HB 953

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 953 (Delegate Pena-Melnyk, *et al.*)
Health and Government Operations

Public Health – Overdose and Infectious Disease Prevention Services Program

This bill authorizes a "community-based organization" (CBO) to establish an Overdose and Infectious Disease Prevention Services Program. A program must, among other requirements, provide a supervised location in which drug users can consume pre-obtained drugs, as well as receive other services, education, and referrals. However, a CBO must first receive approval from the Maryland Department of Health (MDH), in consultation with the local health department (LHD). MDH may not approve more than six programs and, to the extent practicable, should distribute programs evenly among urban, suburban, and rural areas of the State, with each area receiving no more than two programs. Each program must operate at a single location in an area with a high incidence of drug use. **The bill takes effect July 1, 2023, and terminates June 30, 2027.**

Fiscal Summary

State Effect: The bill's requirements can likely be handled within existing budgeted resources, as discussed below. Medicaid expenditures (general and federal funds) may increase minimally beginning in FY 2024; federal fund revenues increase correspondingly.

Local Effect: Potential significant operational and fiscal impact for some LHDs, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: CBO means a public or private organization that is representative of a community or significant segments of a community and that provides educational, health, or social services to individuals in the community. The definition includes a hospital, clinic,

substance use disorder treatment center, medical office, federally qualified health center, mental health facility, LHD, and faith-based organization.

MDH, in consultation with LHD, must make a decision regarding approval within 45 days of receiving an application and provide a written explanation of its decision to the CBO.

A program must, among other requirements, (1) provide sterile supplies for personal drug administration and collect and dispose of used supplies; (2) answer questions about safe drug use practices; (3) administer first aid, if needed, monitor for potential overdose, and administer rescue medications; (4) provide access or referrals to other health care services; (5) educate participants on the risks of contracting HIV and viral hepatitis and about proper disposal of hypodermic needles and syringes; (6) provide overdose prevention education and access to or referrals to obtain naloxone; and (7) provide adequate security and training for staff, as specified. A program may, with permission, bill a participant's health insurance; accept specified outside financial assistance; apply for grants; coordinate with any substance use prevention and outreach program, syringe services program, or CBO; and use a mobile facility.

A program may not be located in an area zoned for residential uses.

A program must annually report (and, therefore, collect) a range of data about its operations, including information relating to the number of participants served, items distributed for drug administration for use on-site, overdoses experienced and reversed on-site, individuals who received overdose care, individuals referred to other services, and any other information deemed necessary by MDH for assessing the impact of the program.

Program participants, program staff members, and property owners of a facility at which a program is located and operates who act in accordance with the bill's provisions may not be subject to arrest, prosecution, or any civil or administrative penalty (including action by a professional licensing board), nor may they be subject to the seizure or forfeiture of any real or personal property used in connection with a program in accordance with State or local law. However, these individuals are not immune from criminal prosecution for any activities not authorized or approved by the program.

Current Law: Chapter 348 of 2016 authorizes an LHD or CBO, with the approval of MDH and the appropriate local health officer, to establish an opioid-associated disease prevention and outreach program. An LHD or CBO must apply to MDH and a local health officer for authorization to operate a program and receive their joint approval. An opioid-associated disease prevention and outreach program must:

- secure program locations and equipment;
- allow participants to obtain and return hypodermic needles and syringes at any program location, if more than one location is available;

- have appropriate staff expertise in working with individuals who inject drugs;
- include adequate staff training;
- disseminate other means for curtailing the spread of HIV and viral hepatitis;
- link individuals to additional services, including substance-related disorder counseling, treatment, and recovery services; testing for specified diseases; reproductive health education and services; wound care; and overdose response program services;
- educate participants on the dangers of contracting HIV and viral hepatitis;
- provide overdose prevention education and access to naloxone or a referral to obtain naloxone;
- establish procedures for identifying program participants in accordance with specified confidentiality provisions;
- establish methods for identifying and authorizing staff members and volunteers who have access to hypodermic needles, syringes, and program records;
- develop a plan for data collection and program evaluation; and
- collect and report specified information to MDH at least annually.

State Fiscal Effect: MDH, in consultation with the LHD, must approve (or deny) applications from CBOs and provide written justification for the decision. The bill limits the number of programs that may be approved to six and establishes no enforcement or ongoing requirements for MDH or LHDs. Although MDH advises that three full-time staff (including one administrator, one nursing program consultant, and one epidemiologist) are needed at a cost of approximately $325,000 in fiscal 2024 to implement the bill, the Department of Legislative Services (DLS) disagrees. Assuming a small number of CBOs apply and MDH must consult with the LHD to review applications before authorizing no more than six programs, DLS advises that MDH can likely implement the bill's requirements with existing resources and staffing levels. To the extent that a significant number of CBOs apply, MDH may need additional staff to review applications and possibly conduct site visits; however, any such staff would be contractual as the authorization for a program terminates after four years.

MDH further advises that some services (including sexually transmitted infection tests, first aid care, reproductive health care services, and coverage for dispensed naloxone) provided by a program to a Medicaid participant, when medically necessary and delivered by specified providers, may be covered by Medicaid. Thus, Medicaid expenditures (and matching federal fund revenues) increase to the extent that programs are established, Medicaid participants access services that they otherwise would not have accessed, and the program bills Medicaid for the services.

Local Fiscal Effect: Expenditures increase significantly (through fiscal 2027) for any LHD that chooses to implement a program as authorized under the bill. It is unknown how

much such a program will cost, and there would likely be significant variations among programs depending on the size, number of health care professionals, hours, variety of services, and population served. MDH has previously advised that implementing an opioid-associated disease prevention and outreach program for an average-sized LHD costs approximately $400,000. Thus, establishing a program under the bill likely costs at least $400,000. However, the Maryland Association of County Health Officers (MACHO) advises that no LHD plans to set up such a facility or program at this time. DLS notes that LHDs are *not* mandated to establish a program under the bill. Any expenditures may be offset by billing insurance companies for certain services, donations, grants, or other financial assistance.

Historically, MACHO has also advised that it may also cost LHDs approximately $1,500 to $2,000 annually to review CBO applications and reports. A specific process may need to be established to allow for the proper consideration of program applications from LHDs, which qualify as CBOs under the bill but are also involved in the application review and approval process.

Small Business Effect: To the extent that a CBO is a small business and establishes a program under the bill, expenditures increase significantly, as discussed under the local fiscal effect. Expenditures may be offset by billing insurance companies (including Medicaid) for certain services, or from donations, grants, or other financial assistance.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 279 and HB 953 of 2021 and SB 990 and HB 464 of 2020.

Designated Cross File: SB 618 (Senator Hettleman, *et al.*) - Finance.

Information Source(s): Maryland Association of County Health Officers; Maryland Department of Health; Department of Legislative Services

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