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SFA



BILL ANALYSIS

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Senate Bill 600 (as enrolled)
Sponsor: Senator Robert Geake
Senate Committee: Families, Mental Health and Human Services
First House Committee: Human Services and Children
Second House Committee: Appropriations

PUBLIC ACT 173 of 1997

Date Completed: 4-2-98

RATIONALE

Under the Social Welfare Act, counties that provide Medicaid-funded nursing home services in county-owned facilities must reimburse the State according to a county "maintenance of effort" rate determined under the Act. The current formula was enacted in 1984 and is based, in part, on the variable costs of operating county-owned facilities. Since the rate of some counties would have been higher under the 1984 formula than it was under the previous law, the 1984 amendments provided that the older rate would remain in effect until computations under the new formula produced a lower rate. This hold-harmless provision originally was scheduled to expire after five years, but it was extended in 1990, 1994, 1995, and again in 1996, and was scheduled to sunset on December 31, 1997. Since the expiration of the cap on counties' maintenance of effort rates could result in higher costs to some counties, it was suggested that the cap again be extended, but that the extension be for a three-year period.

In addition, 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 State Department of Community Health (DCH) reimbursement policy evidently was changed last year to exclude Medicare Part B (nonhospital 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. The 1997 Federal Balanced Budget Act, however, specifically allows states to implement the disputed type of payment limit. The Department of Community Health has sought a statutory amendment to allow it to take advantage of the new Federal policy, thus reducing State Medicaid costs.

CONTENT

The bill amended the Social Welfare Act to extend for three years, until December 31, 2000, provisions under which a county's maintenance of effort (MOE) rate for Medicaid-funded nursing home services is limited to the MOE rate in effect on September 30, 1984. The bill also provides that the DCH is not required to pay deductible, coinsurance, or copayment costs on certain Medicaid claims.

MOE Rate

Under the Act, the DCH is required to pay for nursing home services in accordance with the State plan for medical assistance, but a county is required to reimburse a county maintenance of effort rate determined on an annual rate for each patient day of Medicaid nursing home services provided to eligible persons in licensed long-term care facilities owned by the county. If a county-owned facility's "per patient day updated variable costs" exceed the variable cost limit for the facility, the rate is "45% of the difference between per patient day updated variable cost and the concomitant nursing home-class variable cost limit, the quantity offset by the difference between per patient day updated variable cost and the concomitant variable cost limit for the county facility". If a facility's per patient day updated

variable costs do not exceed the variable cost limit for the facility, the rate is 45% of the difference between per patient day updated variable cost and the concomitant nursing home class variable cost limit. The rate is zero for a facility with per patient day updated variable costs that do not exceed the concomitant nursing home class variable cost limit.

If the county maintenance of effort rate computed according to these provisions exceeds the rate in effect as of September 30, 1984, the rate in effect on that date is to remain in effect until the rate computed under the Act is less than the 1984 rate. This limitation was scheduled to expire on December 31, 1997. For each subsequent county fiscal year the maintenance of effort rate could not increase by more than \$1 per patient day each year.

The bill extended the December 31, 1997, expiration date to December 31, 2000.

Medicaid Cap

The bill provides that, notwithstanding any other provision of law and until September 30, 1998, the Department of Community Health is not 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 provides that, for a State Medicaid plan-approved medical services copayment, the amounts paid by Medicare and under the State Medicaid plan for a service, if any, constitute full payment for the service through September 30, 1998.

MCL 400.109 & 400.112e

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill gives counties three more years to adjust their variable costs so that their MOE rate under the statutory formula is less than what they would have had to pay under the pre-1984 rate. If the existing freeze on rates had not been extended, some counties might have experienced financial difficulty

in meeting their obligation to support medical care facility operations. This could have the long-range effect of causing some medical care facilities to close.

The sunset has been extended a number of times on an annual basis. Rather than do this every year, the provision should be extended for three years.

Supporting Argument

The DCH reportedly could have faced further legal action, as well as budgetary problems, unless a policy change with regard to Medicaid payment rates was accomplished. The bill allows 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 addresses the problem immediately in a temporary manner, and it is anticipated that the situation will be addressed again during the appropriations process for fiscal year 1998-99.

Legislative Analyst: P. Affholter

FISCAL IMPACT

Nominally this bill will have no direct fiscal impact on the FY 1997-98 DCH budget as the estimated revenue from counties for Medicaid long-term care services, in county-owned facilities, was not adjusted for possible changes in the maintenance of effort (MOE) rate. The State will forego the opportunity to collect additional revenue to offset General Fund/General Purpose (GF/GP) expenditures, of someplace in the area of \$1,000,000 annually, as two-thirds of the 36 county facilities would have had their MOE rate increased by up to \$1 per patient day if the current moratorium lapsed. It should be noted that if these additional costs to the counties placed the continued operation of these facilities in danger, then the State would have to deal with the possibility of closures and substantial transfers of elderly and disabled patients with unknown costs. Finally, these county facilities are a major link in one of the State's Medicaid special financing mechanisms. The loss of their participation could cost the State around \$150,000,000 in GF/GP offset.

Fiscal Analyst: J. Walker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.