

## **SUNSET EXTENSION ON HEALTH INSURANCE CLAIMS ASSESSMENT**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5105 as passed by the House**  
**Sponsor: Rep. Al Pscholka**  
**Committee: Appropriations**

Analysis available at  
<http://www.legislature.mi.gov>

**Complete to 12-8-15**

### **SUMMARY:**

House Bill 5105 would amend the Health Insurance Claims Assessment (HICA) Act to extend the sunset on the assessment levied under the act from December 31, 2017 to September 30, 2025.

The bill would also repeal enacting section 2 of Public Act 142 of 2011, which repeals the HICA act in its entirety effective January 1, 2018.

MCL 550.1733 and 550.1737

### **BACKGROUND INFORMATION:**

The HICA is levied on health insurers, health maintenance organizations, and other categories of insurance carriers, as well as on third party administrators, based on paid claims for health and medical services. The assessment is currently levied at a rate of 0.75%, yielding an estimated \$248 million in annual revenue (prior to the credit provided for under the HICA act; see below).

Funds collected under the assessment are statutorily dedicated to financing expenditures of Medicaid managed care organizations (MCOs) under the state's Medicaid program. That is, the funds are used as a portion of the state's match for the Medicaid program. Currently, the state receives \$1.91 in federal funds for each \$1.00 of state match under the program.<sup>1</sup>

The HICA is part of a series of successive Medicaid financing sources that the state has used to reduce the amount of state GF/GP needed as state matching funds over the last 12 years:

#### **Medicaid MCO Provider Tax**

In 2003, the state created a provider tax levied on Medicaid MCOs. This was comparable to the provider taxes the state levies on hospitals and long-term care service providers, except that federal law allowed for the provider tax to apply only on Medicaid MCOs, rather than all MCOs. (All hospitals and long-term care service

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<sup>1</sup> For additional background information on the Medicaid program and its financing, see this recent HFA report:  
[http://www.house.mi.gov/hfa/PDF/HealthandHumanServices/Michigan\\_Medicaid\\_Program\\_Oct2015.pdf](http://www.house.mi.gov/hfa/PDF/HealthandHumanServices/Michigan_Medicaid_Program_Oct2015.pdf).

providers must pay their provider taxes.) Provider taxes are capped at 6.0% under federal law.

### **Medicaid MCO Use Tax**

Federal law was subsequently changed to preclude levying a provider tax on only Medicaid MCOs, effective 2009. In response, the state repealed its Medicaid MCO provider tax and imposed its existing Use Tax on Medicaid MCOs beginning in 2009. The Use Tax is levied at a rate of 6.0%; two-thirds of tax collections accrue to the General Fund and one-third accrue to the School Aid Fund.

### **Health Insurance Claims Assessment**

The federal government subsequently expressed concern that the Use Tax mechanism was in effect a provider tax with an insufficiently broad base. In response, the state ended the Use Tax on Medicaid MCOs and created the HICA in 2011.

The HICA was originally designed to generate roughly \$400 million per year at a 1.0% rate. Actual collections were lower than the original estimates, however, due to an underestimation of out-of-state insurance claims and an underestimation of out-of-pocket health care expenditures. Actual collections were roughly \$270 million during both FY 2011-12 and FY 2012-13, leaving a shortfall of \$130 million that was offset with one-time fund sources during those fiscal years.

### **Reinstatement of Medicaid MCO Use Tax and HICA Rate Reduction**

In 2014, in response to indications that the federal government would temporarily permit the financing mechanism, the Legislature reinstated the Use Tax on Medicaid MCOs. In conjunction with that reinstatement, the Legislature lowered the HICA rate to 0.75%, with the provision that the rate would automatically revert back to 1.0% if the federal government informs the state that it will not provide federal reimbursement on Medicaid MCO Use Tax revenues.

The Use Tax on Medicaid MCOs currently generates an estimated \$610 million per year. Of this amount, \$203 million accrues to the School Aid Fund and \$407 million accrues to the General Fund. The GF/GP costs of reimbursing MCOs for the cost of the tax are \$158 million, yielding a net General Fund benefit of \$249 million.

The HICA act provides for a credit to entities paying the assessment if the combined revenue from the assessment and the General Fund portion of the Use Tax levied on Medicaid MCOs, less the General Fund amount necessary to reimburse Medicaid MCOs for the cost of the Use Tax, exceeds a cap specified in statute. The 2015 statutory cap on the combined collections is approximately \$445 million (The cap is equal to \$400 million adjusted for medical inflation since 2011, but cannot increase above \$450 million). Estimated credit amounts for FY 2015-16 and FY 2016-17 are \$38 million and \$9 million, respectively. No HICA credits are anticipated once the Use Tax on Medicaid MCOs is discontinued. As passed by the House, House Bill 5105 makes no changes to the credit provisions of the HICA act.

### **Future Changes**

Subsequent guidance from the federal government indicates the Use Tax on Medicaid MCOs must be discontinued by the end of the state's current legislation session (December 31, 2016).

Under current law, the HICA will sunset on December 31, 2017.

### **FISCAL IMPACT:**

House Bill 5105 would have a fiscal impact on state government by extending the sunset on the HICA through FY 2014-25. This would allow the state to continue to collect roughly \$330 million in HICA revenue per year (at a 1.0% rate and increasing over time with health insurance claims levels) that would otherwise no longer be collected beginning January 1, 2018. (For FY 2017-18, it would allow full-year collections rather than collections only for the first quarter of the fiscal year.) This estimate assumes the Use Tax on Medicaid MCOs will be discontinued on December 31, 2016 and the HICA rate will revert to 1.0% on January 1, 2017.

Absent extension of the sunset, beginning in FY 2017-18 either Medicaid expenditures will need to be reduced by roughly \$1.0 billion per year (including federal match funds), or an alternate financing source for state Medicaid match costs will need to be created or redirected from another purpose.

Independent of this legislation, the anticipated discontinuation of the Use Tax on Medicaid MCOs will also require reductions or financing changes to the Medicaid program, beginning in FY 2016-17. The net GF/GP shortfall of the discontinuation (accounting for the HICA rate reverting 1.0%) is roughly \$130 million for a full year, with an additional loss of \$203 million to the School Aid Fund.

Fiscal Analysts: Kyle I. Jen  
Kevin Koorstra

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