and support services that are needed for people with HIV/AIDS to achieve their medical outcomes, as well as state AIDS drug assistance programs. Part B funds cannot be used for HIV prevention or surveillance activities.

MADAP helps low- to moderate-income Maryland residents pay for certain drugs to treat HIV/AIDS. To qualify, 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 insurance with prescription drug coverage for eligible clients.

DHMH receives rebates from pharmaceutical manufacturers based on the medication utilization of MADAP enrollees. Rebates are most commonly generated when MADAP pays the copayment for a prescription drug for a MADAP enrollee. While the enrollee's insurance company pays the pharmacy the contracted price for the drug, DHMH receives a rebate from the pharmaceutical manufacturer for a portion of the price of the drug. The amount of the rebate to MADAP frequently exceeds the actual copayment paid by the program. Rebates are deposited into a special fund and used for future expenses in MADAP, MADAP-Plus, and other services to eligible individuals with HIV/AIDS.

While the incidence of reported HIV and AIDS cases has declined in Maryland, the rate of decline has slowed and Maryland's rate of new HIV cases remains the seventh highest among the 50 states. According to the U.S. Centers for Disease Control and Prevention, 2,168 adults and adolescents in Maryland were diagnosed with HIV in 2013.

According to DHMH, the bill seeks to expand the State's ability to support HIV prevention, surveillance, and care services (*i.e.*, pre-exposure prophylaxis medication, case management, mental health, substance abuse, and counseling services) for high-risk HIV-negative individuals with MADAP rebates; such expenditures are not authorized under current law and cannot be funded with federal Ryan White HIV/AIDS Program funding.

State Revenues: In fiscal 2014 and 2015, MADAP generated \$59.8 million and \$54.6 million in prescription drug rebates, respectively. Rebates are used to fund the program, MADAP-Plus, and other services to eligible individuals with HIV/AIDS. As these rebates would be generated in the absence of this bill through the use of special and federal funds (rather than general and special funds), no new revenues are anticipated under the bill.

State Expenditures: Currently, MADAP rebates are used only for MADAP, MADAP-Plus, and other services to eligible individuals with HIV/AIDS. The number of MADAP and MADAP-Plus enrollees and associated expenditures have leveled off in recent years (with estimated expenditures for both programs of about $54.2 million in fiscal 2016). However, at the same time, the amount of MADAP rebates has continued to increase, creating a rebate fund balance. The unspent MADAP rebate balance carried forward from prior years was $67.6 million at the start of fiscal 2016. Thus, current programs are fully funded.

The bill provides additional flexibility to spend rebates that are received as a result of general fund expenditures and, thus, may generate additional spending. Special fund expenditures for DHMH may increase by as much as $625,000 in fiscal 2017 and $1.9 million annually beginning in fiscal 2018 for HIV prevention, surveillance, and care services.

According to DHMH, in fiscal 2016, the department plans to expend $100,000 in general funds on a one-time-only basis for MADAP prescription drug copayments. Currently, only federal and special funds are used for these expenses, which requires the resulting drug rebates to be used only for MADAP, MADAP-Plus, and other services to eligible individuals with HIV/AIDS.

DHMH anticipates that the initial $100,000 general fund investment will generate a total of $2.5 million in special fund rebates in fiscal 2016. DHMH advises that, based on policy guidance from the federal Health Resources and Services Administration and current rebate agreements with pharmaceutical manufacturers, a targeted approach to specific prescription drugs could conservatively yield this rate of return (5.0), with the initial $100,000 generating $500,000 in rebates, and the reinvestment of that $500,000 generating a total of $2.5 million in rebates. This rate of return is expected to decline to 1.26 beginning in fiscal 2017, when DHMH anticipates revisions to federal guidelines regarding prescription drug rebates in state AIDS drug assistance programs.

Exhibit 1 displays the generation of additional rebates assumed by DHMH based on an initial $100,000 general fund expenditure, including the amount of rebates DHMH plans to reinvest in additional rebate generation and spend on HIV prevention, surveillance, and care services. DHMH anticipates two cycles of rebate-generating transactions in fiscal 2016, and three cycles annually beginning in fiscal 2017.

Exhibit 1
Estimated Special Fund Rebates from Initial $100,000 General Fund Expenditure

Fiscal Year	Rebate Cycle	Rebates from Previous Rebate Cycle	Reinvested in Rebate Generation	Rate of Return	Rebates Generated	Expenditures on Services/Personnel
2016	1	$0	$100,000	5.00	$500,000	$0
	2	500,000	500,000	5.00	2,500,000	0
2017	1	2,500,000	1,875,000	1.26	2,362,500	625,000
	2	2,362,500	2,362,500	1.26	2,976,750	0
	3	2,976,750	2,976,750	1.26	3,750,705	0
2018	1	3,750,705	1,875,353	1.26	2,362,944	1,875,353
	2	2,362,944	2,362,944	1.26	2,977,310	0
	3	2,977,310	2,977,310	1.26	3,751,410	0
2019	1	3,751,410	1,875,705	1.26	2,363,388	1,875,705
	2	2,363,388	2,363,388	1.26	2,977,869	0
	3	2,977,869	2,977,869	1.26	3,752,115	0
2020	1	3,752,115	1,876,058	1.26	2,363,833	1,876,058
	2	2,363,833	2,363,833	1.26	2,978,429	0
	3	2,978,429	2,978,429	1.26	3,752,821	0
2021	1	3,752,821	1,876,410	1.26	2,364,277	1,876,410
	2	2,364,277	2,364,277	1.26	2,978,989	0
	3	2,978,989	2,978,989	1.26	3,753,526	0

Source: Department of Health and Mental Hygiene; Department of Legislative Services

In fiscal 2017, DHMH plans to reinvest 75% of the special fund rebate balance at the beginning of the fiscal year to additional rebate generation and allocate 25% to HIV prevention, surveillance, and care services.

Beginning in fiscal 2018, DHMH plans to reinvest 50% of the special fund rebate balance at the beginning of the fiscal year to additional rebate generation and allocate the remaining 50% to HIV prevention, surveillance, and care services, including hiring two full-time personnel: one Grade 16 program administrator to monitor policy development, perform research, and develop recommendations on emerging issues affecting HIV prevention and care; and one Grade 18 epidemiologist to manage the design, implementation, analysis, and reporting of HIV prevention programs.

Positions	2
Salaries and Fringe Benefits	$151,747
One-time Start-up Expenses	11,691
Ongoing Operating Expenses	6,655
Total FY 2018 State Expenditures	**$170,093**

Actual expenditures depend on the amount of MADAP rebates generated and whether those rebates would otherwise have been spent on MADAP, MADAP-Plus, and any other services to eligible individuals with HIV/AIDS.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): U.S. Centers for Disease Control and Prevention, Department of Health and Mental Hygiene, Department of Legislative Services

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min/ljm Revised - Updated Information - January 19, 2016
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES
Department of Health and Mental Hygiene
Session 2016

TITLE OF PROPOSAL: **Public Health – State-Identified HIV Priorities**

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PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Some service providers, including community-based organizations, may benefit from this proposed expansion of services to HIV-negative individuals; however, it is not expected that the proposed changes would have a significant economic impact on those businesses.