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BILL ANALYSIS

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Senate Bill 335 (as introduced 4-30-13)
Sponsor: Senator Roger Kahn, M.D.
Committee: Appropriations

Date Completed: 5-14-13

BACKGROUND

The Health Insurance Claims Assessment (HICA) was enacted during 2011 and took effect on January 1, 2012. The HICA replaced the Use Tax that had been applied to Medicaid managed care organizations. Revenue from the HICA is used to support the State's Medicaid program.

The HICA rate was set at 1.0% of all paid health claims. There are exceptions: Federal government programs such as Medicare, Veterans Administration health care services, and fee-for-service Medicaid are not subject to the HICA, as the State cannot tax the Federal government. Similarly, out-of-pocket costs are not subject to the HICA. There is also a lower rate of 0.1% for a very limited number of small health insurers.

Due to concerns that the HICA could raise more than the $400.0 million in revenue that was projected, a system of credits was created. If revenue in any year exceeds $400.0 million as adjusted by medical inflation, each carrier, and third party administrator (for self-funded plans), will receive a proportional credit against the subsequent year's HICA assessment.

The HICA legislation has a sunset date of January 1, 2014.

Revenue

The FY 2011-12 Department of Community Health (DCH) budget was built on the assumption of $400.0 million in HICA revenue. The Snyder Administration had estimated, based on modeling of health care expenditures in Michigan, including those such as Medicare that would not be subject to the HICA, that the tax base would be about $40.0 billion. The Senate Fiscal Agency (SFA) estimated a slightly smaller tax base of $37.5 billion, leading to an SFA estimate of $375.0 million in full-year revenue.

In reality, the revenue came up far short of that amount. There were two principal factors in these faulty estimates: First, determining the tax base itself required taking 2009 national health care cost data, adjusting it to Michigan information, and then trending it forward to 2012. This involved not just estimating total health care costs, but also estimating exempted costs such as Medicare and out-of-pocket costs. Second, the volume of claims paid by out-of-State insurers that were not subject to the HICA was far larger than originally believed and is likely in the range of $5.0 billion or more, leading to a reduction of HICA revenue in the range of $50.0 million.

In the end, HICA revenue has been much lower than what was projected by the SFA and the Administration. The revenue has also fallen far short of the amount necessary to trigger the proportional credits, so the concerns of some that revenue would exceed $400.0 million have not come to fruition either.

For the three quarters of FY 2011-12 when the assessment was in effect, HICA revenue was $176.2 million, well short of the $297.6 million built into the FY 2011-12 budget. For FY 2012-13, HICA revenue is projected by the Michigan Department of Treasury to be $263.0 million, well short of the $396.9 million built into the FY 2012-13 DCH budget.

The FY 2011-12 shortfall was addressed in finalizing the FY 2011-12 budget. The Snyder Administration has proposed using Merit Award Trust Fund revenue and Medicaid Benefits Trust Fund revenue to offset the FY 2012-13 shortfall.

There was no specific proposal from the Snyder Administration in the FY 2013-14 budget on how to offset any revenue shortfall in FY 2013-14. The proposed no-fault auto insurance legislation, House Bill 4612, would include a $25 per insured vehicle fee to support the Medicaid program. While this revenue would not specifically accrue to the Health Insurance Claims Assessment Fund, it would effectively offset the HICA revenue shortfall.

The Sunset Provision

The HICA legislation has a provision that repeals the assessment effective January 1, 2014. As such, assuming no changes, the State would continue to collect HICA revenue through the first quarter of FY 2013-14, but would not collect any more revenue after that date. The Michigan Department of Treasury has estimated that, if the sunset were removed, the HICA would bring in $276.0 million in FY 2013-14. Therefore, first-quarter revenue for FY 2013-14, from October 1, 2013, to December 31, 2013, would be about $69.0 million.

The FY 2013-14 DCH budget as proposed by the Governor, House, and Senate Appropriations Subcommittee, assumed $400.0 million in total HICA revenue, with $396.9 million of that being used to support Medicaid. (The rest is used to cover administrative costs in the Department of Treasury.) If the sunset is not repealed, total HICA revenue for FY 2013-14 will be about $69.0 million, meaning there will be a $331.0 million shortfall that will likely have to be offset with GF/GP revenue or through significant budget reductions.

CONTENT

Senate Bill 335 would make two changes to the HICA: First, the bill would repeal the sunset. Second, the bill would direct that, on January 1, 2017, the HICA rate be adjusted by the medical inflation rate for the preceding three-year period. This adjustment would then be made every third year after January 1, 2017, thus leading to similar adjustments on January 1, 2020, January 1, 2023, etc.

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FISCAL IMPACT

Eliminating the sunset would greatly reduce the potential HICA shortfall in FY 2013-14, from roughly $331.0 million to $124.0 million. The shortfall in FY 2014-15 and beyond would be reduced to a similar amount.

The rate increase provision would have no impact before FY 2016-17. The medical inflation-based rate increase that would be implemented January 1, 2017 would be multiplicative (10% medical inflation over three years leading to a 1.1% HICA rate). The bill would increase HICA revenue in 2017 and beyond by the medical inflation rate between 2014 and

2017. If that medical inflation were, say, 12.0%, annual revenue would increase above what it otherwise would be by 12.0%, or $33.0 million.

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