Legislative Analysis

SUNSET EXTENSION ON HEALTH INSURANCE CLAIMS ASSESSMENT

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House Bill 5105 as introduced
Sponsor: Rep. Al Pscholka
Committee: Appropriations

Complete to 12-1-2015

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 eliminate language in the act providing 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 managed care organizations (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.)

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.

House Bill 5105 would take effect 90 days after enactment.

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).

Funds collected under the assessment are statutorily dedicated to financing expenditures of Medicaid 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.[1]

[1] 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.

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 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.

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:

Note: The estimates presented below assume 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.

House Bill 5105 would have two fiscal impacts on state government:

- Eliminating the HICA credit that applies when combined HICA and net Use Tax on Medicaid MCO collections exceed the statutory cap would increase state revenues for FY 2015-16 and FY 2016-17 by an estimated $38 million and $9 million, respectively.[2] Those amounts correspond to the estimated credit amounts for those years under current law; no HICA credits are anticipated once the Use Tax on Medicaid MCOs is discontinued. The increased HICA revenue would reduce the need for GF/GP funds in the Medicaid program by the same amount.
- Extending the sunset through FY 2014-25 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.)

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.

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[2] This analysis assumes that House Bill 5105 would be effective April 1, 2016 and that, therefore, the credit to be paid out on July 30, 2016 based on 2015 collections under current law would not occur.