SB 476

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 476 (Senator Guzzone, *et al.*)

Finance and Budget and Taxation Health and Government Operations

Behavioral Health Community Providers - Keep the Door Open Act

This bill requires the Governor's proposed budget for fiscal 2019 and 2020 to include a 3.5% rate increase for community providers over the funding provided in the prior year's legislative appropriation for specified services; for fiscal 2021 and each year thereafter, until a required payment system is implemented, a 3.0% rate increase must be included in the Governor's proposed budget. The Department of Health and Mental Hygiene (DHMH) must conduct a rate-setting study, submit an associated report, and implement a payment system based on the results of the study. DHMH must notify the Department of Legislative Services (DLS) within five days after the payment system is implemented. The bill also institutes an annual reporting requirement for DHMH beginning December 1, 2019.

The bill takes effect June 1, 2017. However, the bill terminates on June 30, 2023, if DLS does not receive the required notice regarding payment system implementation by that date.

Fiscal Summary

State Effect: No effect in FY 2017 or 2018. DHMH general fund expenditures increase by $18.2 million in FY 2019 to provide a 3.5% rate increase for behavioral health community providers and ensure completion of the required report and study. Federal fund revenues and expenditures increase by $18.6 million in FY 2019 due to the Medicaid match. Future year expenditures reflect a 3.5% rate increase in FY 2020 and a 3.0% rate increase annually thereafter, the compounding effect of the rate increase, a lower federal matching rate, and $100,000 in annual contractual data analysis services. **This bill establishes a mandated appropriation beginning in FY 2019.**

($ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
FF Revenue	$0	$18.6	$36.9	$52.8	$69.7
GF Expenditure	$0	$18.2	$37.8	$55.4	$73.2
FF Expenditure	$0	$18.6	$36.9	$52.8	$69.7
Net Effect	$0.0	($18.2)	($37.8)	($55.4)	($73.2)

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

Local Effect: None.

Small Business Effect: Meaningful for small business community providers that receive annual rate increases under the bill. Providers must also submit required information to DHMH, which may be burdensome for smaller providers with limited resources.

Analysis

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

The bill expresses the intent of the General Assembly that a substantial portion of the rate adjustment be used to compensate direct care staff and licensed clinicians employed by community providers and to improve the quality of provided programming. Thus, the bill establishes that the increased funding provided under the bill may only be used to increase the rates paid to community providers that are accredited by an approved accrediting body and licensed by the State and to health care providers who are acting within the scope of their licenses or certificates under the Health Occupations Article.

If community providers' services are provided through managed care organizations (MCOs), the MCOs must (1) for the first fiscal year the MCOs provide the services, pay the rate in effect during the prior fiscal year and (2) adjust the rate for community providers each fiscal year by at least the same amount as specified in the bill. However, 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.

In addition, the bill establishes that the Governor's proposed budget for community providers must be presented in the same manner as provided for in the fiscal 2018 budget.

DHMH's Behavioral Health Administration and Medical Care Programs Administration must jointly (1) conduct an independent cost-driven, rate-setting study to set community provider rates that includes a rate analysis and an impact study that considers the actual cost of providing community-based behavioral health services; (2) develop and implement a payment system incorporating the study's findings, including projected costs and funding recommendations; and (3) consult with stakeholders, including providers and individuals receiving services, in conducting the study and developing the payment system.

DHMH must complete the required study by September 30, 2019. Further, DHMH must adopt regulations to implement the required payment system.

By December 1, 2019, and each year thereafter, DHMH must submit a report on the impact of the rate adjustment and payment system on community providers, including the impact on (1) the wages, salaries, and 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.

Additionally, by December 1, 2019, DHMH must submit a report that (1) details outcome measures that reasonably can be collected for each treatment modality offered by community providers for which the rate would be adjusted under the bill and (2) includes specified recommendations on how reimbursement rates can be tied to outcomes.

Current Law/Background: The Governor's proposed fiscal 2018 budget includes a 2.0% rate increase for community behavioral health providers (totaling $16.2 million) and a supplemental general fund appropriation of $8.0 million for Medicaid community behavioral health provider reimbursements for fiscal 2017.

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 $18,192,478 in fiscal 2019 for DHMH to provide the bill's required rate of reimbursement and to ensure completion of the bill's reporting requirements and rate-setting study.

Rate Adjustment: General fund expenditures for DHMH increase by $18,066,483 in fiscal 2019 to provide a 3.5% rate increase for behavioral health community providers. This analysis is based on an estimated $1,045,563,557 in total budgeted costs and $443,869,464 in general fund expenditures for community behavioral health providers' reimbursable services in fiscal 2018. Federal fund revenues and expenditures increase by $18,528,242 due to the Medicaid match.

Future year expenditures reflect a lower federal matching rate and assume a 3.5% rate increase in fiscal 2020. This analysis also assumes that DHMH does not implement a new payment system before fiscal 2023 and, thus, assumes a 3.0% rate increase in fiscal 2021 and 2022. Future year expenditures also reflect the compounding effect of increasing reimbursement each year. Therefore, in fiscal 2022, general fund expenditures are estimated to increase by $73,018,395 and federal fund revenues and expenditures increase by $69,661,929. This analysis does not take into account any increase in utilization or enrollment, which may further increase costs. Further, costs vary depending on if or when DHMH implements a payment system in accordance with the bill. (A 3.0% rate increase may also be provided in fiscal 2023, which is outside of the five-year period included in this fiscal and policy note, if the payment system has not been implemented before then; however, the costs associated with rate increases do not continue beyond fiscal 2023.)

DHMH Study and Reporting Requirements: DHMH advises that, in fiscal 2019, $100,000 in contractual services is required to complete the required rate-setting study and an additional $100,000 in separate contractual services is also required to complete the required report on outcome measures, for a total of $200,000 in contractual services in fiscal 2019. Further, $100,000 in annual contractual services is required beginning in fiscal 2020 to complete the required annual report on the impact of rate adjustments and the payment system on community providers. As Medicaid contracts these services, such services are eligible for a federal matching rate. Thus, Medicaid expenditures (60% federal funds, 40% general funds) increase by $200,000 in fiscal 2019 and by $100,000 annually thereafter for the required contracts. Federal matching revenues increase correspondingly.

DHMH advises that, given the scope of the annual reporting requirement, it must hire one full-time, grade 18 policy analyst 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. Extensive follow-up with providers is likely necessary in order to gather all required data.

In order to ensure data analysis is completed in time for the December 1, 2019 report, DLS advises that, although costs for contractual data analysis services for the annual report begin in fiscal 2020, DHMH must hire staff in fiscal 2019 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 $45,995 in fiscal 2019 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, 2019. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	$41,042
Operating Expenses	4,953
FY 2019 DHMH Administrative Expenditures	**$45,995**

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses. These costs continue at least through fiscal 2023, and they may continue in the out-years if a payment system is implemented and the bill does not terminate.

Additional Information

Prior Introductions: SB 497 of 2016, a similar bill, passed the Senate and the House with amendments, but no further action was taken. Its cross file, HB 595, passed the House with amendments and was referred to the Senate Rules Committee, but no further action was taken.

Cross File: HB 580 (Delegate Hayes, *et al.*) - Health and Government Operations.

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

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