SB 867

Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 867 (Senator Lee)
Finance

Maryland Medical Assistance Program - Employed Individuals With Disabilities Program - Requirements (Equal Love for Employees With Disabilities Act)

This bill repeals existing provisions regarding the Medicaid Employed Persons with Disabilities Program (known as the Employed Individuals with Disabilities, or EID program). Instead, the Maryland Department of Health (MDH) must provide health care services for individuals under the EID program codified under the bill in a specified manner. MDH must apply to the federal Centers for Medicare and Medicaid Services (CMS) for any amendments to the State plan, waivers, or other federal approvals necessary to implement the bill. MDH must implement the bill by October 1, 2022. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Medicaid expenditures (50% general funds, 50% federal funds) increase by a significant but indeterminate amount beginning in FY 2023 to expand the EID program, as discussed below. Federal fund revenues increase accordingly. **This bill increases the cost of an entitlement program beginning in FY 2023.**

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: MDH must (1) provide EID program services to qualified applicants, including existing Medicaid recipients, who are at least 16 years old; (2) transition Medicaid recipients who become eligible for the EID program in a manner that is least disruptive to the recipient's access to services; (3) ensure that the application process for the EID program, to the extent authorized by CMS, provides maximum flexibility and plain language information for applicants, as specified; (4) establish a premium contribution for EID program services that is based solely on an applicant's earned and unearned income; and (5) if a recipient of EID program services becomes unemployed through no fault of the recipient, allow the recipient to remain eligible for services for up to one year.

MDH may not limit eligibility to receive EID program services based on the earned or unearned income of the applicant or the applicant's spouse or any assets or resources of the applicant or the applicant's spouse.

An individual may not receive EID program services unless the individual is employed, except as specified.

If an individual is no longer receiving services under the EID program, assets earned by the individual while receiving services, including all retirement accounts and life insurance policies, may not be considered in determining the individual's eligibility for any other program within Medicaid.

Current Law: To the extent that funding is available in the State budget, MDH must implement the EID program by July 1, 2005. The purpose of the program is to encourage individuals with disabilities to seek or maintain employment. The Secretary of Health must adopt regulations that develop specific eligibility criteria for participation in the program. Prior to adopting the regulations, MDH must consult with the Coalition for Work Incentives Improvement and give preference to the recommendations for eligibility criteria developed by the coalition. At least every three years after the adoption of the regulations, MDH must review the regulations in consultation with the coalition.

To qualify for the EID program, an individual must meet financial and nonfinancial criteria. An applicant's assistance unit (which includes, when living together, an applicant's spouse) must have an income at or below 300% of the federal poverty level (FPL) and assets at or below $10,000 for an individual and $15,000 for a couple. Certain retirement accounts (401(k), 403(b), pension, and Keogh plans) are exempt from this limit. Applicants must also (1) be age 18 to 64; (2) be employed and able to verify employment; (3) except for the consideration of substantial gainful activity (SGA), meet the definition of disability under the Social Security Act; (4) meet Medicaid citizenship and residency requirements; and (5) not be receiving comprehensive Medicaid or Maryland Children's Health Program benefits. Most enrollees pay a monthly premium based on the income of the assistance unit.

In late 2021, MDH and stakeholders agreed to an expansion of the EID program that (1) removes the current 300% FPL income limit for program applicants and allows the income of both the applicant and the applicant's spouse to be disregarded at any time during the eligibility process; (2) considers assets only at initial eligibility assessment and disregards assets at future renewals even if a person marries; (3) considers income streams for both the eligible individual and a spouse in determining premium amounts; and (4) continues to exclude 401(k), 403(b), pension, and Keogh plans from consideration when determining eligibility and premium contribution amounts. The Governor's proposed fiscal 2023 budget includes $4.6 million in total funds (50% general funds, 50% federal funds) to expand eligibility for the EID program as negotiated with stakeholders.

State Fiscal Effect: MDH advises that the bill substantially alters the EID program by (1) reducing the lower age limit for the program from 18 to 16; (2) excluding spousal income in the assistance unit from the calculation of income for premium contribution owed; (3) prohibiting spousal assets from being taken into account when determining initial eligibility; (4) extending the existing grace period allowed for EID enrollees to continue to receive coverage in the event of temporary loss of employment from 6 months to 12 months; and (5) exempting assets earned by the individual while enrolled in the EID program from any future determination of eligibility for any other Medicaid program.

Due to expansion of eligibility, enrollment in the EID program is anticipated to increase under the bill; thus, Medicaid expenditures (50% general funds, 50% federal funds) increase by a significant but indeterminate amount beginning in fiscal 2023. Federal fund revenues increase accordingly.

Potential Enrollment – Social Security Disability Income Terminations

Individuals receiving federal Social Security Disability Income (SSDI) cannot earn more than $1,260 per month ($2,110 for a blind person) without being considered engaging in SGA. After a specified period in which income is permitted to exceed the SGA amount, SSDI benefits are terminated. MDH advises that an estimated 1,200 individuals who have lost SSDI coverage due to SGA will join the EID program under the bill.

For illustrative purposes only, based on an average annual service cost of $5,381 offset by estimated annual premium contributions of $1,548, Medicaid expenditures increase by a net of $3,833 per person. Thus, Medicaid expenditures increase by an estimated $4.6 million (50% general funds, 50% federal funds) on an annual basis to provide coverage for the estimated 1,200 individuals who may enroll in the EID program under the bill.

Potential Enrollment – Model Waiver Waitlist

The Model Waiver allows medically fragile individuals who would otherwise be hospitalized and are certified as needing either hospital or nursing facility level of care to receive medically necessary and appropriate services in the community. An applicant must be a chronically ill or severely impaired child younger than age 22, whose illness or disability may not require 24-hour inpatient care, but which, in the absence of home care services, may precipitate admission to or prolong a stay in a hospital, nursing facility, or other long-term care facility. MDH advises that the 161 individuals on the Model Waiver waitlist likely qualify for the EID program under the bill.

For illustrative purposes only, based on an average annual service cost of $112,500 (based on current Model Waiver enrollees) offset by estimated annual premium contributions of $1,548, Medicaid expenditures increase by a net of $110,952 per child. Thus, Medicaid expenditures increase by an additional $17.9 million (50% general funds, 50% federal funds) on an annual basis to cover the 161 children on the Model Waiver waitlist that enroll in the EID program under the bill.

Additional Impacts

Currently, Medicaid coverage for adults up to age 65 on the basis of modified adjusted gross income (MAGI) does not consider an applicant's assets, while coverage on a non-MAGI basis due to being aged, blind, or disabled, as well as qualifying for Medicare Savings Programs, including the Qualified Medicare Beneficiary Program, Specified Low-Income Medicare Beneficiary Program, and Qualifying Individual Program, includes consideration of assets. States have discretion when determining asset limits under federal law; however, such flexibility can only be exercised across the entire coverage group. States do not have discretion to set alternative asset requirements for a subgroup of applicants.

Under the bill, an individual who is no longer receiving services under the EID program who later requires services from another Medicaid program is able to maintain all assets earned while receiving EID services. By contrast, all other applicants for services such as nursing home care are required to spend down their resources before qualifying for coverage. Due to the requirement that any asset limits apply to an entire coverage group, in order to implement this provision of the bill, MDH would have to either pay for any additional services for former EID program recipients with State general funds or apply this asset limit change to all applicants within the entire coverage group at a substantial additional cost.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Disabilities; Maryland Department of Health; Department of Legislative Services

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