



Bill Draft 2015-TRza-5*: Medicaid Reorganization (JLPEOC).

2015-2016 General Assembly

Committee: Joint Legislative Program Evaluation
Oversight Committee

Date: January 21, 2015

Introduced by:

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Analysis of: 2015-TRza-5*

Committee Counsel

SUMMARY: *Bill draft 2015-TRza-5 would transfer the Division of Medical Assistance to a new board-managed Health Benefits Authority, which would be administratively housed in the Department of Health and Human Services but which would exercise its statutory authority independently of the Department.*

CURRENT LAW: The Medicaid and Health Choice programs are currently managed by the Division of Medical Assistance within the Department of Health and Human Services.

BILL ANALYSIS: Sections 1 and 2 of the bill draft transfer the current Division of Medical Assistance within the Department of Health and Human Services to the Health Benefits Authority, a new, board-managed entity within the Department of Health and Human Services. The transfer would occur October 1, 2015.

The main elements of the new Health Benefits Authority are as follows:

- **Management by compensated board of experts.** The new Health Benefits Authority would be managed by a group of compensated experts in health administration, health insurance, health actuarial science, health economics, and health law and policy. The Board would include three appointees from the Governor, two on the recommendation of the Senate President Pro Tempore, two on the recommendation of the House Speaker, and the Secretary of Health and Human Services. The Board would be compensated comparably to boards of large hospital systems and insurance companies, with initial compensation determined by the Office of State Human Resources.
- **Independent exercise of authority.** The Board would have broad authority to operate the Medicaid and Health Choice programs, including the ability to adjust all program elements except for eligibility categories. Although administratively housed in the Department of Health and Human Services, the Health Benefits Authority would exercise its statutory powers independently of the Secretary of Health and Human Services. Unlike the current Division of Medical Assistance, the Secretary would not be able to transfer funds into or out of the Health Benefits Authority's programs without explicit permission of the Board. Budget proposals would be submitted directly to the Office of State Budget and Management. Existing administrative agreements between the Division of Medical Assistance and other State entities, including divisions of the Department of Health and Human Services, would continue until July 1, 2016, at which point the Health Benefits Authority would be able to enter into new administrative arrangements.
- **Increased fiscal responsibility.** The bill draft requires the new Health Benefits Authority to keep the Medicaid and Health Choice programs within their budgets. The Authority would annually publish a forecast of the next four years of the Medicaid and Health Choice programs, including (i) the expected enrollment growth and enrollment mix changes, (ii) what changes, such as service reductions, would have to be made to keep the programs

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within their existing budget, and (iii) how much additional funding would be required to maintain the programs without any changes. The Authority would have to make mid-year reductions to programming if experiencing a shortfall. If those reductions were not sufficient, then the Board of the Health Benefits Authority would be able access funds from the Medicaid Reserve Account, a new, non-reverting special fund.

- **Strategic planning and performance measures.** The Board would have to clearly define its strategic plans and goals, as well as a performance management system for measuring how well it achieves its goals.
- **Increased transparency and reporting.** The bill draft requires increased reporting, including information on performance measures and an audited financial statement, as well as the monthly publishing of enrollment, per member spending, spending by fund code, and an analysis of each month's performance compared to the forecast.
- **Staff "at will" employees with "cooling off" period.** Staff hired after the date of transfer (October 1, 2015) would be exempt from several provisions of the State Personnel Act in order to be "at will" employees. Staff could be offered contracts for a term, however. Staff would also be subject to a six month "cooling off" period. Specifically, during the six months following the end of employment, (i) an employee could not work for an entity whose contract the employee negotiated or supervised and (ii) an officer could not work for any entity that contracted with the the Health Benefits Authority.

Sections 3 through 8 address technical issues ranging from when the Board can begin meeting to conforming statutory changes. **Section 3** provides for when the Board can meet and how the Office of State Human Resources determines the initial compensation for the members of the Board. **Section 4** continues existing Medicaid and Health Choice administrative agreements until July 1, 2016. **Section 5** requires the Department of Health and Human Services to report on the allocation of Medicaid costs. **Section 6** requires the Department of Health and Human Services to submit the appropriate state plan amendments (SPAs) to change the designation of the federally recognized "single state agency" from the Department of Health and Human Services to the Health Benefits Authority. **Section 7** provides additional details on the transfer of rules, contracts, and legal actions. **Section 8** creates a new legislative oversight committee to oversee the Health Benefits Authority and removes the oversight of Medicaid and Health Choice from the Joint Legislative Oversight Committee on Health and Human Services. **Section 9** makes technical and conforming changes, and also recodifies existing Medicaid law into a single Chapter.

EFFECTIVE DATE: The majority of the bill draft would be effective October 1, 2015. A few provisions that facilitate that October 2015 effective date are effective when the act becomes law.

BACKGROUND: In Report Number 2013-03, "Options for Creating a Separate Department of Medicaid Require Transition Planning (March 2013)," the Program Evaluation Division presented options and considerations for adjusting the existing governance of the Medicaid program, which is currently administered by the Division of Medical Assistance of the Department of Health and Human Services. The Sixth Edition of HB 1181 of the 2014 session, which the Senate passed on July 28, 2014, contained a plan to create a separate board-governed Department of Medical Benefits to manage the Medicaid and Health Choice programs. The House did not concur with that version of the bill. In August 2014, the Joint Legislative Program Evaluation Oversight Committee formed a subcommittee to study Medicaid, including the governance of Medicaid.