Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4495 (as passed by the House)
House Bill 4496 (Substitute H-4 as passed by the House)
Sponsor: Representative Will Snyder
Representative Graham Filler
House Committee: Health Policy
Senate Committee: Health Policy

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INTRODUCTION

The Healthy Michigan Plan (HMP) was authorized by the Affordable Care Act (ACA) and Public Act 107 of 2013, which amended the Social Welfare Act. The Plan is a Medicaid healthcare program administered by the Michigan Department of Health and Human Services (MDHHS) for qualified individuals, generally those at or below 133% of the Federal poverty line. The bills would amend the Social Welfare Act to modify HMP requirements. Specifically, the bills would delete the requirements that: 1) the MI Health Account (MIHA) be used to accept money from any source to pay for the HMP's incurred health expenses; 2) that HMP enrollees contribute 5.0% of income for cost sharing requirements; and 3) that the HMP be eliminated if the HMP's net costs become greater than net savings.

BRIEF FISCAL IMPACT

House Bill 4495 would have an uncertain but likely net minor fiscal cost to the State and no fiscal impact to local government. As the bill removes the requirement for the MIHA, the MDHHS could realize some administrative cost savings by no longer operating the MIHA, including tracking the copays and contributions from HMP participants. To the extent that the HMP has been funded by the collections of copays and contributions that would no longer be collected, there could be an increase in State costs. As of the most recent report, since the inception of the MIHA collection requirement a total of $143.8 million of copays and contributions have been billed to enrollees. Of that total $35.8 million has been collected from enrollees.[1] In the most recent calendar year, a total of $1.3 million was collected. The bill does not prohibit further collection of these funds, but the bill no longer requires collection. As the enrolled health plans are to collect these contributions, the fiscal impact to the State from potentially no longer receiving these funds would be indirect and uncertain as health plans are paid on a capitated basis rather than on a direct reimbursement basis.

House Bill 4496 (H-4) would have a minimal fiscal impact on the MDHHS and no fiscal impact on local governments. To the extent that there are current undefined savings that exist in meeting health outcome targets that become no longer observed due to the bill making pay-for-performance incentives optional, the increase in costs would be shared 90% Federal and 10% State funding.

MCL 400.105d et al. (H.B. 4495)
MCL 400.105b et al. (H.B. 4496)

Legislative Analyst: Alex Krabill
Fiscal Analyst: John P. Maxwell

[1] MDHHS, *Healthy Michigan Plan Uncollected Co-Pays Deductibles (FY2023 Appropriation Act – Public Act 166 of 2022)*, 2023.

CONTENT

House Bill 4495 would amend the Social Welfare Act to do the following:

- **-- Delete a requirement that MIHA be used to accept money from any source to pay for HMP's incurred health expenses.**
- **-- Delete a requirement that HMP enrollees contribute 5.0% of income for cost sharing requirements to instead require the MDHHS to establish cost sharing requirements for enrollees as approved by the United States Department of Health and Human Services (USDHHS).**
- **-- Delete language triggering the elimination of the HMP if net costs outweigh net savings.**
- **-- Modify requirements that financial incentives for improved health outcomes must meet.**
- **-- Delete many provisions concerning the waivers that the MDHHS had to file with the USDHHS for approval of the HMP.**

House Bill 4496 (H-4) would amend the Social Welfare Act to delete a requirement that the MDHHS include in a Federal waiver request intending to secure Federal funds for the medically uninsured non-Medicaid population of the State language allowing it to establish programs to incentivize positive health behaviors and to create pay-for-performance incentives.

Both bills would repeal Sections 105c and 105f of the Act, which respectively require the MDHHS to submit a recommendation on how to most effectively determine Medicaid eligibility and enrollment for all applicants by January 1, 2015, and establish the Health Care Cost and Quality Advisory Committee.

House Bill 4495

HMP Waiver

The Act requires the MDHHS to seek a waiver from the USDHHS, without jeopardizing Federal match dollars or otherwise encouraging Federal financial penalties, to do specified things, such as enroll certain individuals under Title XIX (Medicaid) who meet citizenship requirements and who are otherwise eligible for the medical assistance program into a contracted health plan. The bill would refer to approval from the USDHHS, instead of a waiver.

The Act specifies that the sought waiver must provide for an the account into which money from any source can be deposited to pay for incurred health expenses and that the account must be administered by the MDHHS. The bill would delete this provision. In addition, the bill would delete the following requirements of the MDHHS's waiver to the USDHHS:

-- A requirement that the waiver require enrollees with annual incomes between 100% and 133% of the Federal poverty guidelines to contribute not more than 5% of income annually for cost-sharing requirements, among other requirements related to an enrollee's annual income.
-- A requirement that the waiver inform enrollees during the enrollment process about advance directives and require the enrollees to complete a department-approved advance directive on a form that includes an option to decline.

