HB 595

Department of Legislative Services

Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 595 (Delegate Hayes, *et al.*)
Health and Government Operations Rules

Behavioral Health Community Providers - Keep the Door Open Act

This bill requires the Governor's proposed budget for fiscal 2018 and each year thereafter until fiscal 2021 to include rate adjustments for community providers of 2.25% based on funding provided in the prior year's legislative appropriation for specified services. The Department of Health and Mental Hygiene (DHMH) has to adjust the rate of reimbursement for community providers each fiscal year by the rate adjustment included in the State budget for that year. By December 1, 2017, DHMH must submit a report detailing specified outcome measures, which must be linked to at least 2.25% of total reimbursements paid to community providers after July 1, 2018. The bill also institutes an annual reporting requirement for DHMH beginning December 1, 2018.

The bill takes effect June 1, 2016.

Fiscal Summary

State Effect: No effect in FY 2016 or 2017. General fund expenditures for DHMH increase by approximately $11.5 million in FY 2018 to provide the bill's required rate of reimbursement for behavioral health community providers and ensure completion of the required annual report. Federal fund revenues and expenditures increase by $9.8 million in FY 2018, due to increased Medicaid reimbursement. Future year expenditures reflect the compounding effect of the rate increase and $100,000 in annual contractual data analysis services. **This bill establishes a mandated appropriation beginning in FY 2018.**

($ in millions)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
FF Revenue	$0	$9.8	$19.7	$29.2	$39.0
GF Expenditure	$0	$11.5	$23.4	$36.1	$49.0
FF Expenditure	$0	$9.8	$19.7	$29.2	$39.0
Net Effect	$0.0	($11.5)	($23.4)	($36.1)	($49.0)

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

Local Effect: None.

Small Business Effect: Meaningful for small business community providers that receive four years of annual rate adjustments under the bill. The bill also links 2.25% of reimbursements paid after July 1, 2018, to outcome measures, as recommended by DHMH. Substance use disorder services programs must also submit financial statements and salary information to the department or risk imposition of a penalty.

Analysis

Bill Summary: Under existing law, a community mental health services program must submit annual financial statements and salary information in accordance with DHMH's regulations; DHMH may assess a penalty of up to $500 per day per violation for each day a violation occurs on a licensee that fails to comply with this requirement. The bill adds substance use disorder services programs to these provisions.

"Community provider" means a community-based agency or program funded by the Behavioral Health Administration (BHA) or the Medical Care Programs Administration to serve individuals with mental disorders, substance-related disorders, or a combination of these disorders.

If community providers' services are provided through managed care organizations (MCOs) in fiscal 2018 through 2021, the MCO must (1) for the first fiscal year the MCO provides the services, pay the rate in effect during the prior fiscal year and (2) adjust the reimbursement rate for community providers each fiscal year by 2.25% based on the rate in the immediately preceding fiscal year.

The bill's required rate adjustment does not apply in fiscal years in which State employees do not receive a general salary increase or pay increase in the State budget. If community providers do not receive a rate adjustment in any fiscal year from fiscal 2018 through 2021, the Governor's proposed budget must include the required rate adjustment in the first fiscal year after fiscal 2021 in which State employees receive a general increase or a pay increase, and each successive year with such increases, until there have been a total of four rate adjustments.

The Governor's proposed budget for fiscal 2018 and each year thereafter for community providers must be presented in the same manner as provided for in the fiscal 2017 budget.

The bill's provisions do not apply to reimbursement for any service provided by a community provider whose rates are regulated by the Health Services Cost Review Commission.

By December 1, 2017, DHMH must submit a report to the Governor and the General Assembly detailing outcome measures that can reasonably be collected for each treatment modality offered by community providers. The report must include recommendations to tie reimbursement to outcomes including (1) differential payment for implementation of, and adherence to, evidence-based practices; (2) differential payment based on outcomes; and (3) any other financial payment system linking reimbursement to outcomes.

By December 1, 2018, and each year thereafter, DHMH must submit a report to the Governor and the General Assembly on the impact of the reimbursement rate adjustment on community providers, including the impact on (1) the wages and salaries paid and the benefits provided to direct care staff and licensed clinicians employed by community providers; (2) the tenure and turnover of direct care staff and licensed clinicians employed by community providers; and (3) the ability of community providers to recruit qualified direct care staff and licensed clinicians. DHMH may require community providers to submit necessary information in order to complete the report.

