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BILL ANALYSIS

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Senate Bill 1 (as enacted) **PUBLIC ACT 100 of 2007**
Sponsor: Senator Tom George
Senate Committee: Health Policy
House Committee: Health Policy

Date Completed: 10-31-07

RATIONALE

The poor health status of some Michigan residents, particularly Medicaid recipients, and the associated cost of treatment are of concern to many. It has been pointed out that many adverse health conditions and causes of death can be prevented, or at least mitigated, by lifestyle choices with regard to diet, exercise, smoking cessation, keeping medical appointments, and compliance with doctors' orders. It was suggested that the Department of Community Health (DCH) should be required to offer incentives that will encourage Medicaid recipients to adopt healthier lifestyles, and to take other cost containment measures.

CONTENT

The bill amended the Social Welfare Act to require the Department of Community Health to do all of the following:

- **Create incentives for medical assistance recipients who practice positive health behaviors.**
- **Create pay-for-performance incentives for contracted Medicaid health maintenance organizations.**
- **Establish a preferred product and service formulary program for durable medical equipment.**
- **Provide financial support for electronic health records.**
- **Include the incentive programs in Federal waiver requests.**

Specifically, the DCH must create incentives, which may include expanded benefits and incentives related to premiums, co-pays, or benefits, for individual medical assistance recipients who practice specified positive health behaviors. The positive health behaviors may include participation in health risk assessments and health screenings, compliance with medical treatment, attendance at scheduled medical appointments, participation in smoking cessation treatment, exercise, prenatal visits, immunizations, and attendance at recommended educational health programs.

The DCH also must create pay-for-performance incentives for contracted Medicaid health maintenance organizations (HMOs). The HMO contracts must include incentives for meeting health outcome targets for chronic disease states, increasing the number of medical assistance recipients who practice positive health behaviors, and meeting patient compliance targets established by the DCH. Priority must be given to strategies that prevent and manage the 10 most prevalent and costly ailments affecting medical assistance recipients.

In addition, the DCH must establish a preferred product and service formulary program for durable medical equipment. The program must require participation from the DCH, and permit the contracted Medicaid HMOs and provider organizations to participate. The DCH must work with the Centers for Medicare and Medicaid Services to determine if a joint partnership with Medicare is possible in establishing the program as a means of achieving savings and efficiencies for both the Medicaid and Medicare programs.

The bill also requires the DCH to provide financial support for electronic health records, including personal health records, e-prescribing, web-based medical records, and other health information technology initiatives using Medicaid funds.

In any Federal waiver request that is submitted with the intent to secure Federal matching funds to cover the medically uninsured non-Medicaid population in the State, the DCH must include language to allow the Department to establish, at a minimum, the incentive programs required under the bill.

The DCH may not implement incentives that conflict with Federal statute or regulation.

The bill took effect on October 1, 2007. It was tie-barred to House Bills 5194 and 5198.

(House Bill 5194 (Public Act 94 of 2007) amended the Income Tax Act to do the following:

-- Increase the income tax rate from 3.9% to 4.35%, effective October 1, 2007.
-- Reduce the rate from 4.35% by 0.1 each October 1, beginning in 2011, until it is 3.95%.
-- Reduce the rate from 3.95% to 3.9% on October 1, 2015.

House Bill 5198 (Public Act 93 of 2007) amended the Use Tax Act to extend the 6% use tax to the use or consumption of certain services.)

MCL 400.105b

BACKGROUND

Under Section 1115 of the Social Security Act, the Secretary of the U.S. Department of Health and Human Services may authorize individual pilot, experimental, or demonstration projects within the Medicaid program that otherwise would violate specific provisions of the Act (such as those restricting co-payments to "nominal" amounts and prohibiting states from modifying the benefit packages offered across Medicaid enrollment categories). A state seeking a waiver of Medicaid requirements must participate in an application and review process administered by the Centers for Medicare and Medicaid Services (CMS). Section 1115 waiver programs may be designed to test new Medicaid policy concepts, extend eligibility to populations not previously eligible for coverage, or permit states to contract with managed care organizations to cover enrollees.

A state must demonstrate that a proposed waiver program will result in budget neutrality with regard to Federal Medicaid expenditures over the life of the program. Under the application process, a state first must provide CMS with a general outline of its waiver proposal. The state then receives feedback on the outline from CMS, which it uses to submit a formal proposal. Once the state addresses any issues or concerns identified by CMS, the parties negotiate conditions governing the administration of the waiver program, and CMS conducts site visits in preparation for implementation.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The State spends a significant amount of Medicaid funding on treatment for diseases and ailments that could be alleviated or prevented if people made better choices with regard to their health. Under the bill's incentive programs, the State and Medicaid HMOs will work together to encourage Medicaid recipients to take more responsibility for their own health. Combined with the required durable medical equipment formulary and electronic health records, the incentives will help to bring down Medicaid costs.

Response: Although encouraging Medicaid recipients to adopt healthier behavior is a worthwhile goal, it is important that barriers to the adoption of such behavior are taken into account. Many factors unrelated to an individual's willingness can impede the adoption of a healthier lifestyle. Some people live in neighborhoods where it is not safe to exercise outside. Others lack access to transportation to keep doctor appointments, or cannot afford co-pays or take time off of work. The bill might simply reward people who already have been able to overcome those obstacles, rather than encourage others to adopt healthier behavior.

There is also the concern that using Medicaid funds to pay for the required incentives-if the State received Federal approval to do so-might divert money from other areas of the Medicaid program.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The FY 2007-08 Department of Community Health appropriation included $10.0 million Federal in placeholder funding contingent upon Federal approval of a waiver permitting the use of Federal Medicaid funding for a personal health incentive program. The FY 2007-08 budget also included $5.0 million for health information technology efforts.

The cost savings that may be generated from the Medicaid program changes made in the bill are largely contingent upon the State's garnering Federal approval for necessary State plan amendments and Medicaid waivers and the actual structure of these programs. These unknown variables make the fiscal impact of this legislation indeterminate at this time.

Fiscal Analyst: Steve Angelotti