HB 657

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 657 (Delegates S. Johnson and A. Johnson)
Health and Government Operations

Maryland Medical Assistance Program - Employed Individuals With Disabilities

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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, 2023. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: Medicaid expenditures (50% general funds, 50% federal funds) increase by a significant amount, as much as $31.3 million in FY 2024 and $41.8 million in the out-years, 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 2024.**

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 (1) the earned or unearned income of the applicant or the applicant's spouse or (2) 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.

State Fiscal Effect: The fiscal 2023 budget includes $4.6 million (50% general funds, 50% federal funds) to expand EID program eligibility. After working with stakeholders, MDH began to implement changes to the EID program that would have eliminated the income limit, established new premium tiers for applicants with incomes at or above 300% FPL, and required an asset test for individual and spousal assets at initial application only. MDH submitted a State Plan Amendment (SPA) to CMS and drafted regulations to implement the changes, with a planned effective date of October 1, 2022. Upon review, CMS denied the SPA, stating that eligibility rules must be the same at both initial application and renewal.

Based on CMS guidance, MDH is currently adjusting its proposal. To achieve the goal of not counting an applicant's income at the time of renewal (or in determining the individual's eligibility for any other program within Medicaid), MDH now plans to continue the existing asset test for applicants and enrollees. Any *earned income* accumulated and saved in an Independence Account by an enrollee during their enrollment in the program will not be counted in the asset test at renewal or for eligibility for subsequent Medicaid programs. The asset test will also be eliminated for spouses. MDH is currently working to update regulations and the State Plan in accordance with the CMS guidance. MDH anticipates that these new changes will be implemented by August 2024.

Several of the bill's provisions, including reducing the lower age limit for the EID program from 18 to 16; prohibiting spousal assets from being taken into account when determining initial eligibility; and exempting assets earned by the individual while enrolled in the EID program from any future determination of eligibility for any other Medicaid program are included (at least in part) in MDH's current plans to update the EID program. However, only *earned income* assets saved in Independence Accounts will be exempt from the asset test at renewal.

The bill prohibits MDH from limiting eligibility to receive EID program services based on any assets or resources of the applicant or the applicant's spouse. MDH advises that, in combination with removing the income limit (as required in the bill and included in MDH's proposal), elimination of the asset test for applicants creates a substantial fiscal impact on Medicaid by significantly expanding eligibility for the EID program. Thus, Medicaid expenditures (50% general funds, 50% federal funds) increase by a significant amount beginning in fiscal 2024 due to anticipated increased enrollment in the EID program. Federal fund revenues increase accordingly.

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 changes to the program already in progress. However, by eliminating the asset test for applicants under the bill, MDH estimates that an additional 10,897 individuals who have lost SSDI benefits due to SGA would become eligible for EID.

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 *as much as* $31.3 million (50% general funds, 50% federal funds) in fiscal 2024 to provide coverage for up to an additional 10,987 individuals who may enroll in the EID program under the bill. This accounts for program changes being in place by October 1, 2023. In future years, Medicaid expenditures increase by as much as $41.8 million to provide coverage for up to an additional 10,897 individuals.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 867 of 2022.

Designated Cross File: SB 572 (Senators Lewis Young and Salling) - Finance.

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

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