

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 822

(Delegate Cullison, *et al.*)

Health and Government Operations

Finance

Maryland Medical Assistance Program - Employed Individuals With Disabilities

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 services for individuals under the EID program 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. By December 1, 2024, MDH must submit a report to specified committees of the General Assembly on the fiscal and operational impact of implementing an EID program that serves individuals aged 65 and older and establishing premium contributions based on an applicant's earned and unearned income.

Fiscal Summary

State Effect: As the bill largely codifies requirements that have already been implemented by MDH, the bill has no material impact on Medicaid revenues or expenditures. MDH can submit the report using existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Independence account" means a financial account designated by a recipient of EID program services (1) that consists of earned income of a recipient or funds from other sources deposited by or for the recipient; (2) for which there is an upper limit

on the total amount of earned income received by the recipient in an enrollment year and deposited into the account; and (3) for which there are no restrictions under the EID program on how funds may be expended by the recipient.

MDH must (1) provide EID program services to qualified applicants, including existing Medicaid recipients, who are at least 16 years old; (2) for initial applications for EID program services, accept documents to verify income and resources that are dated up to 30 days before the date the application is received; (3) transition Medicaid recipients who become eligible for the EID program in a manner that is least disruptive to the recipient's access to services; (4) 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; and (5) establish a premium contribution for EID program services.

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's or recipient's spouse that are not joint assets for a recipient; (3) any retirement account assets or resources for an applicant or a recipient; and (4) any assets or resources in an independence account.

MDH may not establish as a prerequisite that an applicant apply for Social Security Disability Insurance benefits when the applicant does not receive the benefits and has earnings that are above the substantial gainful activity level established by the U.S. Social Security Administration (SSA). Subject to these provisions, MDH may adopt regulations that develop specific eligibility criteria for participation in the EID program.

MDH must (1) meet with a State-based coalition of disability advocates twice a year to receive feedback on and discuss any needed changes to the EID program and (2) request feedback from the coalition before providing any information or materials on the EID program to the public.

Uncodified language requires MDH, by December 1, 2024, to report to the Senate Finance Committee and the House Health and Government Operations Committee on the fiscal and operational impact of (1) implementing an EID program that serves individuals aged 65 and older, including options of eliminating or increasing the age cap with enrollment and (2) establishing a premium contribution for EID program services that is based on an applicant's earned and unearned income.

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.

The EID program is a Medicaid buy-in program for workers with disabilities who would be ineligible for Medicaid because of their earnings. To qualify for the EID program, an individual must be (1) between age 16 and 64 years old; (2) be a U.S. citizen or meet immigration status requirements; (3) have a disability that meets Social Security's medical criteria; (4) be working for pay; and (5) meet the asset limit.

MDH recently made substantial changes to the EID program that went into effect January 1, 2024, and impact enrollees during their next Medicaid renewal after that date. Changes include (1) lowering the eligibility age from 18 to 16; (2) eliminating the maximum income requirement and disregarding all retirement accounts for participants; (3) creating the flexibility of an independence account for participants; (4) disregarding spousal income and assets as part of applicant eligibility; and (5) setting new premium levels for higher-income recipients.

As a result of these changes, individuals ages 16 to 64 can be eligible for EID. Additionally, participants in the EID program may create an Independence Account as an exempt asset. No income standard applies to applicants or recipients of EID and spousal income is no longer considered as a part of eligibility determination. In addition, individuals must be employed and must have either a current determination of disability from either SSA or a State review team or had an SSA determination in the past and lost disability status for a reason other than medical improvement.

State Fiscal Effect: Many of the requirements under the bill have already been implemented by MDH or are consistent with existing policies in the EID program, including (1) providing EID program services to qualified applicants who are at least 16 years old; (2) accepting documents to verify income and resources that are dated up to 30 days before the date the application is received; (3) ensuring that the application process provides maximum flexibility and plain language information for applicants; and (4) not limiting eligibility based on the earned or unearned income of the applicant or the applicant's spouse, including retirement accounts and independence accounts. Thus, there is no material impact on Medicaid revenues or expenditures. MDH can submit the required report with existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced in the last three years. See SB 572 and HB 657 of 2023 of SB 867 2022.

Designated Cross File: None.

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

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