Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 433 (Senator Klausmeier, *et al.*)
Finance Health and Government Operations

Substance Use Treatment - Inpatient and Intensive Outpatient Programs - Consent by Minor

This bill specifies that a parent or guardian of a minor may apply, on behalf of the minor, for the minor's admission to a certified intensive outpatient alcohol and drug abuse program and makes a series of conforming changes. The bill specifies that the capacity of a minor to consent to treatment for drug abuse or alcoholism does not include the capacity to refuse treatment in an intensive outpatient alcohol or drug abuse treatment program.

Fiscal Summary

State Effect: Expenditures for Medicaid (50% general funds, 50% federal funds) and the Maryland Children's Health Program (MCHP) (88% federal funds, 12% general funds) increase by an indeterminate amount beginning in FY 2018, to the extent more minors are admitted to certified intensive outpatient alcohol and drug abuse programs under the bill. Federal matching revenues increase correspondingly.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A parent or guardian of a minor may apply, on behalf of the minor, for the minor's admission to a certified inpatient alcohol and drug abuse program or facility. A program or facility may not admit an individual unless the program or facility determines that (1) the individual has an alcohol or other drug dependency that necessitates the program's or facility's level of care; (2) the individual would benefit from treatment;

(3) the parent or guardian making the application for admission understands the nature of the request and treatment; and (4) the director of the Behavioral Health Administration or the director's designee has given assent to the admission. A parent or guardian who applies for a minor's admission for treatment has the right to be actively involved in the treatment. A facility has the right to discharge an individual if the individual does not comply with the treatment program or the facility's policies and procedures.

A minor has the same capacity as an adult to consent to medical or dental treatment if the minor is married, the parent of a child, or living separately from the minor's parents or guardian and self-supporting. A minor may also consent to medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual. Similarly, a minor has the same capacity as an adult to consent to psychological treatment about drug abuse or alcoholism if, in the judgment of the attending physician or a psychologist, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.

In addition, a minor may consent to (1) treatment for or advice about drug abuse, alcoholism, venereal disease, pregnancy, or contraception other than sterilization; (2) physical examination and treatment of injuries from an alleged rape or sexual offense; (3) physical examination to obtain evidence of an alleged rape or sexual offense; and (4) initial medical screening and physical examination on and after admission of the minor into a detention center. The capacity of a minor to consent to treatment for drug abuse or alcoholism does not include the capacity to refuse treatment in an inpatient drug or alcoholism treatment program for which a parent or guardian has given consent.

A licensed health care practitioner who treats a minor is not liable for civil damages or subject to any criminal or disciplinary penalty solely because the minor did not have capacity to consent.

Without the consent of or over the express objection of a minor, a licensed health care practitioner may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor, except information about an abortion.

Background: According to the U.S. Centers for Disease Control and Prevention, in 2015, 33% of high school students reported drinking some amount of alcohol and 18% reported binge drinking in the previous 30 days. Further, youth who start drinking before the age of 15 are six times more likely to develop alcohol dependence or abuse later in life than those who start drinking at or after the age of 21. In a 2016 survey of eighth, tenth, and twelfth grade students, the National Institute on Drug Abuse found that use of illicit drugs other than marijuana continued to decline to an all-time low, with 5.4% of eighth grade

students, 9.8% of tenth grade students, and 14.3% of twelfth grade students using illicit drugs other than marijuana in the past year. Compared to 2011, marijuana use declined among eighth and tenth grade students and remained unchanged among twelfth grade students.

State Fiscal Effect: Because certified intensive outpatient alcohol and drug abuse program services are covered for minors enrolled in Medicaid when medically necessary, Medicaid expenditures increase if more minors are admitted to such programs under the bill; the federal match is 50%. A similar impact may occur for minors enrolled in MCHP but with a federal match of 88%. This analysis assumes there is no substitution effect for these outpatient services as inpatient program services are also covered. After an inpatient stay, an individual may also participate in an intensive outpatient program. Further, an intensive outpatient program may be determined to be the medically necessary/appropriate level of treatment for a minor. The impact on the Medicaid and MCHP programs cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: HB 1093 (Delegate K. Young, *et al.*) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene; U.S. Centers for Disease Control and Prevention; National Institute on Drug Abuse; Department of Legislative Services

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