



Bob Bennett

Bill Analysis

Legislative Service Commission

S.B. 194

127th General Assembly
(As Introduced)

Sens. R. Miller, Fedor, Cafaro, D. Miller, Roberts, Sawyer

BILL SUMMARY

- Creates the Ohio Department of Health Care Administration (ODHCA).
- Transfers the Ohio Department of Job and Family Services' functions regarding Medicaid, the Hospital Care Assurance Program, Children's Health Insurance Program, and Disability Medical Assistance program to ODHCA.
- Transfers the Department of Aging's functions regarding the Ohio's Best Rx program and Residential State Supplement program to ODHCA.
- Requires that ODHCA create, within the department, the Central Pharmaceutical Purchasing Office.
- Requires the Central Pharmaceutical Purchasing Office to purchase, store, repackage, distribute, and dispense all drugs, pharmaceutical products, and related items needed by certain state agencies and to provide those state agencies professional pharmacy consultation and drug information services.

CONTENT AND OPERATION

Background

Under current law, the Ohio Department of Job and Family Services (ODJFS) administers the Medicaid program, Hospital Care Assurance Program (HCAP), Children's Health Insurance Program (CHIP), and Disability Medical Assistance program on the state level. The Department of Aging administers the Ohio's Best Rx program and Residential State Supplement programs on the state level.

Medicaid

Medicaid is a health-care program for low-income children and families and for aged, blind, and disabled persons. The program is funded with federal, state, and county funds and was established by Congress in 1965 as Title XIX of the Social Security Act. Federal Medicaid law requires states participating in Medicaid to cover certain groups of persons and types of benefits and gives states options for covering other groups of persons and types of benefits.

Hospital Care Assurance Program

Under HCAP, (1) hospitals are annually assessed an amount based on their total facility costs and (2) government hospitals make annual intergovernmental transfers to ODJFS. ODJFS distributes to hospitals money generated by assessments, intergovernmental transfers, and federal matching funds generated by the assessments and transfers. A hospital compensated under HCAP must provide, without charge, basic, medically necessary, hospital-level services to Ohio residents who are not recipients of Medicare or Medicaid and whose income does not exceed the federal poverty guidelines.

Children's Health Insurance Program

Ohio currently has two CHIP programs: CHIP Part I and CHIP Part II. ODJFS is authorized to seek federal permission to establish a CHIP Part III. CHIP Part I provides health assistance to uninsured individuals under age 19 with family incomes not exceeding 150% of the federal poverty guidelines. CHIP Part II provides health assistance to uninsured individuals under age 19 with family incomes above 150% of the federal poverty guidelines but not exceeding 200% of the federal poverty guidelines. CHIP Part III, if created, would provide health assistance to individuals under age 19 with family incomes above 200% of the federal poverty guidelines but not exceeding 300% of the federal poverty guidelines.

Disability Medical Assistance

The Disability Medical Assistance program is a state and county-funded health-care program for low-income individuals who are medication dependent, ineligible for any category of Medicaid, and meet other requirements. An individual is "medication dependent" if a physician has certified that the individual is under ongoing treatment for a chronic medical condition requiring continuous prescription medication for a long-term, indefinite period of time and for whom

the loss of such medication would result in a significant risk of a medical emergency and loss of employability which will last at least nine months.¹

Ohio's Best Rx

The Ohio's Best Rx program provides outpatient prescription drug discounts to individuals age 60 or older, low-income individuals ineligible for Medicaid, and other individuals without health benefits that cover outpatient drugs.

Residential State Supplement

The Residential State Supplement program provides state supplements to Supplemental Security Income payments. The state supplements are to be used for accommodations, supervision, and personal care services to Supplement Security Income recipients at risk of needing institutional care.

Department of Health Care Administration created

(R.C. 121.02, 121.03, 124.30, 124.301, 5101.07, 5101.071, 5160.03, 5160.05, 5160.06, 5160.08, 5160.10, and 5160.101; Section 3)

The bill creates the Ohio Department of Health Care Administration (ODHCA) and provides for a Director to administer it. The Governor is to appoint the ODHCA Director with the advice and consent of the Senate. The Director is to hold office during the term of the appointing governor and is subject to removal at the Governor's pleasure.

