

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 659

(Senator Benson, *et al.*)

Finance

Rules and Executive Nominations

**Maryland Medical Assistance Program - Psychiatric Inpatient Care - Admissions
Restrictions (Psychiatric Hospital Admissions Equity Act)**

This bill prohibits the Maryland Department of Health (MDH) from limiting or restricting admission of a Medicaid recipient for inpatient care at a special psychiatric hospital or an acute general care hospital with separately identified inpatient psychiatric service unless MDH (1) bases the limit or restriction on the medical necessity of the admission and (2) establishes the limit or restriction through regulation. By July 1, 2024, and annually thereafter, MDH must report specified data and information to the Senate Finance Committee and the House Health and Government Operations Committee.

Fiscal Summary

State Effect: MDH can submit the required reports using existing budgeted resources. To the extent that the bill increases the statewide average length of stay (ALOS) for inpatient admissions to institutions of mental disease, Medicaid federal fund matching revenues (and associated federal fund expenditures) decrease, and general fund expenditures increase by an indeterminate amount beginning in FY 2023, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: MDH must report on (1) the ALOS for specified Medicaid recipients as reported to the Centers for Medicare and Medicaid Services (CMS); (2) any corrective

action plans and any limits on days of stay required by CMS; (3) any federal funding withheld and any additional State funding required under the bill; (4) data on the effect of the bill on the length of emergency department stays among Medicaid recipients; and (5) data on whether Medicaid recipients receiving specified services were transferred to another facility and the type of facility to which they were transferred.

Current Law: States are prohibited from using Medicaid funds to pay for services provided to individuals ages 22 to 64 in certain inpatient facilities known as “institutions for mental disease” (IMDs). An IMD is defined as a facility with more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental illness. The IMD exclusion is one of only a few instances where Medicaid is not permitted to provide payment for medically necessary services. States may request a waiver from CMS to pay for IMD services for individuals ages 22 to 64.

As part of the recent § 1115 HealthChoice Waiver renewal application, Medicaid requested coverage for a new benefit – coverage of 30 days of inpatient stays for serious mental illness (SMI) for patients who receive care at an IMD. Maryland’s waiver renewal application was approved in December 2021 and took effect January 1, 2022. Under the new waiver, Medicaid will cover short-term stays for Medicaid adults ages 21 to 64 who reside in a private IMD with an SMI diagnosis. Authorization is based on medical necessity and coverage is provided when services are delivered by facilities located within Maryland, a contiguous state, or the District of Columbia.

State Fiscal Effect: Per CMS, the ALOS of 30 days for the IMD SMI benefit is calculated at the overall program level and not on an individual stay level. Thus, Maryland must achieve a statewide ALOS of no more than 30 days in IMD treatment settings. The bill prohibits Medicaid from limiting or restricting admission for inpatient care except on the basis of medical necessity. MDH advises that if this prohibition results in a statewide ALOS that exceeds 30 days, the State may lose some or all federal matching funds for IMD services (with a resulting increase in general fund expenditures). The federal matching fund rate for these services is 60%. The exact amount of any such impact cannot be reliably estimated at this time but could be significant.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 684 (Delegate Bagnall, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2022
fnu2/ljm Third Reader - April 8, 2022
Revised - Amendment(s) - April 8, 2022

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