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COUNTY "MAINTENANCE OF EFFORT" RATES; CAP ON MEDICAID PROVIDER REIMBURSEMENT

Senate Bill 600 with House committee amendment

First Analysis (12-2-97)

Sponsor: Sen. R. Robert Geake

Senate Committee: Families, Mental Health and Human Services

First House Committee: Human Services

Children

Second House Committee: Appropriations

and

THE APPARENT PROBLEM:

Under the Social Welfare Act, counties providing Medicaid-funded nursing home services in county-owned facilities must reimburse the state according to a county "maintenance of effort" rate determined on an annual basis for each patient day of Medicaid nursing home services. The current formula for determining the maintenance of effort rates was placed in the statute in 1984; the 1984 legislation included a "hold harmless" provision, capping the payment rates of counties that would have had their payments increase under the new formula. The "hold harmless" provision expired in 1989, and in 1990 the legislature reinstated it and extended its life through December 31, 1994. The provision was extended again in 1995 and in 1996. It is currently scheduled to expire on December 31, 1997. It is proposed that the "hold harmless" provision be extended yet again.

In another matter, according to the House Fiscal Agency, a longstanding policy for Michigan (and many other states) has been to cap the total amount of payment for a covered medical service under the Medicaid program to the Medicaid payment rate, even if part of the payment for the service is paid by a third party or by Medicare. (This has the effect of reducing payments to providers and reducing state Medicaid costs.) Reportedly, medical providers have challenged these types of policies in other states and have won legal judgments. In order to settle a pending lawsuit of this type, the Department of Community Health's reimbursement policy was changed last year to exclude Medicare Part B (non-hospital medical care) from this policy. (Medicare reimbursement rates are higher than Medicaid rates.) This policy change was estimated to result in increased Medicaid costs of about \$85 million

per year, which the department indicated it would be able to offset through adjustments in other reimbursements. However, the federal Balanced Budget Act, enacted in August, 1997, specifically allows states to implement the disputed type of payment limit. The Department of Community Health has sought an amendment to statute to allow it to take advantage of the new federal policy, thus reducing state Medicaid costs.

THE CONTENT OF THE BILL:

Senate Bill 600 would amend the Social Welfare Act in the following ways:

- It would extend the "hold harmless" provision for county maintenance of effort payments for Medicaid-funded nursing home services in county-owned medical care facilities for three years, through December 31, 2000.
- It would provide that, notwithstanding any other provision of law and until September 30, 1998, the Department of Community Health would not be required to pay deductible, coinsurance, or copayment Medicare cost-sharing for a service to the extent that the payment, when combined with a payment made under Title XVIII of the federal Social Security Act [Medicare] for the service, would exceed the payment amount otherwise required under the state Medicaid plan for the service to be provided to an eligible recipient who is not a Medicare beneficiary. Further, the bill would provide that, for a state plan-approved medical services copayment, the amounts paid by Title XVIII [Medicare] and under the state plan for a service, if any, would

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constitute full payment for the service through September 30, 1998.

MCL 400.109 and 400.112e

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, county maintenance of effort payments are projected to total \$8 million in fiscal year 1996-97. Extending the current freeze on these rates for one more year would result in the loss of potential additional state revenues of \$800,000 to \$1 million; however, when the 1997-98 Department of Community Health budget was approved earlier this year, it assumed continuation of the current maintenance of effort rate freeze, so no additional funding would be required. Further, extension of the current freeze would save the same amount for local units of government that operate medical care facilities. It is estimated that more than two thirds of the 36 counties with medical care facilities would be required to increase their maintenance of effort payments if the freeze is not extended.

Further, with regard to the provisions concerning Medicaid payment rates, the HFA reports that failure to implement the proposed policy would result in significant unbudgeted expenditures unless other funding adjustments were made. (11-12-97)

ARGUMENTS:

For:

Despite efforts to rework the formula used in computing the maintenance of effort rates paid by counties for Medicaid patients in county-owned medical care facilities, no agreement has been reached as of yet. Another extension of the sunset date is necessary to avoid serious financial problems for some counties. If the sunset is not extended, it is expected that these additional costs could force the closure of some county-operated medical care facilities.

Further, the Department of Community Health reports that it could face further legal action, as well as budgetary problems, unless a policy change with regard to Medicaid payment rates is accomplished. The bill would allow the state to take advantage of a provision of the recently-enacted federal balanced budget act, which allows states to limit total payment for covered services to the Medicaid payment rate. This bill would address the problem immediately in a temporary manner, and it is anticipated that it will be addressed again during the appropriations process for fiscal year 1998-99.

POSITIONS:

The Family Independence Agency supports the bill. (11-19-97)

The Michigan Association of Counties supports the bill. (11-19-97)

Analyst: D. Martens

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