Instead of those waiver requirements described above, the bill would require the MDHHS to seek approval for the establishment of cost sharing requirements approved by the USDHHA for enrollees.

The bill would delete the following requirements:1) that the MDHHS pursue any necessary waivers to enroll individuals eligible for both Medicaid and Medicare into the four integrated care demonstration regions; 2) that the quality measures be consistent with quality measures used for similar services implemented by the integrated care for duals demonstration project; and 3) that these provisions apply whether either or both of the waivers requested are approved, the ACA is repealed, or the State terminates or opts out of the program established by the Social Welfare Act.

The bill would delete other requirements of the waiver; however, the MDHHS has already fulfilled these requirements.

Healthy Behavior Waiver

The Act requires the MDHHS to seek an additional waiver from the USDHHS that requires individuals qualified for the HMP and that have been enrolled with HMP for 48 cumulative months to choose one of the following:

-- Complete a healthy behavior as provided by the Act with intentional effort given to making subsequent year healthy behaviors incrementally more challenging in order to continue to focus on eliminating health-related obstacles inhibiting enrollees from achieving their highest levels of personal productivity and pay a premium of 5% of income.
-- Suspend the enrollees eligibility for the HMP until the individual complies with the requirement above.

The bill would delete this healthy behavior waiver provision and requirements associated with it. The MDHHS has already fulfilled other requirements associated with that the bill also would delete.

HMP Elimination

This Social Welfare Act specifies that the provisions generally described in this summary do not apply if either of the following occurs:

-- If the MDHHS is unable to obtain either a contracted health plan waiver or a healthy behavior plan waiver from the USDHHS.
-- If Federal matching funds for the program are reduced below 100% and annual State savings and other nonfederal net savings associated with the implementation of that program are not sufficient to cover the reduced federal match.

The bill would delete this provision.

MDDHS Requirements

Under the Act, the MDHHS must withhold, at a minimum, 0.75% of payments to specialty prepaid health plans for the purpose of establishing a performance bonus incentive pool. Distribution of funds from the performance bonus incentive pool is contingent on the specialty prepaid health plan's completion of the required performance of compliance metrics that must include, at a minimum, partnering with other contracted health plans to reduce nonemergent emergency department utilization, increased participation in patient-centered medical homes, increased use of electronic health records and data sharing with other providers, and identification of enrollees who may be eligible for services through the United States Department of Veterans Affairs. The Act specifies that these requirements apply whether either or both of the waivers requested under the Act are approved, the ACA is repealed, or the State terminates or opts out of the program. The bill would delete these provisions, and

instead, the bill would allow the MDHHS to withhold at most 1.0% of payments to contracted health plans for the purpose of a performance bonus incentive pool.

Under the Act, the MDHHS must measure contracted health plan or specialty prepaid health plan performance metrics, as applicable, on application of standards of care as that relates to appropriate treatment of substance use disorders and efforts to reduce substance use disorders. This Act specifies that the requirement applies whether either or both of the waivers requested under the Act are approved, the ACA is repealed, or the State terminates or opts out of the program. The bill would delete the specification.

Under the Act, the MDHHS must create financial incentives for the following:

-- Contracted health plans that meet specified population improvement goals.
-- Providers who meet specified quality, cost, and utilization targets.
-- Enrollees who demonstrate improved health outcomes or maintain healthy behaviors as identified in a health risk assessment.

The bill would delete this requirement, and instead, the bill would require the MDHHS, in collaboration with the contracted health plans, to create financial incentives for enrollees who demonstrated improved health outcomes, practiced healthy behaviors, or completed screenings or procedures that improved health outcomes.

Under the Act, the MDHHS must maintain administrative costs at a level of not more than 1.0% of its appropriation of the program. This requirement applies whether either or both of the waivers requested under the Act are approved, the ACA is repealed, or the State terminates or opts out of the program. The bill would delete these provisions.

Modified Requirements for Contracted Health Plans

Under the Act, the performance bonus incentive pool for contracted health plans that are not specialty prepaid health plans must include inappropriate utilization of emergency departments, ambulatory care, contracted health plan all-cause acute 30-day readmission rates, and generic drug utilization when such an alternative exists for a branded product and consistent with the Public Health Code as a percentage of total. These measurement tools must be considered and weighed within the six highest factors used in the formula. The Act specifies that these requirements apply whether either or both of the waivers requested under the Act are approved, the ACA is repealed, or the State terminates or opts out of the HMP.

The bill would delete these requirements, and instead, the bill would require the performance bonus incentive pool for contracted health plans to include targets established for three to five objectives established by the MDHHS in collaboration with the contracted health plans. Targets would have to focus on key current health priorities, improve health equity, utilize established measurements to set a baseline for performance improvement, and be determined at least six months before the measurement period to support planning and execution necessary for achievement of desired outcomes.

