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The Medicaid Impact of the Federal Health Insurer Fee

Steve Angelotti, Associate Director

Background

In 2010, Congress passed and President Obama signed the Patient Protection and Affordable Care Act, commonly known as the Affordable Care Act, or ACA. This legislation made numerous changes to the structure of health care in the United States, with many of the changes, particularly insurance subsidies and Medicaid expansion, increasing Federal expenditures. To offset some of those costs, there were revenue adjustments as well. One such revenue adjustment included in the ACA is what is generally known as the Health Insurer Fee (HIF). The fee was designed to bring in \$8.0 billion nationally in its first year, 2014, with the amount scheduled to increase gradually to \$14.3 billion in 2018 and to be adjusted by total health insurance premium growth in subsequent years.

The magnitude of this fee, which is applied to for-profit insurers, is based on a target amount of total revenue rather than being based on a specific rate. As such, in 2014, the fee charged to for-profit insurers was set at a level to bring in the \$8.0 billion referenced in the legislation. In other words, the HIF is not like a typical tax or fee; it is not set at, to pick a random number, 1.3% of revenue. Instead the HIF is set based on the previous year's data and is designed to bring in a statutorily defined amount of revenue.

The HIF's Impact on Michigan's Medicaid Program and the Budget

Many of the managed care organizations (MCOs) that handle much of Michigan's traditional Medicaid program as well as the Medicaid expansion (aka the Healthy Michigan Plan or HMP) are for-profit and are subject to the HIF. As such, the HIF increases their costs above what the costs would be if the HIF were not in effect. This cost increase is relevant to the State budget because State Medicaid programs are required under Federal rule to pay Medicaid MCOs "actuarially sound" rates. This actuarial soundness provision requires the State to reimburse Medicaid MCOs for cost increases including taxes and fees. For instance, if the total cost of the fee on Michigan Medicaid MCOs were \$160.0 million in a given year, the State would have to raise Medicaid MCO reimbursement rates for those affected MCOs by \$160.0 million Gross. This cost increase would be paid mostly by Federal match, as the Federal match rate for traditional Medicaid is in the 65.0% range and the Federal match rate for HMP will be 90.0% effective January 1, 2020. Accordingly, the General Fund/General Purpose (GF/GP) cost of a \$160.0 million Gross HIF actuarial soundness reimbursement would be close to \$40.0 million.

The Medicaid budget has been adjusted in past years to reflect the actuarial soundness cost of the HIF. It is important to note that these adjustments are basically exercises in good budgeting; the intent is to provide the most accurate amount of funding for the Medicaid program. Even if the HIF adjustment is not explicitly funded, the State still must reimburse HIF costs because of the actuarial soundness requirement. If the budget did not include an explicit HIF adjustment, that would not mean that the State would fail to reimburse Michigan Medicaid MCOs for their HIF costs. Instead, the Medicaid budget would be underfunded and would require a subsequent transfer or supplemental. Failing to explicitly fund HIF costs would be akin to failing to recognize the costs of a growth in the Medicaid caseload - the State still must pay Medicaid providers, but would need subsequent budgetary adjustments to cover the increased costs. It would not be accurate to say that failing to fund the HIF would put the State's Medicaid program at risk. It would be accurate to say that failing to fund the HIF could lead to the need for a supplemental at some point during the fiscal year.

Moratoriums

The HIF has been controversial as it clearly increases the cost of health insurance, not just for State Medicaid programs, but for individuals and employers who purchase insurance. Congress has enacted one-year moratoriums on the HIF, with one occurring in calendar year 2017 and another one occurring in calendar year 2019. The Michigan Medicaid budget was adjusted in the past few fiscal years to reflect the on-again, off-again actuarial soundness adjustments for the HIF (this was complicated further by the calendar year basis of the moratoriums, which does not square with the October 1 through September 30 fiscal year in Michigan).

The FY 2019-20 Situation

It was unclear, entering into the Fiscal Year (FY) 2019-20 Department of Health and Human Services (DHHS) budget cycle, whether Congress and the President would seek to continue the HIF moratorium. Continuing the HIF moratorium would require specific action in Washington; the default position would be that the one-year 2019 moratorium would expire and the State once again would have to increase Medicaid MCO funding to cover the costs of the HIF in calendar year 2020.

Governor Whitmer's FY 2019-20 budget assumed the moratorium would expire and included \$180.5 million Gross and \$50.0 million GF/GP to cover the projected actuarial soundness costs for the HIF in FY 2019-20. The Senate concurred with the Governor but the House did not. In setting targets for the Conference Committees, the decision was made not to include explicit funding in the DHHS budget for the possible costs of the end of the moratorium, but rather to leave at least \$50.0 million GF/GP on the overall balance sheet in case the moratorium expired. As such, the budget that was sent to Governor Whitmer did have sufficient money to cover the possible expiration of the moratorium on the balance sheet but not within the DHHS budget itself (see the Senate Fiscal Agency's [September 24, 2019 Memo](#) for the balance sheet). There have been concerns expressed whether there is sufficient funding in the enacted FY 2019-20 Health Plan Services and Healthy Michigan Plan line items to cover anticipated costs, including the HIF. There have been arguments made that, if there are insufficient appropriations to cover total costs (effectively the actuarially sound rates multiplied by the number of Medicaid cases enrolled in managed care organizations), the State could be subject to sanctions.

It is important to note that Medicaid appropriations reflect an estimate of expenditures. Adjustments are made throughout the year, including well after the September 30th end of the fiscal year, to ensure that sufficient funding is available to pay actuarially sound rates to managed care organizations for all Medicaid managed care cases. For instance, the State Budget Office (SBO) has proposed transfers to increase funding in the Health Plan Services line (transfer letters 2019-6 and 2019-8) to ensure sufficient funding in FY 2018-19. There is also a Medicaid expenditure consensus meeting each May involving the SBO and the fiscal agencies and the estimates agreed to in the May 2019 consensus meeting were included in the FY 2018-19 supplemental contained in Enrolled Senate Bill 138 (Public Act 56 of 2019). It is important to point out that relatively routine adjustments are made throughout the year without fear of sanctions even when some adjustments are proposed after the September 30th end of the fiscal year.

There are frequent adjustments (both enacted and proposed) made to the Medicaid managed care line items, there is a precedent of adjustments being made to those lines even after the fiscal year ends, and there was funding specifically set aside on the balance sheet for the HIF. Given all that, it does not appear that there is a risk at this point, one month into FY 2019-20, of inadequate funding for the Medicaid managed care lines in FY 2019-20 whether the HIF is in effect in calendar year 2020.

Governor Whitmer, in her October 10, 2019, supplemental recommendation, included explicit DHHS funding for the costs of the potential expiration of the HIF moratorium, again at the amount of \$180.5 million Gross and \$50.0 million GF/GP. It does appear less likely that the moratorium will be extended, so it is likely that the State will incur costs in the range of the Governor's proposed supplemental request. It is important to note, however, that, whether the State explicitly adds funding for the actuarial soundness costs of the HIF or not, the costs will be incurred if the moratorium ends. Including funding at some point in the FY 2019-20 budget cycle, if the moratorium ends, would represent good budgeting practices, but would not be necessary to continue the State's Medicaid program.