Legislative Analysis

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MEDICAID FINANCING - HEALTH INSURANCE CLAIMS ASSESSMENT & MEDICAID MANAGED CARE USE TAX

Senate Bills 893 (S-3) and 913 (S-2)
Sponsor: Sen. Senator Roger Kahn, M.D.
House Committee: Appropriations
Senate Committee: Appropriations

Complete to 05-12-14

A SUMMARY OF SENATE BILLS 893 (S-3) and 913 (S-2) AS PASSED BY THE SENATE 05-08-14

Introduction

Senate Bill 893 would generate additional revenue for the State by making medical services provided by Medicaid managed care organizations[1] subject to the State's 6 percent Use Tax.

Senate Bill 913 would reduce the rate of the Health Insurance Claims Assessment (HICA) from 1 percent to 0.75 percent.

Together, the bills would:

- Reduce the estimated current fiscal year HICA shortfall from an estimated $114.5 million to $32.1 million and eliminate the projected $110.0 million shortfall in FY 2014-15;
- Add an estimated $86.8 million and $193.4 million in revenue to the School Aid Fund in Fiscal Years 2013-14 and 2014-15, respectively;
- Create an estimated ongoing GF/GP savings of $29.8 million starting in FY 2014-15;
- Provide an estimated credit to HICA payers of $18.8 million in FY 2015-16 (in addition to the rate reduction).

The bills are tie-barred to one another.

Background

Since 2002 Michigan has established several health care provider assessment programs as a means to leverage additional federal Medicaid funds. The rationale is to use provider contributions as the State's share of cost to draw down federal funds and increase payments to providers. The goal is to encourage more providers to take Medicaid patients by paying higher rates, thereby ensuring access to care. The alternative is to increase GF/GP support in order to raise provider reimbursement rates, but provider assessment programs achieve the same goal while preserving GF/GP and incentivizing providers to accept more Medicaid patients. The federal government sets certain parameters for the use of these mechanisms and, due to evolving interpretations and changes to federal laws and regulations, the financing of Michigan's programs has also changed over time.

[1] For purposes of this analysis, "Medicaid managed care organizations" include Medicaid Health Maintenance Organizations for physical health, and Prepaid Inpatient Health Plans for behavioral health.

QAAP (2002): First, Michigan established a Quality Assurance Assessment Program (QAAP) for physical health managed care plans. The program was later expanded to include mental health plans (prepaid inpatient health plans, or PIHPs). The QAAP was in place until 2009, when the federal government raised concerns about states' narrow assessment of provider taxes and fees on Medicaid providers only. Subsequent changes to federal law required Michigan to either (a) revamp the program or (b) expand the assessment to all private/commercial health maintenance organizations (HMOs) and preferred provider organizations (PPOs). The state opted for the former by moving to the Use Tax.

Use Tax (2008): Effective April 1, 2009, Michigan ended the QAAP and instead made medical services provided by Medicaid managed care organizations (but not private/commercial HMOs and PPOs) subject to the 6 percent Use Tax. In 2011, the Governor became concerned that the federal government intended to disallow Use Tax revenues collected from Medicaid managed care organizations from being used as the state's share of cost in securing federal Medicaid funds. The Use Tax was a revenue source that was problematic for the federal government and therefore a potential target of enforcement action going forward. Eight states faced the possible federal change – California, Georgia, Kentucky, Michigan, Missouri, Ohio, Oregon, and Pennsylvania. According to information from National Conference of State Legislatures and individual states, managed care organization- specific taxes were discontinued in Georgia, Kentucky, and Missouri. They appear to still be in place in California, Ohio, Oregon, and Pennsylvania. Rather than risking the loss of Medicaid revenue, the Governor opted to discontinue the Use Tax and propose an alternative approach; the Health Insurance Claims Assessment.

