Legislative Analysis

Mary Ann Cleary, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

POOLED TRUSTS FOR MEDICAID

House Bill 4013
Sponsor: Rep. Kurt Heise
Committee: Financial Liability Reform

Complete to 4-24-13

A SUMMARY OF HOUSE BILL 4013 AS INTRODUCED 1-22-13

The bill would amend the Social Welfare Act, which deals with the Medicaid program, to address pooled trusts for disabled individuals.

["Pooled trusts," in the context of Medicaid, are typically described as trusts that pool the resources of many beneficiaries with disabilities, with the resources managed by a nonprofit association. Pooled trusts may be for beneficiaries of any age and may be created by the beneficiary. When the beneficiary dies, the state does not have to be repaid for Medicaid expenses on the beneficiary's behalf if the funds remain in the trust for the benefit of the other beneficiaries.]

The bill would do the following:

- Exclude income assigned to a pooled trust from the amount of annual income and amount of assets that determines whether a person qualifies for Medicaid (i.e., is a "medically indigent individual").

- Require the Department of Human Services to establish rules, regulations, and policies that are in compliance with, and not more restrictive than, existing federal rules, regulations, and polices with regard to the treatment of pooled trusts.

- Prohibit the department from imposing a penalty on an individual, or delay eligibility for medical assistance, for entering into a joinder agreement, transferring assets to a pooled trust, or both.

- Allow a joinder agreement (between a trustee and a beneficiary) to be entered into by a disabled individual of any age or on behalf of a disabled individual by any of the following:

  - A parent or grandparent (with the permission and/or consent of the disabled individual).
  - A guardian.
  - A conservator.
  - A court.

        - A person named as attorney-in-fact through a durable power of attorney that authorizes the attorney-in-fact to enter into a joinder agreement or similar agreement.

    - Define a pooled trust to mean a trust that meets all of the following criteria:

        - The trustee maintains an account for each beneficiary.
        - The trustee pools accounts for management and investment purposes.
        - The trustee uses funds in the beneficiary's account for the sole benefit of the beneficiary.
        - Upon the death of the beneficiary, the trustee may retain assets that remain the beneficiary's account, without limit to dollar amount, in the pooled trust.
        - With respect to assets that remain in the beneficiary's account and that are not retained by the trust, the trustee must reimburse the state in an amount equal to the total amount of medical assistance paid by the state on behalf of the beneficiary before distributing those assets to other individuals or using those assets for another purpose.

MCL 400.106 et al.

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: Chris Couch
Fiscal Analyst: Steve Stauff
Kevin Koorstra

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.