

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 800 (Chair, Health and Government Operations Committee)

Health and Government Operations

Finance

Maryland Health Care Commission - Program Evaluation

This bill modifies the Maryland Program Evaluation Act review date for the Maryland Health Care Commission (MHCC) from July 1, 2007 to July 1, 2017 and increases the commission’s user fee cap from \$10.0 to \$12.0 million. The bill also makes permanent the authority of the Department of Health and Mental Hygiene (DHMH) to assess MHCC an administrative charge and specifies that MHCC costs include administrative costs.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: MHCC’s FY 2008 special fund revenues and expenditures would increase by as much as \$1.3 million, while general fund expenditures for DHMH would decrease by \$843,400 contingent upon enactment of this bill. Future year special fund revenues and expenditures reflect inflation.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	\$1,297,700	\$1,558,500	\$1,878,000	\$2,000,000	\$2,000,000
GF Expenditure	(843,400)	(843,400)	(843,400)	(843,400)	(843,400)
SF Expenditure	1,297,700	1,558,500	1,878,000	2,000,000	2,000,000
Net Effect	\$843,400	\$843,400	\$843,400	\$843,400	\$843,400

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal to none.

Analysis

Bill Summary: The bill makes several changes to commission operations and funding as recommended in the October 2006 Department of Legislative Services' (DLS) sunset evaluation of MHCC. **Exhibit 1** provides a summary of selected DLS recommendations, as well as the current law and background and the provisions of the bill associated with each recommendation.

Exhibit 1 Summary of Selected Recommendations in the DLS Sunset Review of the Maryland Health Care Commission

Issue	DLS Recommendation	Current Law/Background	Bill Provisions
Quorum Requirements	Statute should be amended to provide that a quorum is a majority of the full authorized membership of the commission and that decisions on any issue shall be by a majority of the quorum present and voting.	A majority of the full membership is a quorum and at least seven voting members must concur to take action. However, for Certificate of Need (CON) actions, seven members is a quorum and a decision may be made by a majority of that quorum.	The bill standardizes quorum and voting requirements, specifying that a quorum is a majority of the full membership and any decision must be by a majority of the quorum present and voting.
Data on Payments to Hospitals	Statute should be amended to authorize MHCC to obtain data on payments on hospitals.	The Maryland medical care database compiles statewide data on health services rendered by health care practitioners and <i>office</i> facilities. This language does not permit MHCC to collect information on hospital encounters, which represent approximately 40% of health care expenditures.	The bill removes the term <i>office</i> to authorize MHCC to collect data on payments to hospitals. The bill requires MHCC, on or before October 1 2007, to report on plans to collect data on facility costs and insurance product design and how the data would be used to promote quality and affordable health care.

Issue	DLS Recommendation	Current Law/Background	Bill Provisions
Trauma Fund	Statute should be amended to modify the date by which MHCC must prepare and obtain approval for the annual report on the Maryland Trauma Physician Services Fund to November 1. MHCC should include in the next report options for reducing the fund surplus.	<p>The report is currently due September 1; however, MHCC cannot complete the necessary financial reports and obtain commission approval until October.</p> <p>The estimated fund surplus for fiscal 2008 is \$21.3 million.</p>	<p>The bill modifies the due date for the annual report to November 1.</p> <p>The bill requires MHCC and the Health Service Cost Review Commission (HSCRC) include options for reducing the trauma fund surplus in the November 2007 report.</p>
Adverse Medical Events	Statute should be amended to repeal as obsolete § 19-139 of the Health-General Article.	Section 19-139 requires MHCC to study the feasibility of developing a system for reducing incidences of preventable adverse medical events. This requirement was fulfilled in 2003, resulting in the Maryland Patient Safety Center.	The bill repeals § 19-139 of the Health-General Article.
Mandated Benefits	Statute should be amended so that the comprehensive study of mandated benefits every four years incorporates all of the information currently required annually.	<p>MHCC must conduct an annual determination of the full cost of existing mandated health insurance services. Every four years, MHCC must evaluate existing mandated benefits and recommend criteria for reducing the number of mandated benefits.</p> <p>As of January 2006, the full cost of existing mandated benefits was approximately 1.9% of Maryland's average wage and 15.4% of net premium.</p>	<p>The bill repeals the requirement that MHCC annually determine the full cost of all existing mandated health insurance services.</p> <p>The bill also requires the evaluation conducted every four years to include an assessment of the full cost of each existing mandated service as a percentage of premiums under a typical group and individual policy, the State employee health benefit plan, and the Comprehensive Standard Health Benefit Plan.</p>

In addition to the statutory changes summarized above, the bill requires several studies and reports. The bill requires MHCC, on or before January 1, 2008, to report on alternative options for individuals enrolled in the limited health benefit plan. Uncodified language in the bill requires the following reports:

- on or before October 1, 2007, MHCC must report on the implementation of the recommendations contained in the 2006 sunset review evaluation;
- on or before October 1, 2007 and October 1, 2008, MHCC must report on the implementation of the recommendations of the 2005 CON Task Force and the progress of the commission in implementing the recommendations of the comprehensive evaluation of CON required by Chapter 702 of 1999; and
- on or before December 1, 2008, MHCC must report on the extent to which health care providers that are not currently subject to the MHCC user fee assessment use commission resources and the feasibility and desirability of extending a user fee to additional types of providers regulated by the commission.

Current Law: MHCC, formed by the 1999 merger of the Health Resources Planning Commission and the Health Care Access and Cost Commission, has the purpose of improving access to affordable health care; reporting information relevant to the availability, cost, and quality of health care statewide; and developing sets of benefits included in the Comprehensive Standard Health Benefit Plan. MHCC is an independent commission within DHMH.