HICA (2011): As proposed by the Governor and modified by the Legislature, effective January 1, 2012, Michigan removed services provided by Medicaid managed care organizations from the Use Tax base and created the Health Insurance Claims Assessment (HICA). When the Governor proposed HICA as a substitute for the Use Tax, the goal was to create a structurally sound budget with an approach that was clearly within federal bounds. HICA, which requires a 1 percent tax on most health care claims, addresses federal concerns about narrow application of a tax or fee; it applies to claims paid by Medicaid managed care organizations *and* private/commercial HMOs or PPOs. HICA is still in place, but revenues have fallen short of projections by $110.0 million to $130.0 million per year since its enactment, requiring the State to use other one-time resources to keep the Medicaid program whole.

Update

The federal government has not taken an enforcement on states that continued to use revenue from managed care-specific taxes and fees as non-federal share of cost. Further, the Executive Branch indicates that the federal government may be willing to allow Michigan to again leverage Use Tax collections from Medicaid managed care organizations as state match to draw down additional federal funds, and to do so without including non-Medicaid managed care organizations in the Use Tax base.

FISCAL IMPACT:

SB 893 would amend the Use Tax Act to reinstate the 6 percent Use Tax on Medicaid managed care organizations, which would make payments to the State. However, per federal Medicaid requirements, the full cost of the tax would be included in rates paid by the State to managed care plans. Therefore, on the front end, managed care plans would receive a rate increase in the full amount of the tax. The rate increase would be financed with State and federal funds at Medicaid matching rates. The managed care plans would then make Use Tax payments back to the State. At completion of the cycle, there would be no net impact to managed care plans, and the State would receive the net of its share of the initial rate increase (which would be a cost to the State) and the full gross tax payment from managed care plans (which would fully negate the initial cost to the State and add an amount of new revenue equal to the federal share of cost).

Table 1 shows the estimated net fiscal impact of SB 893 on State resources. It would generate an estimated $188.0 million in FY 2013-14 and an estimated $429.6 million in FY 2014-15.

Table 1: SB 893 – Estimated Net Fiscal Impact to State

	FY 2013-14	FY 2014-15
Gross Use Tax Payments	$260,335,300	$580,095,800
State Share of Required Rate Increase	(72,331,900)	(150,537,300)
TOTAL	**$188,003,400**	**$429,558,500**

Table 2 shows the estimated net fiscal impact of SB 893 by fund. For the School Aid Fund, it would generate an estimated $86.8 million and $193.4 million in Fiscal Years 2013-14 and 2014-15, respectively. The estimated GF/GP impact would be $101.2 million and $236.2 million in Fiscal Years 2013-14 and 2014-15, respectively.

Table 2: SB 893 – Estimated Net Fiscal Impact to State by Fund

	FY 2013-14	FY 2014-15
School Aid Fund	$86,778,400	$193,365,300
General Fund/General Purpose	101,225,000	236,193,200
TOTAL	**$188,003,400**	**$429,558,500**

Note: The Michigan Constitution, Article IX, Section 8, earmarks 2 percentage points of the 6 percent Use Tax to the School Aid Fund.

SB 913 would use a portion of the GF/GP savings from SB 893 to lower the HICA rate from 1 percent to 0.75 percent, effective July 1, 2014, until and unless the federal government disallows Use Tax revenue from Medicaid managed care providers as State match to draw down additional federal funds. Should the federal government disallow the leveraging of Use Tax revenue in this manner, SB 913 stipulates that HICA would revert back to the current rate of 1 percent. Consistent with current statute, SB 913 identifies December 31, 2017, as the sunset date for HICA.

Note: Based on current HICA revenue projections at 1 percent of claims, collection estimates are less than budgeted amounts by $114.5 million and $110.0 million in Fiscal Years 2013-14 and 2014-15, respectively.

Table 3 compares HICA revenue estimates to budgeted amounts for Fiscal Years 2013-14 and 2014-15. Assuming an effective date of July 1, 2014, SB 913 would reduce projected HICA collections by $18.8 million in FY 2013-14 and $77.6 million in FY 2014-15. These reductions in HICA collections would yield overall HICA revenues of $274.6 million in FY 2013-14 and $232.7 million in FY 2014-15. Therefore, without the changes proposed in SB 893, SB 913 would increase Medicaid/HICA shortfalls to $133.3 million and $187.6 million in Fiscal Years 2013-14 and 2014-15, respectively.