The ODHCA is required to do all of the following as necessary for its efficient administration:

- (1) Organize ODHCA, including administrative subunits;
- (2) Appoint employees and prescribe their titles and duties, including chiefs of administrative units;
- (3) Establish procedures for conducting ODHCA's business, including procedures for the custody, use, and preservation of records, papers, documents, and property.

The bill requires that ODHCA's organization be in accordance with the recommendations of the Ohio Medicaid Administrative Study Council regarding a

¹ Ohio Administrative Code § 5101:1-42-01.

business model, organization structure, cross-functional practices, information technology, state and local impact, fiscal and budget, transition, and long-term care. The Council was created by the biennial budget act for state fiscal years 2006 and 2007, Am. Sub. H.B. 66 of the 126th General Assembly.

The ODHCA Director is permitted to acquire by purchase, lease, or otherwise such real and personal property rights in the name of the state as are necessary for ODHCA's purposes. The Director, with the approval of the Governor and Attorney General, is allowed to sell, lease, or exchange portions of ODHCA's real and personal property when the sale, lease, or exchange is advantageous to the state. Money received from the sale, lease, or exchange must be credited to the General Revenue Fund.

The bill gives the ODHCA Director the same types of power regarding the administration of ODHCA that current law gives the ODJFS Director regarding the administration of ODJFS. For example, the bill requires the ODHCA Director to provide the Director of Administrative Services certification of a determination that a position with ODHCA can best be filled without competition under state law governing the classified service or without regard to a residency requirement. And, the ODHCA Director is permitted to require any of ODHCA's employees who may be charged with custody or control of any public money or property or who is required to give bond, to give bond, properly conditioned, in a sum to be fixed by the Director.

ODJFS has a support services federal operating fund and a support services state operating fund. The federal fund consists of federal funds ODJFS receives that the ODJFS Director determines are appropriate for deposit into it. The state fund consists of payments made to it from other appropriation items by intrastate transfer voucher. Money in the funds is to be used to pay for ODJFS's costs for computer projects and the operating costs of the parts of ODJFS that provide general support services for ODJFS's administrative subunits. The bill renames these funds the ODJFS Support Services Federal Operating Fund and ODJFS Support Services State Operating Fund to distinguish them from similar funds the bill creates for ODHCA.

Transfer of administration of programs to ODHCA

(R.C. Chapters 5161., 5162., 5163., 5164., 5165., 5166., 5167., 5168., and 5169.; R.C. 3323.021, 3701.507, and 5160.80; Sections 4, 5, 6, and 7)

The bill transfers ODJFS's functions regarding Medicaid, HCAP, CHIP, and the Disability Medical Assistance program to ODHCA. The bill also transfers

the functions of the Department of Aging regarding the Ohio's Best Rx program and Residential State Supplement program to ODHCA.²

In addition to transferring the actual programs, the bill also transfers all of the programs' functions, assets, and liabilities to ODHCA. The transferred programs are thereupon and thereafter successor to, assume the obligations of, and otherwise constitute the continuation of each program as it was operated before the transfer.

The bill requires that ODHCA complete any business of the programs commenced but not completed before the transfer. The business must be completed in the same manner, and with the same effect, as if completed by ODJFS or the Department of Aging, as appropriate, immediately prior to the transfer.

The bill provides that no validation, cure, right, privilege, remedy, obligation, or liability pertaining to the programs is lost or impaired by the transfer. ODHCA is required to administer the validations, cures, rights, privileges, remedies, obligations, and liabilities in accordance with the state law governing the programs.

All rules, orders, and determinations pertaining to the programs as they were operated before the transfer continue in effect until ODHCA modifies or rescinds the rule, order, or determination.

The Director of the Legislative Service Commission is required to renumber the rules governing the programs to reflect the transfer if necessary to ensure the integrity of the number of the Ohio Administrative Code.

