

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 847 (Delegate Queen, *et al.*)  
Health and Government Operations

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Maryland Medical Assistance Program - Benefits for Individuals Who Are  
Incarcerated or Institutionalized

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This bill requires the Department of Health and Mental Hygiene (DHMH), to the extent authorized by federal law or regulation, to provide six months of presumptive eligibility (PE) for Medicaid to an individual on release from incarceration or from an institution for the treatment of mental disease (IMD). DHMH, in consultation with the Department of Public Safety and Correctional Services (DPSCS), must establish a process to train and certify staff from correctional facilities, local health departments, and the Department of Human Resources as PE determiners. The bill also repeals an obsolete contingency.

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Fiscal Summary

**State Effect:** Medicaid general fund expenditures increase by *as much as* \$90.1 million in FY 2018 to provide a full six months of PE to individuals released from *incarceration*. Additional expenditures may be incurred for individuals released from an IMD, but they cannot be reliably quantified at this time. Training and certification of staff to perform PE determinations can be handled with existing resources. Federal matching funds are not available; thus, revenues are not affected. **This bill increases the cost of an entitlement program beginning in FY 2018.**

**Local Effect:** Any change in activities at local health departments does not materially affect local finances.

**Small Business Effect:** None.

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## Analysis

**Current Law:** If a Medicaid recipient aged 21 to 65 years is incarcerated or admitted to an IMD, DHMH must *suspend* (but may not terminate) Medicaid benefits for the individual while the individual is incarcerated or institutionalized. Per Chapter 82 of 2005, the benefit suspension requirements were contingent on DHMH's receipt of funding for a new computerized eligibility system for Medicaid. The benefit suspension requirements took effect on the date the new eligibility system was implemented. Prior to Chapter 82, Medicaid terminated Medicaid benefits for an individual who is incarcerated or institutionalized. Individuals were required to reapply for Medicaid upon release, often experiencing significant delays before being reenrolled.

Chapter 515 of 2016, the Justice Reinvestment Act, requires DPSCS and DHMH to establish a process to expand enrollment of incarcerated individuals in Medicaid upon release.

**Background:** According to DHMH, incarcerated individuals are more likely to (1) suffer from chronic and/or infectious diseases; (2) be low income and uninsured; and (3) have a higher prevalence of mental health and substance use disorders than the general population. Improving access to health care immediately upon release from incarceration, especially access to substance use and mental health treatment, likely improves health outcomes and reduces recidivism in this population.

DHMH is currently seeking a State Plan Amendment from the federal Centers for Medicare and Medicaid Services (CMS) to provide Medicaid PE for individuals leaving incarceration. If granted, DHMH will have the ability to grant PE for up to *six weeks* for individuals upon release and receive a 50% federal matching rate. PE will be processed through the State eMedicaid portal, and PE determiners can proceed with applications during discharge planning to ensure that, upon release from incarceration, individuals have timely access to necessary medical care and prescription drugs.

Under an October 2014 State Plan Amendment, DHMH implemented a Medicaid Hospital Presumptive Eligibility (HPE) program. Hospital employees make eligibility determinations based on limited, self-attested income and demographic information. Populations eligible for HPE include children, parents and caretaker relatives, single childless adults younger than age 65, and pregnant women. HPE participants receive up to 60 days of temporary Medicaid benefits while they apply for full Medicaid coverage. If approved, they transition into full Medicaid enrollment. To participate, hospitals must apply and have participating staff complete a training and HPE knowledge test. DHMH certifies hospitals that meet these criteria to participate in HPE.

**State Fiscal Effect:** DHMH general fund expenditures increase by *as much as* \$90.1 million in fiscal 2018, which reflects the bill's October 1, 2017 effective date. This estimate reflects the cost to provide a full *six months* of PE to individuals released from incarceration. The information and assumptions used in calculating the estimate are stated below:

- An estimated 55,662 individuals are released from jail or prison, and an additional 1,300 are released from a correctional facility in Maryland each year.
- This figure may include individuals younger than age 21 who are released from incarceration but who are not specified as eligible for PE under the bill.
- Of these individuals, 90% of those released from jail or prison (50,096) and 30% of those released from a correctional facility (390) will be granted PE upon release.
- PE coverage costs \$529 per member per month.
- Medicaid will receive a waiver from CMS to provide *six weeks* of PE to 50,486 individuals with a 50% federal match at an annual total cost of \$40.0 million.
- The cost of the first six weeks of PE *is not* included in this estimate as DHMH is implementing this policy in the absence of this bill.
- The cost of an additional 4.5 months of PE is \$2,380.50 per enrollee.
- The cost to provide PE to 50,486 individuals for an additional 4.5 months is \$120.2 million on an annual basis.
- Federal matching funds are *not available* beyond the six-week period as DHMH advises that CMS will not approve a waiver to cover individuals who may not ultimately be eligible for Medicaid for a six-month period (PE is typically limited to no more than 60 days).
- DHMH general fund expenditures increase by as much as \$90.1 million in fiscal 2018, which reflects the bill's October 1, 2017 effective date, to provide a full six months of PE coverage to individuals upon release from incarceration.
- This estimate *does not* reflect the cost to provide PE to individuals upon release from an IMD as Medicaid does not currently cover such services and cannot estimate how many individuals would qualify for PE upon release.

Actual Medicaid expenditures depend on how quickly individuals granted PE upon release from incarceration complete a full Medicaid application and the proportion of individuals found eligible for full Medicaid benefits.

If an individual is found eligible for full Medicaid benefits, the individual is transitioned from PE to a regular Medicaid eligibility category, and the cost of coverage is eligible for federal matching funds (as much as 94.5%). Thus, to the extent individuals granted PE convert to full Medicaid eligibility soon after release, general fund expenditures are

*significantly* less than this estimate. However, even if an individual is ultimately found eligible for full Medicaid benefits, if the individual does not complete a full Medicaid application until the end of the PE period, CMS will not cover the federal share of the individual's care during the PE period beyond the six-week period.

If an individual is found ineligible for Medicaid, the individual remains covered under PE until the end of the month in which the individual is determined to be ineligible, and the State is responsible for 100% of the cost of care.

The Department of Legislative Services notes that, when DHMH implemented HPE in 2014, the coverage was anticipated to cost approximately \$50.0 million annually (total funds). However, actual Medicaid expenditures for HPE have been approximately \$4.0 million annually (total funds).

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Association of County Health Officers; Department of Health and Mental Hygiene; Department of Human Resources; Department of Public Safety and Correctional Services; Department of Legislative Services

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