Table 3: HICA Revenue Estimates vs. Budgeted Amounts

	FY 2013-14	FY 2014-15
Current HICA Revenue Estimate – 1 percent	$293,420,600	$310,203,700
Fiscal Impact – SB 913	(18,833,800)	(77,550,900)
Revised HICA Revenue Estimate	274,586,800	232,652,800
HICA Budgeted Amount*	407,920,600	420,203,700
TOTAL – Medicaid/HICA SHORTFALL	**($133,333,800)**	**($187,550,900)**

** "HICA Budgeted Amount" for FY 2014-15 reflects House and Senate passed DCH budgets.*

Combined Fiscal Impact

Table 4 summarizes revenue estimates for the Medicaid program with (1) the Use Tax applied to Medicaid managed care providers and (2) HICA at 0.75 percent. Together, the two revenue sources would generate an estimated $375.8 million in FY 2013-14 and $468.8 million in FY 2014-15.

Table 4: Use Tax/HICA Revenue Estimates – Medicaid Program

	FY 2013-14	FY 2014-15
Use Tax (GF/GP Fiscal Impact – SB 893)	$101,225,000	$236,193,200
HICA (Estimated at 0.75%)	274,586,800	232,652,800
TOTAL	**$375,811,800**	**$468,846,000**

Note: School Aid Fund contributions would remain unchanged as shown in Table 2.

SB 893 as amended includes a cap on combined (non-School Aid) state revenues from HICA and the Use Tax on Medicaid managed care organizations at $450.0 million. As illustrated in Table 5, estimated revenues from the two sources would fall below the cap in FY 2013-14, and exceed the cap by $18.8 million in FY 2014-15. Per SB 893, the excess in FY 2014-15 would be credited back to HICA payers in FY 2015-16.

Table 5: Use Tax/HICA Revenue Estimates – Medicaid Program

	FY 2013-14	FY 2014-15
HICA/Use Tax Combined Estimated Revenue	$375,811,800	$468,846,000
Cap (if combined revenue exceeds $450.0 million)	N/A	450,000,000
Excess Over Cap (credit to payers in FY 2015-16)	**$0**	**$18,846,000**

With these two bills, increased Use Tax revenue would more than offset revenue declines from the lower HICA rate. In the current year, however, the result is a reduction – but not a full elimination – of the HICA shortfall. Section 305 of P.A. 34 of 2014 (FY 2013-14 supplemental) states the following:

> *If, by September 30, 2014, there are insufficient state match funds appropriated to support the health plan services line item in the medical services unit in the department of community health, an amount equal to the shortfall is appropriated from the roads and risks reserve fund to support the health plan services line.*

As a result, based on current projections, without these two bills the Medicaid/HICA shortfall would be addressed with $114.5 million from the Roads and Risks Reserve Fund in FY 2013-14[2]. As shown in Table 6, these bills would reduce the projected current year Medicaid/HICA shortfall from $114.5 million to $32.1 million. In FY 2014-15, they would eliminate the HICA shortfall and leave an estimated $29.8 million in available GF/GP.

Table 6: Use Tax/HICA Summary – Medicaid Program

	FY 2013-14	FY 2014-15
HICA/Use Tax Combined Estimated Revenue	$375,811,800	$468,846,000
Set Aside for HICA Credit	0	(18,846,000)
Remaining	375,811,800	450,000,000
HICA Budgeted Amount*	407,920,600	420,203,700
TOTAL (shortfall)	**($32,108,800)**	**$29,796,300**

** "HICA Budgeted Amount" for FY 2014-15 reflects House and Senate passed DCH budgets.*

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[2] Budgets approved by both the House and Senate include a fund shift of $110 million from state restricted (HICA) revenue to GF/GP to address the shortfall in FY 2014-15. Should these bills pass, the Legislature will need to revisit the proposed fund shift.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.