Current Law/Background: The Governor's proposed fiscal 2016 budget included cost containment actions for BHA, including $23 million in rate reductions for community providers in the mental health services system; the 2% midyear rate increase in fiscal 2015 was removed from the fiscal 2016 allowance. However, the General Assembly subsequently restored the 2% increase for fiscal 2015 in the fiscal 2016 budget. The fiscal 2017 State budget includes a 2% rate increase for community behavioral health providers. The fiscal 2017 State budget also includes, for fiscal 2016, supplemental general fund appropriations of $1,289,241 for community behavioral health provider reimbursements and $908,444 for Medicaid community behavioral health provider reimbursements.

In its December 2015 final report, the Governor's Heroin and Opioid Emergency Task Force recommended that DHMH review Medicaid reimbursement rates for substance use disorder treatment every three years, in order to increase the workforce and expand access to care by attracting more practitioners to the field. Additionally, as part of its "Keep the Door Open" campaign, the Community Behavioral Health Association has also stated that indexing the reimbursement rate for behavioral health providers to the cost of inflation for medical care will expand access to care.

State Fiscal Effect: Overall, general fund expenditures for DHMH increase by $11,504,730 in fiscal 2018 for DHMH to provide the bill's required rate of reimbursement and to ensure completion of the bill's annual reporting requirement.

Rate Adjustment: This analysis assumes that State employees receive a general salary or pay increase in fiscal 2018 through 2021. If State employees do not receive the specified increases in these fiscal years, any fiscal impact due to the rate adjustment may be delayed until after fiscal 2021.

Therefore, general fund expenditures for DHMH increase by $11,460,267 in fiscal 2018 to provide the bill's required rate of reimbursement for behavioral health community providers. This analysis is based on an estimated $943,904,652 in total budgeted costs and $439,695,369 in general fund expenditures for community behavioral health providers' reimbursable services in fiscal 2017, and a rate increase of 2.25% in fiscal 2018. Federal fund expenditures and revenues increase correspondingly, due to increased Medicaid reimbursement.

Future year expenditures reflect the compounding effect of increasing reimbursement each year. Therefore, general fund expenditures are estimated to increase by $48,848,509 in fiscal 2021. This analysis does not take into account any increase in utilization or enrollment, which may further increase costs.

Reporting Requirements: DHMH advises that it can handle the bill's December 1, 2017 report regarding outcome measures with existing resources.

However, the bill also institutes an annual reporting requirement for DHMH beginning December 1, 2018. DHMH advises that, given the scope of the reporting requirement, it must hire one full-time policy analyst in fiscal 2019 to develop forms for data collection, provide training and technical assistance to behavioral health providers on completing the forms, and track and review forms for completion. DHMH advises that extensive follow-up with providers is likely necessary in order to gather all required data. Additionally, DHMH advises that $100,000 in annual contractual services is required for data analysis beginning in fiscal 2019.

In order to ensure data analysis is completed in time for the December 1, 2018 report, the Department of Legislative Services advises that, although costs for contractual data analysis services begin in fiscal 2019, DHMH must hire staff in fiscal 2018 to allow sufficient time to develop any required forms, conduct training or outreach, and begin the data collection process and follow up with providers as necessary.

Therefore, general fund expenditures increase by $44,463 in fiscal 2018 for DHMH to hire one full-time policy analyst to coordinate data collection for the required annual report. This estimate reflects a start date of January 1, 2018. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	$39,795
Operating Expenses	4,668
FY 2018 DHMH Expenditures for the Report	**$44,463**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Additionally, beginning in fiscal 2019, general fund expenditures increase by $100,000 annually for contractual data analysis services.

Penalties Assessed: The requirement for substance use disorder services programs to annually submit financial statements and salary information is not expected to materially impact revenues due to penalties imposed for failure to comply with the requirement.

Additional Comments: The bill specifies that the Governor's proposed budget for fiscal 2018, and for each fiscal year thereafter ***until*** fiscal 2021, must include rate adjustments for community providers of 2.25%. This provision could be interpreted as applying only in three years: fiscal 2018, 2019, and 2020. However, when taken in context with other provisions in the bill, this analysis assumes that "until" is inclusive of fiscal 2021. The bill clearly requires that, if the rate increase has to be deferred due to State employees not receiving specified salary increases, there must be a total of four such rate adjustments.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, SB 497 (Senator Guzzone, *et al.* - Finance and Budget and Taxation) is not identical.

Information Source(s): Maryland Association of County Health Officers, Department of Budget and Management, Department of Health and Mental Hygiene, Governor's Heroin and Opioid Emergency Task Force, U.S. Bureau of Labor Statistics, Department of Legislative Services

Fiscal Note History:	First Reader - February 15, 2016
min/ljm	Revised - Correction - February 19, 2016
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