

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 889 (Delegates Saab and Chisholm)
 Appropriations

Public Assistance Programs - Data Sharing and Review (Welfare Program Integrity Act of 2022)

This bill requires both the Maryland Department of Health (MDH) and the Family Investment Administration (FIA) in the Department of Human Services (DHS) to enter into data-sharing agreements with specified State agencies to identify changes that may affect an individual’s eligibility for Medicaid or the Supplemental Nutrition Assistance Program (SNAP). The Maryland Office of the Inspector General (OIG) of Health must review the information shared under the data-sharing agreements at least quarterly, and OIG may contract with an independent vendor to provide additional data or information.

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$101,700 in FY 2023 for additional staff and programming costs. Future years reflect annualization, elimination of one-time costs, and ongoing operating expenses. To the extent the bill results in the disenrollment of individuals found ineligible for Medicaid and SNAP, MDH general and federal fund expenditures and DHS general and federal fund expenditures decrease beginning in FY 2023; Medicaid federal fund revenues decrease accordingly.

| (in dollars) | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| FF Revenue | (-) | (-) | (-) | (-) | (-) |
| GF Expenditure | \$101,700 | \$113,900 | \$117,600 | \$121,300 | \$125,200 |
| GF/FF Exp. | (-) | (-) | (-) | (-) | (-) |
| Net Effect | (\$101,700) | (\$113,900) | (\$117,600) | (\$121,300) | (\$125,200) |

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: MDH must enter into data-sharing agreements with the Division of Vital Records (DVR) and the Maryland Department of Labor (MDL), including by memorandum of understanding (MOU), to identify any changes that may affect an individual's eligibility for Medicaid, including sharing death records, gambling winnings, lottery winnings, tax filings or information, and income records or information. MDH must review any shared information at least monthly or quarterly, as specified. MDH may enter into and manage data-sharing agreements with any federal, State, or local department, agency, or division or independent vendor to provide additional data or relevant information.

FIA must enter into such agreements, including by MOU, with (1) the State Lottery and Gaming Control Agency (SLGCA) to identify individuals with substantial lottery or gambling winnings and (2) MDH, DVR, and MDL to identify any changes in circumstances that may affect an individual's eligibility for SNAP. FIA must enter into these agreements to share death records, gambling winnings, lottery winnings, tax filings or information, and income records or information. FIA must review any shared information to identify changes that may affect an individual's eligibility for SNAP at least monthly or quarterly, as specified. FIA may enter into and manage data-sharing agreements with any federal, State, or local department, agency, or division or independent vendor to provide additional data or relevant information.

Current Law:

Maryland Department of Health

Medicaid is a comprehensive health care program for indigent and medically indigent individuals. Covered services in Maryland include inpatient and outpatient hospital, pharmacy, physician care, nursing facility, behavioral health, medical day care, and various home- and community-based services. Eligibility for Medicaid is determined by staff in MDH, DHS, and the Maryland Health Benefit Exchange (MHBE).

Chapter 70 of 2006 codified OIG within MDH and authorized the Inspector General (IG) to investigate fraud, waste, and abuse of departmental funds. OIG must cooperate and coordinate investigative efforts with the Medicaid Fraud Control Unit, departmental programs, and other State and federal agencies to ensure a provider is not subject to duplicative audits. The IG may take necessary steps to recover (1) mistaken claims paid or payments obtained in error or fraudulent claims paid to or obtained by a provider and (2) the cost of benefits mistakenly paid or obtained in error or fraudulently paid to or obtained by a recipient. Chapters 325 and 326 of 2021 establish the Maryland Office of the Inspector General for Health as an independent unit of the State, effective July 1, 2022.

MDH and MHBE currently have several data-sharing agreements in place. MDH and DVR (a division of MDH) have an agreement in place for the sharing of death reports. MHBE, which handles a majority of MDH's Medicaid determinations, has an agreement in place with MDL for Maryland Automated Benefit System (MABS) data, which includes income and employment information. MHBE is currently in the process of getting real-time data from MABS, as well as obtaining unemployment data.

