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Senate Bill 544 (Substitute S-2 as passed by the Senate)

Sponsor: Senator William Sederburg

Committee: Health Policy

Date Completed: 12-7-87

RATIONALE

The general health of the population and the ways in which the entire spectrum of health care is provided are of concern to many, in large part because of the enormous, ever-increasing personal and financial costs to the State's citizens. Health care costs in the State have risen from \$129 per person in 1960, to \$900 per person in 1980, to the current rate of \$1,900 per person, with costs expected to rise to \$2,700 per person in 1990. Added to the total health care picture in the State is the looming presence of the impact of AIDS — Acquired Immunodeficiency Syndrome. Currently, 461 individuals in the State have AIDS. This is expected to increase to 3,500 individuals by 1991. According to the Department of Public Health, there currently are 30,000 persons in the State who are carrying the Human Immunodeficiency Virus (HIV), with 60%, or 18,000, of these persons expected to develop AIDS. By 1991, there are projected to be 270,000 carriers of the virus in the State.

Many proposals to combat rising health care costs are aimed at reducing the frequency of services by changing reimbursement policies or restricting access. While these efforts continue, it has been recommended that the State also emphasize the prevention of health problems through programs aimed at promoting good health and reducing health risks. Approximately one-half of the debilitating health conditions reportedly can be attributed to lifestyle conditions, such as smoking, alcohol use, hypertension, and lack of exercise. In addition, there are high mortality and medical costs associated with AIDS, which some believe to be a "preventable" disease with appropriate behavioral changes. Some people believe that State should be supporting and financing strategies to prevent and control health problems such as AIDS and tobacco-related diseases, in order to reduce the personal and financial toll these health problems take on Michigan citizens.

CONTENT

The bill would amend the Public Health Code to:

- Create the Michigan Health Initiative Program, which would include the establishment of the Risk Reduction and AIDS Policy Commission.
- Create the Michigan Health Initiative Fund, within the State Treasury, and specify how the Fund would be used. This would include, but not be limited to, establishment of a Michigan Health Initiative Clearinghouse, production of a media campaign on risk reduction and major risk factors, development of a risk reduction and AIDS education module, production of a model AIDS information package which would have to be distributed to each residence in the State, HIV testing and counseling, employee wellness programs, educational programs for health

care workers, and local community demonstration and pilot projects on the care of AIDS patients.

- Provide for the confidentiality of a person who was the subject of an HIV test or counseling, and specify conditions under which the information could be disclosed.
- Create the AIDS Treatment Trust Fund in the State Treasury, which would be used to provide or to pay for treatment of AIDS patients.
- Require the Department of Public Health to promulgate rules to implement the bill, which would have to be submitted for public hearing under the Administrative Procedures Act within 60 days after the bill's effective date.

The bill would take effect July 1, 1988.

Michigan Health Initiative ProgramCommission

The Risk Reduction and AIDS (Acquired Immunodeficiency Syndrome) Policy Commission would be created in the Department of Public Health. The Commission, which would have to be appointed by October 1, 1988, would consist of 13 members appointed by the Governor with the advice and consent of the Senate. Membership would consist of the Director of the Department and his or her designee as an ex officio member, one member from an association representing local public health, and nine members appointed from the following categories: business and industry, labor, health care providers, the legal community, religious organizations, and State and local government including, but not limited to, the Chronic Disease Advisory Committee created in the Code, and the education community. A health care provider member could not be an employee of a State executive department or local health department, nor represent a facility or agency which was owned or operated by such a department. "Risk reduction" would mean the process of identifying and reducing or eliminating those behaviors known to lead to conditions harmful to physical or mental health, or both.

To the extent practicable, the members, except the Director, would have to represent the demographic composition and geographic regions of the State. Those members would serve three-year staggered terms. A member could not serve more than two consecutive terms, whether partial or full. The Commission would be required biannually to elect a chairperson and other officers and committees as considered appropriate. The Commission would be subject to the Open Meetings Act and the Freedom of Information Act.