Deleting Requirements for the Cost-Sharing Program

Under the Act, the MDHHS must work with providers, contracted health plans, and other departments as necessary to create processes that reduce the amount of uncollected cost-sharing and reduce the administrative cost of collecting cost-sharing. To this end, a minimum 0.25% of payments to contracted health plans must be withheld for the purpose of establishing a cost-sharing compliance bonus pool. The distribution of funds from the cost-sharing compliance pool must be based on the contracted health plans' success in collecting

cost-sharing payments. The MDHHS must develop the methodology for distribution of these funds. The requirements above apply whether either or both of the waivers requested under this section are approved, the ACA is repealed, or the State terminates or opts out of the program. The bill would delete all these provisions.

Under the Act, the MDHHS must develop a methodology that decreases the amount an enrollee's required contribution may be reduced based on factors such as an enrollee's failure to pay cost-sharing requirements and the enrollee's inappropriate utilization of emergency departments. The bill would delete this provision.

Under the Act, the MDHHS must develop, administer, and coordinate with the Department of Treasury a procedure for offsetting the State tax refunds of an enrollee who owes a liability to the State of past due uncollected cost-sharing, as allowable by the Federal government. The procedure must include a guideline that the MDHHS submit to the Department of Treasury, by November 1 of each year, all requests for the offset of State tax refunds claimed on returns filed or to be filed for that tax year. The Act specifies that any nonpayment of the cost-sharing required under this section owed by the enrollee is considered a liability to the State. The bill would delete these provisions.

Under the Act, the MDHHS must establish uniform procedures and compliance metrics for utilization by the contracted health plans to ensure that cost-sharing requirements are being met. This must include ramifications for the contracted health plans' failure to comply with performance or compliance metrics. This requirement applies whether either or both of the waivers requested under the Act are approved, the ACA is repealed, or the State terminates or opts out of the program. The bill would delete these provisions.

Services for Uninsured Individuals

Under the Act, for services rendered to an uninsured individual, a hospital that participates in the medical assistance program must accept 115% of Medicare rates as payments in full from an uninsured individual with an annual income level up to 250% of the Federal poverty guidelines. The Act specifies that this applies whether either or both of the waivers requested under the Act are approved, the ACA is repealed, or the State terminates or opts out of the program established under the Act. The bill would delete the specification.

Modified and Deleted Definitions

"Peace of mind registry" means an internet website containing access to directives as provided in the Public Health Code. "Peace of mind registry organization" means an organization certified or recertified by the Secretary of the MDHHS as a qualified organ procurement organization or its successor organization under Federal law.

"State savings" means any State fund net savings, calculated as of the closing of the financial books for the MDHHS at the end of each fiscal year, that result from the program under the Act. The savings must result in a reduction in spending from the following State fund accounts: adult benefit waiver; non-Medicaid community mental health; and prisoner health care. Any identified savings from other State fund accounts must be proposed to the House of Representatives and Senate Appropriations Committees for approval to include in that year's State savings calculation.

The bill would delete these definitions. In addition, the bill would delete the part of the definition of "medically indigent individual" that is described below.

"Medically indigent individual" includes, among other individuals, an individual who is eligible under the HMP with the following exceptions:

-- If the MDHHS is unable to obtain a contracted health plan waiver or a healthy behavior program waiver as described above.
-- If Federal government matching funds for the program are reduced below 100% and annual State savings and other non-Federal net savings associated with the implementation of that program are not sufficient to cover the reduced Federal match.

House Bill 4496 (H-4)

Under the Act, the MDHHS must include 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 language to allow the MDHHS to establish, at a minimum, the following programs:

-- A program that creates incentives for individual medical assistance recipients who practice specified positive health behaviors.
-- A program that creates pay-for-performance incentives for contracted Medicaid health maintenance organizations.

The bill would delete this provision.

The bill also would require the MDHHS to work in collaboration with the contracted health plans to create the incentives for individual medical assistance recipients who practice specified positive health behaviors.

FISCAL IMPACT

House Bill 4495

In addition to the impact described above, as the bill would allow for the MDHHS to establish financial incentives based on certain outcomes, there would be a potential for overall savings based on the effectiveness and magnitude in the results of the objective-based initiatives.

The bill would remove the provision on the HMP that eliminates the HMP if net costs become greater than net savings. The most recent calculation of the cost and savings required by the language that this bill would delete shows that the State and non-Federal savings exceed the Healthy Michigan Plan costs by $286,325,200.2 As some of the savings included in that calculation scale with increased Healthy Michigan Plan costs, the current operation of the program likely means that the costs would never exceed the savings. Because of this, there would be no fiscal impact from this portion of the bill.

The total fiscal impact to the State would likely be minor because the changes proposed under the bill are marginal changes to the program, or they have uncertain, indirect effects that would be difficult to parse individually.

[2] State Budget Office, *Healthy Michigan Plan: Calculation of Annual State and Other Non-Federal Net Savings (Thousands)*, January 2023.

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