The bill requires that the programs' employees in ODJFS and the Department of Aging be transferred to ODHCA. However, this requirement is subject to the lay-off provisions of the state's civil service law. The transferred employees are to retain their positions and all of the benefits accruing to the positions.

Regarding the Ohio's Best Rx program, the bill permits ODHCA to negotiate or enter into a contract with a person to serve as the program's administrator. When negotiating or entering into the contract, ODHCA is required

² The bill provides for the transfers to take effect July 1, 2007. The bill needs an amendment to update the effective date.

to comply with the same provisions that applied to ODJFS's selection of the program's administrator when ODJFS administered the program.³

As part of the transfer of programs, ODHCA is given responsibilities current law gives to ODJFS or the Department of Aging. For example, ODHCA, rather than ODJFS, is to develop with the State Board of Education and Department of Mental Retardation and Developmental Disabilities working agreements for pursuing additional funds for services for disabled children. And a representative of ODHCA, rather than ODJFS, is to serve on the Infant Hearing Screening Subcommittee that assists the Department of Health implement state law regarding infant hearing impairments.

County share of public assistance expenditures

(R.C. 5101.16, 5160.26, 5160.261, and 5160.262)

Counties are responsible for a share of the costs of administering the following public assistance programs: Medicaid; Disability Medical Assistance; Disability Financial Assistance; Food Stamps; Ohio Works First; and Prevention, Retention, and Contingency. ODJFS is required by current law to reduce a county's share of the costs for a fiscal year if the county's total share for all of the programs exceeds 110% of the county's share for those expenditures for the immediately preceding fiscal year. A county's share is to be reduced so that the total of the county's share equals 110% of the county's total share for the immediately preceding fiscal year. Because ODHCA would administer Medicaid and Disability Medical Assistance on the state level while ODJFS would continue to administer the other programs, the bill requires ODHCA and ODJFS to cooperate with each other for the purpose of making the reductions.

Medicaid issues

(R.C. 329.04, 5161.01, 5161.03, and 5161.05)

To obtain federal matching funds for its Medicaid program a state must comply with federal Medicaid requirements. Among the requirements are for a state to obtain the approval of the United States Secretary of Health and Human Services of a state Medicaid plan and establish or designate a single state agency to administer or supervise the administration of the state Medicaid plan.⁴ Current

³ Am. Sub. H.B. 168 of the 126th General Assembly transferred operation of the Ohio's Best Rx program from ODJFS to the Department of Aging. S.B. 194 was drafted before the transfer went into effect. An amendment to S.B. 194 is needed to update the bill to reflect current law in effect since the transfer.

⁴ 42 U.S.C. 1396 and 1396a(a)(5).

law requires ODJFS to act as the single state agency to supervise the administration of the Medicaid program but not does not expressly require ODJFS to submit a state Medicaid plan for federal approval. The bill, as part of the transfer of Medicaid from ODJFS to ODHCA, requires ODHCA to act as the single state agency to supervise the administration of Medicaid. And, the bill expressly requires ODHCA to prepare and submit to the United States Secretary of Health and Human Services a state Medicaid plan and amendments to the plan as necessary to accomplish the requirements of state Medicaid law.

ODHCA's assumption of ODJFS's Medicaid administrative authority includes a provision that permits ODHCA to enter into contracts with one or more other state agencies or political subdivisions to have the state agency or political subdivision administer one or more components of the Medicaid program under ODHCA's supervision. A contract with another state agency must be in form of an interagency agreement. The bill requires that an interagency agreement include a requirement that the other state agency submit an annual financing plan to ODHCA.

The Ohio Department of Mental Retardation and Developmental Disabilities is required to charge each county board of mental retardation and developmental disabilities an annual fee equal to 1.5% of the total value of all Medicaid paid claims for Medicaid case management services and home and community-based services provided to individuals eligible for services from the county board. The fees are deposited into the ODMR/DD Administration and Oversight Fund and the ODJFS Administration and Oversight Fund. ODJFS is required to use money in the ODJFS Administration Oversight Fund for (1) the administrative and oversight costs of Medicaid case management services and home and community-based services and (2) providing technical support to county boards' local administrative authority for such services. The bill renames the ODJFS Administration and Oversight Fund the ODHCA Administration and Oversight Fund. ODHCA is to use the money in the fund for the same purposes ODJFS was required to use money in the fund.

