

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

House Bill 1272 (Delegate Pendergrass, *et al.*)

Health and Government Operations

Finance

Maryland Department of Health - Family Planning Program - Funding

This bill prohibits the Maryland Department of Health (MDH) from accepting any federal funding under the Title X Family Planning Program if that program (1) excludes family planning providers and (2) does not require such providers to provide a broad range of acceptable and effective medically approved family planning methods and services. If MDH does not accept Title X program funds, the Governor must fund Maryland’s Family Planning Program at the same level as total funding provided in the preceding fiscal year. **The bill takes effect June 1, 2019.**

Fiscal Summary

**State Effect:** No effect in FY 2019. To the extent MDH does not accept Title X funding, federal fund revenues and expenditures decrease by \$3.2 million in FY 2020.

| (\$ in millions) | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
|------------------|---------|---------|---------|---------|---------|
| FF Revenue       | (\$3.2) | (-)     | (-)     | (-)     | (-)     |
| FF Expenditure   | (\$3.2) | (-)     | (-)     | (-)     | (-)     |
| Net Effect       | \$0.0   | \$0.0   | \$0.0   | \$0.0   | \$0.0   |

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

**Local Effect:** Local health department (LHD) revenues and expenditures are not anticipated to be materially affected.

**Small Business Effect:** Minimal.

Analysis

**Current Law:** Chapters 28 and 810 of 2017 established a Family Planning Program in MDH (then the Department of Health and Mental Hygiene) to ensure the continuity of

family planning services in the State. Program funding must be in addition to any funding applied by MDH, before December 31, 2016, to the maintenance of effort requirement for federal funding under Title X. MDH must, to the extent permitted, subject to the limitations of the State budget, ensure access to and the continuity of services provided by family planning providers that were Medicaid family planning providers as of December 31, 2016, and were discontinued as recipients of federal funding because of the scope of services offered by the provider or for which the provider offered referrals. MDH must ensure such access by (1) reimbursing for the Medicaid services provided and (2) establishing Medicaid requirements for family planning providers that are similar to requirements for other providers of the same services, do not prohibit a provider from offering a service within the provider's scope of practice, and do not limit the scope of services for which a provider may offer referrals.

**Background:** Title X is the only federal program dedicated to the provision of family planning and related preventive health services. Projects funded by Title X grants must offer a broad range of acceptable and effective contraceptive methods and related services on a voluntary and confidential basis. Title X services include the delivery of related preventive health services, including patient education and counseling; cervical and breast cancer screening; sexually transmitted infection and human immunodeficiency virus prevention education, testing, and referral; and pregnancy diagnosis and counseling. Under federal law, Title X funds may not be used for abortion care.

Title X serves all individuals in need, with a focus on low-income, underinsured/uninsured, hard-to-reach, and/or vulnerable populations who lack access to health care and are at risk of unintended pregnancy. Currently, any public or nonprofit private entity may apply for a Title X grant.

MDH provides family planning services through the Maryland Title X Family Planning Program. This program provides free or sliding scale fee-for-service family planning services to women who are ineligible for Medicaid family planning services through LHDs, community health centers, Planned Parenthood clinics, and other providers.

The fiscal 2020 budget includes \$9.2 million (\$6.0 million in general funds and \$3.2 million in federal funds) for the Title X Family Planning Program.

On February 22, 2019, the U.S. Department of Health and Human Services issued the final rule to revise regulations governing the Title X Family Planning Program, which have not been updated in two decades. The [rule](#), published in the *Federal Register* on March 4, 2019, among other things, (1) requires that Title X funded activities have full physical and financial separation from abortion-related activities, which in effect blocks the availability of funding to providers that also offer abortion services; (2) eliminates current requirements that Title X sites offer a broad range of *medically approved* family

planning methods and services; and (3) prohibits counseling and referral for abortion as a method of family planning. Twenty-two states (including Maryland) and the District of Columbia have filed suit against the rule; at least two states (Oregon and Washington) have indicated that they will opt out of receiving Title X funding under the revised rule.

**State Fiscal Effect:** Given pending legal action, it is unclear if and when the federal rule will take effect. This analysis assumes that any Title X funding provided for fiscal 2019 is unaffected by the bill. Thus, should MDH not accept Title X funding for fiscal 2020, federal fund revenues and expenditures decrease by \$3.2 million, and by an indeterminate amount in future years.

MDH advises that the final rule triggers the conditions of Chapters 28 and 810 of 2017. All providers currently receiving Title X funds will become ineligible for federal funding under the rule as they provide counseling and referral for abortion, which requires MDH to provide general fund support under Chapters 28 and 810. Therefore, any additional general fund expenditures required for family planning under *this* bill have already been accounted for in the fiscal and policy note for Chapters 28 and 810 (House Bill 1083 and Senate Bill 1081 of 2017). That note estimated that, to the extent family planning providers lose eligibility for Title X funding, MDH general fund expenditures increase by an indeterminate but potentially significant amount to continue to fund those providers. The Department of Legislative Services advises that \$3.2 million in general fund expenditures would be required in fiscal 2020 (which reflects the amount of federal funding anticipated in the budget and accounts for administrative costs as well as provider reimbursements).

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 904 (Senators Kelley and Elfreth) - Finance.

**Information Source(s):** Maryland Association of County Health Officers; Department of Budget and Management; Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2019  
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