S.B. 544 (12-7-87)

Commission Responsibilities

The Commission would be required to do all of the following:

- Meet at least quarterly at the call of the chairperson.
- Advise the Governor and Legislature on policies regarding risk reduction and AIDS.
- Annually report to the Governor and Legislature on major risk factors and preventable diseases or conditions including, but not limited to, AIDS.
- Make recommendations to the Department regarding the allocation of money from the Michigan Health Initiative Fund including, but not limited to, the level of funding for grants.
- Review and comment to the Department on topics determined by the Commission to be appropriate for the media proposed campaign.

The Commission could appoint advisory committees as the Commission considered necessary. Membership of an advisory committee could include individuals who were afflicted with a particular disease or condition and individuals who had training and expertise in a particular major risk factor, disease, or condition. Members would not be compensated for their services, but could be reimbursed for actual and necessary expenses incurred in the performance of their duties.

Health Initiative Fund

The Michigan Health Initiative Fund would be created in the State Treasury and would be administered by the Department. The State Treasurer would be required to credit to the Fund all amounts appropriated for that purpose under the proposed Michigan Health Initiative Revenue Act and Public Act 265 of 1947, which imposes an excise and specific tax on the sale and distribution of cigarettes. (Senate Bill 545 would amend Public Act 265 to raise the cigarette tax. Senate Bill 546 would create the Michigan Health Initiative Revenue Act and establish a State excise tax on smokeless tobacco products, bulk tobacco products, and cigars.)

The State Treasurer would be required to direct the investment of the Fund, and earnings would have to be credited to the Fund. The unencumbered balance that remained in the Fund at the close of the fiscal year would have to remain in the Fund, and could not revert to the General Fund.

Money in the Fund could be spent only as provided in the bill.

Information Clearinghouse

The Department would be required to establish the Michigan Health Initiative Information Clearinghouse, which would have to be accessible to the public statewide. The clearinghouse, at a minimum, would have to maintain and provide up-to-date information on both of the following:

- Major risk factors and preventable diseases and conditions including, but not limited to, AIDS.
- Risk reduction service providers and AIDS treatment programs throughout the State.

Media Campaign

Pursuant to the advice of the Commission, the Department would be required to produce or arrange for the production of a media campaign to disseminate information on risk reduction and major risk factors, and preventable diseases and conditions including, but not limited to, AIDS. In addition, the Department would be required to produce or arrange for the production of public service announcements regarding risk reduction and AIDS for distribution to publicly supported radio and television

stations and to cable television studios. These announcements also could be distributed to commercial radio and television stations.

AIDS Education Module

The Department, in cooperation with the State Board of Education, would be required to develop and distribute a risk reduction and AIDS education module appropriate for grades kindergarten through 12. The module would have to be made available to each school district in the State. In addition, the Department, in cooperation with the State Board of Education, could develop a process for approving a risk reduction and AIDS education module developed by a school district.

Higher Education and AIDS Information

The Department would be required to develop, in cooperation with higher educational institutions, a risk reduction and AIDS information package that would have to include, but not be limited to, information on testing, counseling, transmission, prevention, and treatment. AIDS Information Package The Department would be required to develop annually a model AIDS information package which would have to include, but not be limited to, information regarding the status of AIDS in the State, State-supported testing and counseling programs, research findings, and access to the Michigan Health Initiative Information Clearinghouse.

A local health department or a consortium of local health departments could apply to the Department for funding to develop a local AIDS information package as an alternative to the State model. If the Department provided funding, it would have to approve the alternative package before the package was used by the local health department.

The model AIDS information package would have to be distributed to each residence in the State, except where an alternative AIDS information package had been distributed.

HIV Testing

The Department would be required to provide HIV testing free of charge to all residents of the State and all nonresident students enrolled in and attending a public or private college, university, or other postsecondary institution in the State. All HIV testing would have to be performed by the Department or a licensed clinical laboratory designated by the Department. "HIV" would mean Human Immunodeficiency Virus.

As a condition of receiving a free HIV test, an individual who requested an HIV test would have to undergo counseling before and after the test. The counseling could be provided by local health department personnel or an individual designated by the local department who had undergone training approved by the Department. A person who provided HIV testing or counseling could be reimbursed for the cost of the testing or counseling only by the Department or a local health department, and could not bill the individual receiving the services or any other person including, but not limited to, a third party payer.