Under current law, county departments of job and family services are required to determine Supplemental Security Income recipients' eligibility for Medicaid. The bill requires instead that county departments make eligibility determinations for Medicaid in accordance with rules adopted by the ODHCA Director.

Disability Advocacy Program

(R.C. 5115.20)

Continuing law requires ODJFS to establish a Disability Advocacy Program. Each county department of job and family services must establish a disability advocacy program unit. ODJFS and county departments are to use the program to cooperate in efforts to assist applicants for and recipients of the Disability Financial Assistance program and Disability Medical Assistance program who might be eligible for the Supplemental Security Income (SSI) program in applying for SSI benefits.

The bill requires ODHCA to assist ODJFS and county departments with the Disability Advocacy Program.

Income and eligibility verification system

(R.C. 4141.162)

The ODJFS Director is required by current law to establish an income and eligibility verification system that complies with federal law. The system must cover the Unemployment Compensation Program; Ohio Works First Program; Prevention, Retention, and Contingency Program; Medicaid; Food Stamp Program; and any Ohio program under a plan approved under Title I, X, XIV, or XVI of the Social Security Act.

The bill requires the ODJFS Director to collaborate with the ODHCA Director in establishing the income and eligibility verification system.

Joint Legislative Committee on Health Care Oversight

(R.C. 101.39)

The Joint Legislative Committee on Health Care Oversight is an existing agency consisting of ten members of the General Assembly. The Committee is authorized to review or study any matter related to the provision of health care services that the Committee considers significant to Ohio citizens, including the availability of health care, the quality of health care, the effectiveness and efficiency of managed care systems, and the operation of the Medicaid program or other government health programs.

Current law requires ODJFS, the Department of Health, Department of Aging, Department of Mental Health, Department of Alcohol and Drug Addiction Services, and other state agencies to cooperate with the Committee and, on request, provide the Committee with reports and other information sufficient for

the Committee to fulfill its duties. The bill adds ODHCA as one of the agencies expressly required to cooperate and provide reports and other information on request.

Centralized pharmaceutical purchasing

(R.C. 5160.75 and 5119.16)

The bill requires ODHCA to create, within the department, the Central Pharmaceutical Purchasing Office. The Office must purchase, store, repackage, distribute, and dispense all drugs, pharmaceutical products, and related items that any of the following need: ODJFS, the Department of Health, Department of Mental Health, Department of Mental Retardation and Developmental Disabilities, Department of Rehabilitation and Correction, Department of Youth Services, or other state agencies for which the Department of Administrative Services purchases supplies. The Office must also provide professional pharmacy consultation and drug information services to those departments and agencies. The bill provides that ODHCA is not required to purchase the drugs, pharmaceutical products, and related items through the Department of Administrative Services.

Current law requires the Department of Mental Health to provide certain goods and services (such as procurement, storage, repackaging, distribution, and dispensing of drugs; professional pharmacy consultation; and drug information services) to the Department's institutions and state-operated community-based mental health services. The Department of Mental Health must also provide the goods and services to the Department of Mental Retardation and Developmental Disabilities, Department of Rehabilitation and Correction, and Department of Youth Services after consulting with and receiving advice from the directors of the departments. The bill provides that these requirements are subject to the bill's requirement that the Central Pharmaceutical Purchasing Office within ODHCA purchase, store, repackage, distribute, and dispense all drugs, pharmaceutical products, and related items to the Department of Mental Health, Department of Mental Retardation and Developmental Disabilities, Department of Rehabilitation and Correction, and Department of Youth Services.

HISTORY

ACTION	DATE
Introduced	06-27-07

S0194-i-127.doc/ejs