MDH advises that OIG currently uses information from existing data-sharing agreements to investigate allegations of fraud committed by Medicaid providers and recipients. OIG also proactively identifies potential fraud, waste, and abuse involving Medicaid providers by analyzing claims data. In general, investigations involving Medicaid recipients occur after OIG receives an allegation of fraud, after which OIG verifies the information provided by the recipient.

While the MDH OIG currently uses data from existing data-sharing agreements to investigate fraud, the office does not review such data on a quarterly basis.

Department of Human Services

FIA is the central coordinating and directing agency of all public assistance programs in the State and administers cash benefits and other grant programs that provide financial assistance to individuals and families, including SNAP. SNAP is a federally funded benefit that helps low-income households purchase food. Program rules and requirements are issued by the federal government, while administrative costs are split equally between the State and federal government. Participants must meet income and resource requirements.

Under the Code of Maryland Regulations, the Office of the Inspector General within DHS must identify, investigate, and resolve suspicions of fraud, waste, and abuse. The Program Fraud Division investigates suspected fraud within DHS programs, including FIA program applications, redeterminations, and open cases. DHS' Office of the Inspector General currently receives lottery match data from SLGCA to determine program eligibility and collaborates with the MDH OIG in Medicaid cases.

State Fiscal Effect: Under the bill, the OIG for Health must review the information shared under the six data-sharing agreements at least quarterly. As noted above, while the OIG currently uses data from existing data-sharing agreements, the office does not review data from these agreements as specified under the bill. MDH advises that the OIG's Fraud Detection and Determination Unit currently does not have enough staff to meet the requirements of the bill.

Thus, general fund expenditures for the OIG for Health increase by *at least* \$61,664 in fiscal 2023, which accounts for the bill's October 1, 2022 effective date. This estimate

reflects the cost of hiring one program specialist to review data on a quarterly basis, assist with the referral intake process, and assist with fraud investigations as indicated. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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|---|-----------------|
| Position | 1.0 |
| Salary and Fringe Benefits | \$54,321 |
| Operating Expenses | <u>7,343</u> |
| Total FY 2023 State Expenditures | \$61,664 |

Future year expenditures reflect a full salary with annual increases and employee turnover and annual increases in ongoing operating expenses.

The Comptroller's Office advises that, as the bill requires the sharing of tax filing or information, it must negotiate a data-sharing agreement and provide data to MDH and FIA. In order to pull data from the Comptroller's data warehouse, general fund expenditures increase by \$40,000 annually beginning in fiscal 2023 for contractual programming costs. Future years reflect 4% annual inflation in contractual costs.

MDL advises that the Division of Unemployment Insurance will likely provide necessary data to the OIG for Health and FIA. Since the Unemployment Insurance program is federally funded, MDL advises that current staff may not be used to meet the bill's requirements. Therefore, to the extent MDL may need to hire additional staff, general fund expenditures increase accordingly.

This estimate does not reflect the cost of any information technology (IT) changes or enhancements that may be necessary to facilitate the exchange of data. Federal matching funds are available to the OIG for Health for IT changes at either a 50% matching rate or, if MDH submits an Advanced Planning Document for approval by the federal Centers for Medicare and Medicaid Services, a 90% matching rate. Furthermore, the estimate does not reflect any potential costs should the OIG for Health choose to contract with an independent vendor to provide additional data or information.

To the extent that quarterly review of data-sharing agreements results in a significant number of referrals for fraud, the OIG for Health likely needs additional personnel to handle the increased workload.

To the extent that the bill results in the disenrollment of individuals from Medicaid and FIA public assistance programs for which they are determined to be ineligible, Medicaid general and federal expenditures decrease, and FIA general and federal fund expenditures decrease beginning as early as fiscal 2023; Medicaid federal matching fund revenues also decrease accordingly.

Additional Information

Prior Introductions: HB 1076 of 2021, a similar bill, received a hearing in the House Appropriations Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Department of Human Services; Maryland Department of Health; Maryland Department of Labor; Maryland State Lottery and Gaming Control Agency; Department of Legislative Services

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