The Maryland Program Evaluation Act, § 8-401 *et seq.* of the State Government Article, provides for a system of periodic legislative review of the regulatory, licensing, and other governmental activities of various units of State government. The Act is informally referred to as the “sunset law” and the associated review process as “sunset review” or “sunset evaluation” because governmental units subject to the Act are usually scheduled to terminate unless they are affirmatively reestablished by the General Assembly. The goal of the sunset review process is to promote accountability in government operations. Although MHCC is subject to evaluation, it does not have a termination date.

MHCC is special funded by user fees assessed on health care payors, hospitals, nursing homes, and practitioners. The annual user fee cap is \$10.0 million. The amount of fees charged to an industry is determined according to the proportion of the commission’s workload attributable to that industry.

For fiscal 2007, DHMH may impose an administrative cost assessment of 18% of base salaries on MHCC to defray the cost of shared services, including personnel services and access to DHMH’s budget management office. For fiscal 2007, MHCC costs include administrative costs.

Background: The Governor's proposed fiscal 2008 budget for MHCC is \$10.45 million, which exceeds the current user fee cap by 4.5%. The commission's fund balance at the end of fiscal 2006 was \$3.6 million. MHCC projects a fiscal 2007 closing fund balance of \$1.7 million due to a reduction in fiscal 2007 user fees, increased contractual expenditures, and filled vacancies. The 2006 DLS sunset evaluation recommended increasing MHCC's user fee cap from \$10.0 to \$12.0 million to meet the commission's projected level of spending. This recommendation did not take into account the continuation of the administrative cost assessment.

The Budget Reconciliation and Financing Acts of 2004 and 2005 (Chapter 430 of 2004 and Chapter 444 of 2005) both authorized DHMH to charge MHCC an administrative cost assessment and increased MHCC's user fee cap from \$10.0 million to \$11.2 million for fiscal 2005 and 2006 only. Chapter 107 of 2006 extended DHMH's authority to assess MHCC administrative costs through fiscal 2007 but did not increase MHCC's user fee cap beyond \$10.0 million.

Fiscal 2008 budget bill language includes a general fund reduction of \$1.25 million contingent upon the enactment of legislation authorizing the assessment of indirect costs on the budgets of MHCC and HSCRC. DHMH currently has authority to impose an 18% administrative cost assessment on HSCRC, but its authority regarding MHCC terminates in fiscal 2007.

Certificate of Need: In accordance with Chapter 702 of 1999, MHCC conducted a two-year comprehensive evaluation of activities subject to CON, reporting its findings and recommendations to the General Assembly in 2001 and 2002. The evaluation reviewed the framework for government oversight of each service subject to CON and outlined a series of alternative regulatory options for continuing State oversight. In 2005, the commission chairman created a 24-member CON task force. The task force made a number of recommendations for streamlining CON review, updating the State Health Plan, and altering the CON review process.

Limited Benefit Plan: Chapter 287 of 2004 established a limited health benefit plan to be offered in the small group market, only to employers that had not offered insurance in the past 12 months and whose average wage does not exceed 75% of the average wage in the State. The plan became available in fiscal 2006, but MHCC reports minimal sales and concerns have been raised that the plan violates federal law. The 2006 DLS sunset evaluation recommended that the plan be allowed to terminate and that MHCC report on alternative insurance options for individuals enrolled in the plan.

Workload Distribution: MHCC is funded by user fees assessed on health care payors, hospitals, nursing homes, and practitioners. The amount of fees charged to an industry is

determined according to the portion of the commission's workload attributable to that industry. The commission recalculates workload apportionment every four years, submitting results to the General Assembly prior to implementation. Certain health care providers regulated by MHCC, such as ambulatory-surgical centers, home-health agencies, and hospices, are not subject to user fees.

State Fiscal Effect: Special fund expenditures would increase by up to \$1.23 million in fiscal 2008. This figure reflects the amount in the Governor's proposed fiscal 2008 MHCC budget that exceeds the current \$10.0 million user fee cap (\$454,304) and the estimated fiscal 2008 DHMH administrative cost assessment (\$843,400). Special fund revenues are expected to closely match expenditures to cover ongoing MHCC operations.

General fund expenditures would decrease by \$843,400 in fiscal 2008 due to DHMH's administrative cost assessment on MHCC.

Special fund expenditures would decrease by approximately \$46,540 in fiscal 2009 through 2011 due to repeal of the requirement that MHCC annually determine the full cost of all existing mandated health insurance services. MHCC currently contracts for the annual report and incorporates the cost into its user fee assessments. Accordingly, special fund revenues would decrease by a corresponding amount. The four-year report would be conducted as usual in fiscal 2008 and 2012.

Future year special fund expenditures assume 4.5% growth in personnel expenses and 1.0% growth in other administrative expenses. For purposes of this analysis, the administrative cost assessment is held constant at \$843,400. Based on these assumptions, DLS projects that future year special fund expenditures would exceed the \$12.0 million cap by \$210,256 in fiscal 2011 and \$602,334 in fiscal 2012.

For purposes of this analysis, additional special fund expenditures are capped at \$2.0 million in fiscal 2011 and fiscal 2012.

Additional Information

Prior Introductions: None.

Cross File: SB 718 (Chair, Senate Finance Committee) – Finance.

Information Source(s): Department of Health and Mental Hygiene (Maryland Health Care Commission), Department of Legislative Services

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