The results of an HIV test and the identity of an individual who underwent testing and counseling would be confidential, and could be disclosed only as provided in the bill. The Department could maintain records of statistical and epidemiological information obtained as a result of HIV tests administered under the bill. An individual who was the subject of an HIV test or counseling could consent in writing to the disclosure of his or her identity or the results of the test to one or more of the following:

- Health professionals for the purpose of diagnosis or treatment of the individual.

- Governmental personnel for the purpose of obtaining benefits to which the individual was entitled.
- Any other person specifically authorized by the individual in writing.

The individual consenting to disclosure could revoke the authorization for the disclosure at any time by giving written notice to the Department or local health department. If an individual who was the subject of an HIV test or counseling did not give written consent, the individual's identity or HIV test results could be disclosed only as follows:

- To medical personnel to the extent necessary to meet a bona fide medical emergency.
- To qualified personnel for the purpose of conducting scientific statistical research, financial audits, or program evaluation. The personnel could not directly or indirectly identify an individual in a report or the research audit or evaluation or otherwise disclose an identity in any manner.
- Upon application, a court could order disclosure of the identity or HIV test results of a specific individual.

Employee Programs

The Department would be required to provide grants for employee wellness programs which would reduce the prevalence of high risk factors for employees. Programs funded under this provision could provide services to employees, dependents of employees, and retired employees.

The Department would be required to accept applications for funding from any employer or employee organization in the State. The Department would have to give special consideration to programs that addressed more than one high risk factor and were to be conducted by more than one employer or employee organization.

The Department also would be required to develop educational programs for health care workers, whether licensed or not, regarding the delivery of quality care and protection against exposure to disease in the workplace.

Pilot Programs

The Department would be required to provide grants for local community demonstration and pilot projects that provided a network of care to AIDS patients in a nonacute care setting. The Department also would have to give special consideration to applicants with projects designed to provide care on a regional basis.

The Department could use the Fund to expand Department programs and projects that were in effect before the bill took effect and were the same as or substantially similar to the programs and projects described in the bill.

AIDS Treatment Trust Fund

The AIDS Treatment Trust Fund would be created as a separate fund in the State Treasury. The Department would administer the Trust Fund. In cooperation with the Department of Social Services, the Department would be required to use the Trust Fund to provide or pay for treatment of AIDS patients.

The State Treasurer would be required to credit to the Trust Fund all amounts appropriated for that purpose under Public Act 265 of 1947, the cigarette tax Act. The State Treasurer would be required to direct the investment of the Trust Fund. Earnings would have to be credited to the Trust Fund.

Proposed MCL 333.5901 - 333.6005

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would result in an indeterminate increase in

expenditures of State restricted revenues. The level of expenditure would depend on a variety of factors including the resource allocation decisions of the Risk Reduction and AIDS testing and counseling; the demand for education programs; the course of the AIDS epidemic; the number of persons with AIDS without a source of payment for health care; and the numbers and types of other health promotion initiatives which the Commission could undertake. Expenditures would be limited by the level of revenues credited to the Michigan Health Initiative Fund and the AIDS Treatment Fund.

ARGUMENTS

Supporting Argument

State policy on managing the impact of major risk factors and preventable diseases or conditions, such as AIDS and tobacco-related diseases, is fragmented at best. So far, only 1% of funding has been allocated to prevention activities, with 99% going to treatment. According to estimates by Blue Cross and Blue Shield, the cost of treating AIDS cases from diagnosis to death will reach \$541 million, or \$150,000 per case, by 1991. Furthermore, the cost of treating AIDS outstrips other major diseases. Investment in prevention activities, as to AIDS and other diseases that could be prevented by behavioral changes, would reap financial benefits for the State as well as encourage a more healthy citizenry. For example, for every \$1 spent in the following areas, there would be the following savings in treatment of injuries and debilitating health conditions: \$105.17 in auto accident injuries and death if seatbelt use were promoted; \$15.26 for smoking prevention; \$1.76 for alcohol abuse treatment; \$2.07 for hypertension treatment plus weight/nutrition and exercise promotion; and an unknown savings for AIDS treatment. The State needs a consolidated, rational, and hard driven approach to controlling these diseases.

