

A RESOLUTION

24-13

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 5, 2021

To declare the existence of an emergency with respect to the need to amend the Health Care Privatization Amendment Act of 2001 to align the enrollment process and enrollment period for the DC HealthCare Alliance with requirements for DC Medicaid; to amend the Department of Health Care Finance Establishment Act of 2007 to make the funding in the Medicaid Reserve non-lapsing and to require that all unspent local funds of the Department of Health Care Finance in Fiscal Year 2021 be deposited into the Medicaid Reserve; to amend Title 47 of the District of Columbia Official Code to require that any reprogramming of funding from the Department of Health Care Finance or the Medicaid Reserve to be approved by resolution in Fiscal Year 2021; and to require the Office of the Chief Financial Officer to notify the Council within 3 business days if funds in the Medicaid Reserve are no longer required for the Department of Health Care Finance.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Department of Health Care Finance Alliance Reform and Budget Transparency Emergency Declaration Resolution of 2021”.

Sec 2. (a)(1) On December 5, 2017, the Council passed the D.C. Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017, effective February 17, 2018 (D.C. Law 22-62; 65 DCR 9). This legislation eliminated the requirement for persons enrolled in the D.C. HealthCare Alliance (“Alliance”) to recertify in person with the Department of Human Services and extended the enrollment period from 6 months to one year to align the Alliance’s enrollment period with that of Medicaid.

(2) The Office of the Chief Financial Officer estimated that the legislation would have a fiscal impact on the District’s 4-year budget and financial plan of \$105,216,288 in a fiscal impact statement dated October 5, 2017.

(3) On June 26, 2018, the Council approved the D.C. HealthCare Alliance Re-Enrollment Without Fear Act of 2018, as part of the Fiscal Year 2019 Budget Support Act of 2018, effective October 30, 2018 (D.C. Law 22-168; 65 DCR 9388). This legislation required that any reprogrammings of funds out of the Department of Health Care Finance in Fiscal Year

2019 required approval by Council resolution. The Council approved this legislation because it believed that the fiscal estimate for the D.C. Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017 was overstated and that there would be underspending in the Medicaid provider payments sufficient to pay for the Alliance reforms that the Office of the Chief Financial Officer would not certify at the time the Fiscal Year 2019 budget was adopted.

(4) The Executive elected not to reprogram any funds from the Department of Health Care Finance in Fiscal Year 2019, and instead, in the Fiscal Year 2019 Revised Local Budget Emergency Act of 2019, effective July 8, 2019 (D.C. Act 23-75; 66 DCR 8078), the Mayor swept \$10 million in local funds from Department of Health Care Finance, Program 5000 based upon projected underspending in provider payments. This is the same program that contains budget activity 5003 – Alliance Provider Payments, and these funds could have been used to pay for the costs of any Alliance reforms in Fiscal Year 2019.

(5) The D.C. Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017 was repealed in the Fiscal Year 2021 Budget Support Act of 2020, effective December 3, 2020 (D.C. Law 23-149; 67 DCR 10493) because the Council was unable to satisfy the extraordinary amount of funds required by the fiscal impact statement.

(b)(1) When COVID-19 hit the District of Columbia, the Executive removed the face-to-face certification requirement and stopped disenrolling anyone from the Alliance Program. However, the high costs projected by the Office of the Chief Financial Officer in the fiscal impact statement did not materialize, and any modest increase to the Alliance budget appeared to be driven by the fact that no one was being disenrolled from the Alliance Program through normal attrition.

(2) After the end of Fiscal Year 2020, on October 22, 2020, the Executive reprogrammed \$28,298,655 of local funds from the Department of Health Care Finance, Program 5000 to support \$43,000,000 in overtime spending at the Metropolitan Police Department. Program 5000 is the same program that contains budget activity 5003 – Alliance Provider Payments, and these funds could have been used to pay for the cost of any Alliance reforms in Fiscal Year 2020, or the funds could have been carried forward to future fiscal years preserving the Healthy DC and Health Care Expansion Fund’s dedicated tax non-lapsing funds.

(3) Based upon Fiscal Year 2020 end-of-year actual spending and current enrollment projections, it appears that there will be substantial underspending in the Medicaid Reserve and Department of Health Care Finance, Program 5000 in Fiscal Year 2021, and that, at a minimum, the \$17,540,000 in the Medicaid Reserve will no longer be required for Medicaid Provider payments, and instead may be dedicated for reforms of the D.C. HealthCare Alliance.

(4) There exists a risk that Fiscal Year 2021 funds appropriated for health care purposes in the Medicaid Reserve and the Department of Health Care Finance could again be swept away for general budget gap-closing when the Executive presents the proposed Fiscal Year 2022 budget and revised Fiscal Year 2021 budget to the Council, without first ensuring that Alliance reforms implemented during COVID-19 are permanently enacted by statute.

(5) This emergency legislation requires the Chief Financial Officer to alert the Council within 3 business days if it determines that the Medicaid Reserve is no longer needed by the Department of Health Care Finance, so the Council will have the opportunity to effectuate the Alliance reforms from available appropriated funds prior to the release of the Mayor's Fiscal Year 2022 budget.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Department of Health Care Finance Alliance Reform and Budget Transparency Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.