

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 802 (Delegate Nathan-Pulliam, *et al.*)
Health and Government Operations

Women's Health - HIV Testing and Infant Mortality Reduction

This bill requires a woman to be tested for Human Immunodeficiency Virus as part of a prenatal care program, as early as possible in the pregnancy, and again during the third trimester. If a pregnant woman declines to be tested, the declination has to be documented in her medical record, but is considered confidential and not discoverable or admissible in evidence in any criminal, civil, or administrative action. The bill also establishes that a woman cannot be denied HIV testing based on her economic status. Finally, the bill requires the Department of Health and Mental Hygiene to convene a workgroup of stakeholders to study methods to reduce the racial disparity in infant mortality rates and overall infant mortality in Maryland. The workgroup has to report its findings and recommendations to the Senate Finance Committee and House Health and Government Operations Committee by December 1, 2008.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Potential minimal increase in Medicaid expenditures (50% general, 50% federal) in FY 2009 and future years due to increased costs associated with the test. DHMH's internal infant mortality workgroup could be reorganized to meet the bill's workgroup requirements with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: As part of a health care provider's patient acceptance procedures or protocol, a health care provider has to provide a pregnant woman with counseling concerning being tested for the presence of HIV as part of the woman's prenatal care program. Counseling has to • include information that the pregnant woman is not required to consent to a test for the presence of HIV or that the pregnant woman will not be denied prenatal care because she refuses to be tested; and • education on the effect of a positive HIV test result on the pregnant woman and fetus and methods of reducing the risk of transmission to the fetus.

The record of an HIV test is confidential and not discoverable or admissible in evidence in any criminal, civil, or administrative action unless the identity or any other information that could be associated with the identity of the pregnant woman is not disclosed. A health care provider, including a health care facility, acting in good faith to provide counseling cannot be held liable in any cause of action related to a woman's decision to consent or not to consent to have an HIV test.

Background: During the second half of the twentieth century, infant mortality rates in the United States declined by 76%. Over this period, infant mortality rates declined for all races; however, rates for non-Hispanic black infants have consistently been higher than rates for all other races and ethnicities. In 2002, the U.S. infant mortality rate increased for the first time since 1958. According to the National Center for Health Statistics, infant mortality rates were the highest among mothers who smoked, had no prenatal care, were teenagers, were unmarried, and had less education. Following the national trend, Maryland's overall infant mortality rate increased from 2002 through 2004 but declined to 7.3 deaths per 1,000 live births in 2005. However, the overall infant mortality rate increased in 2005 to 7.9 deaths per 1,000 live births in 2006. In addition, Maryland's African American infant mortality rate has consistently been higher than that of other races, but the infant mortality rate among African Americans remained level from 2005 to 2006, while the overall infant mortality rate increased, another national trend.

Prenatal care during the first trimester helps to identify and prevent medical, genetic, or environmental risk factors that might increase the possibility of a premature or low-birth-weight baby. In 2006, the percentage of women receiving prenatal care in Maryland decreased slightly to 80.4%.

An estimated 6,000 to 7,000 HIV-infected women give birth each year in the United States, resulting in 280 to 370 new prenatal infections. However, antiretroviral therapy lowers the risk of mother-to-child transmission of HIV to less than 2%. According to the Vital Statistics Administration, HIV disease was responsible for 480 deaths among

Marylanders in 2006, down from 526 in 2005. The age adjusted death rate for HIV has been declining in Maryland since 2003. The Centers for Disease Control and Prevention recommends HIV screening for all patients in health care settings, including pregnant women after a patient is notified that testing will be performed *unless* the patient declines (opt-out screening).

DHMH's Family Health Administration partners with external stakeholders in the operation of an internal infant mortality workgroup.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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