Supporting Argument

Approximately 93% of AIDS cases involve male homosexuals, bisexuals, intravenous drug users, hemophiliacs, blood transfusion-associated cases, and pediatric cases involving children born of AIDS-infected mothers. In addition, there is concern about the potential spread of AIDS to the heterosexual community. AIDS is a fatal disease with no cure and no vaccine, at present. The devastating impact of AIDS is being felt in Michigan where the first case was diagnosed in 1981. Cases now have been diagnosed in 37 of 83 counties as of November 1987, according to the Department of Public Health. Currently, there are reportedly 461 cases in the State and of those, 60% or 275 have died. The key premise of any prevention strategy, when there is not a vaccine, is a behavioral change on the part of those infected and at risk of infection by the AIDS virus. The bill would provide for a comprehensive approach to the current problem of AIDS by providing education on the effect of the virus, offering testing and counseling, and establishing a trust fund for treatment of the disease.

Supporting Argument

Steps must be taken to stop the meteoric rise of health care costs before health care expenses or insurance coverages are beyond the means of the average individual or employer, or are too costly a burden for taxpayers. One area of health care that offers an opportunity for progress is prevention programs which seek to make people aware of steps they can take to maintain their health, promote wellness, and teach people what behaviors are likely to increase the risks to their health. While there are many infectious and hereditary diseases that will strike persons regardless of their lifestyle, there are also many health problems that are caused, or made worse, by habits and

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behaviors, such as tobacco-related health problems. A program that informed the ignorant or convinced the reluctant of the relationship between behavioral risk factors and disease would not only prevent or relieve physical misery but ease the financial burden that an unhealthy population places on society.

Opposing Argument

Although the counseling and testing provisions in the bill appear laudable, the bill's wording is ambiguous and could make people less likely to avail themselves of the proposed services. For example, the bill would provide for free HIV testing to all State residents and nonresident students enrolled in and attending a public or private college or university, or other postsecondary institution in the State. It is not certain, however, how the person providing the test would know that the recipient was eligible to take the test and how aggressively the State would enforce the eligibility requirements. If the word of the test recipient were to be accepted, there could be a flood of out-of-State people taking the test and using up resources intended for Michigan residents. On the other hand, if verification were required, it could require that a registry of some form be established. This could cause many persons in high risk groups not to take advantage of the tests out of fear of breach of confidentiality and outright discrimination. Furthermore, counseling should be made available free of charge whether or not a person had an HIV test. The bill would provide for counseling before and after the HIV test as a condition to receiving the test free of charge. Since there is some risk of discrimination when an HIV test is simply conducted, many people who are at risk could fear loss of job, insurance, or schooling. These people, however, would benefit greatly from counseling and should have access to this option whether or not they were tested.

Opposing Argument

Currently there are 22 counseling and test centers located throughout the State, which are funded by the Michigan Department of Public Health and offer free and anonymous counseling and testing. The bill provides that results of an HIV test and the identity of an individual who underwent HIV testing and counseling would be confidential and could be disclosed only under conditions specified in the bill. While it has been argued that the bill would expand counseling and testing services that already are provided by the Department, some people fear that the bill would provide only for confidentiality and not anonymity of the person being tested and counseled. Those persons most at high risk would be least likely to use testing and counseling services that did not guarantee anonymity because of the fear of recriminations and discrimination.

Opposing Argument

AIDS is the most serious form of disease caused by the Human Immunodeficiency Virus (HIV). Many people who are infected with the virus may show no symptoms, although they are capable of transmitting the virus to others. Those who have the HIV infection or who are carriers should be legally reportable under the Public Health Code as are those who have other venereal diseases. The best method for controlling any epidemic, especially one as devastating as AIDS, is to test, trace contacts of those infected, and isolate those who deliberately continue to spread the disease.

Response: Any physician or health facility in the State that detects persons with certain diseases or conditions must report to the Department or local health department within certain periods of time the name, address, and demographic information (such as age, sex, and race). AIDS is a reportable disease and the Federal Center for

Disease Control has issued a form that must be completed if a physician or health facility is treating a person with AIDS. There have been efforts underway to make the positive testing of a person with HIV reportable. While some have argued that the name of the person be included in information that is reported, others have proposed that a positive HIV test be reported but the name be removed. There is a fear that if people know that their name would be reported, they would not want to be tested. In fact, a study of people in high risk groups in San Francisco showed that a majority would not participate in the testing for the virus if their names were reported. This would only drive the disease underground.

Legislative Analyst: L. Arasim

Fiscal Analyst: P. Graham

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