LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lieutenant Governor

DAVID R. BRINKLEY
Secretary

MARC L. NICOLE
Deputy Secretary

DEPARTMENT OF BUDGET AND MANAGEMENT – PERSONNEL
FY 2020 BUDGET HEARING

Testimony of David R. Brinkley
Secretary

House Appropriations Committee
February 15, 2019

Senate Budget and Taxation Committee
February 19, 2019

The Department of Budget and Management (DBM) appreciates the opportunity to respond to the Department of Legislative Services' (DLS) analysis of the Personnel budget. The following testimony addresses the requests for comments in the analysis as well as the DLS recommendations.

DLS Issues

Transition of Medicare-Eligible Retirees to Part D

DBM would like to begin by stating that the Governor's FY 2020 budget includes full funding for Retiree Pharmacy benefits. DBM would also note that our actuary is diligently working on evaluating a variety of legislative proposals related to retiree pharmacy benefits. However, given the existence of a federal lawsuit against the State, DBM does not believe it is appropriate to take a position on the future of the retiree drug benefit at this time.

Employee and Retiree Health Insurance Account

There are several factors favorably influencing medical costs in fiscal 2017 and 2018. The medical contracts that went into effect calendar year 2015 included wellness incentives designed to improve preventive screenings and health outcomes for our most prevalent disease states: hypertension, hyperlipidemia, asthma, COPD, diabetes, and cardiovascular disease. The contracts not only incentivize participants, but also hold the carriers accountable for improving the health outcomes of our enrolled population.

These programs are now in their fifth year, which is when we can start to see the impact on our population health. That said, we have been seen significant progress since year two where improvements in selection of a PCP, increases in preventive screenings, and increases in treatment compliance. With a wellness program participation rate of over 40%, the effect is the flattening of the trend curve seen in fiscal years 2017 and 2018.

Prescription drug claims costs are based on the price of drugs, drug mix, utilization, enrollment and rebates. Drug prices continue to escalate, driven in part by specialty medications, but brand name and generic drug prices are contributing to the projected increases noted. However, as the analysis points out, rebates are also increasing. The current pharmacy benefits management contract includes improved rebates and administrative fee savings over the previous contract, which helps contain actual costs paid. In pharmacy benefits, rebates are driven by the formulary. For 2018, we retained the same formulary that we had under our previous pharmacy benefits manager, Express Scripts, in 2017. In 2019, however, we moved to the formulary of our new pharmacy benefits manager, CVS, which results in improved rebate guarantees.

Employer Group Waiver Plan (EGWP) subsidies totaled $75M in fiscal year 2018, dropped to $63M in fiscal year 2019, but increase again to $72M in 2020. We believe the decline in receipts in fiscal year 2019 is the result of the timing of various related payments failing to coincide with the fiscal year 2019 timeframe. The federal reinsurance component is paid monthly based on estimates and then reconciled following the end of the calendar year. The coverage gap discount program is paid quarterly 90 days following the end of the quarter. Rebates are paid 30 days after the quarter in which they are earned ends. Fiscal year 2019 includes half of calendar 2018 when we were still using the 2017 formulary, and rebates and savings components were lower under the prior contract.

Regarding the recommended narrative language regarding the submission of prescription drug utilization and cost data, DBM concurs with the practice of continuing to provide a quarterly report; however, we maintain that trends in such fields are better recognized on an annual basis, so we will continue to make analysis of these trends more of a focus in our annual report.

Hiring, Recruitment, and Retention Issues

Amending the State's hiring process to allow the State to hire like a modern employer does not erode the existing statutory safe guards that ensure a nonbiased hiring process. Agencies will still be required to submit Position Selection Plans (PSP) detailing all aspects of each recruitment to the Department of Budget and Management (DBM) for approval. All posting periods and vacancy announcements will still be subject to approval by DBM. The checks and balances currently in the statute to ensure a fair and competitive hiring process will be unaffected by the modest recommendations to shorten hiring timeframes.

Our AAG has previously advised that the National Labor Relations Board (NLRB) has precedent stating that an employer's use of questionnaires and attitude surveys at or near a time of collective bargaining can be seen as illegal direct dealing with employees. Since the State engages in collective bargaining each year in preparation for the next year's budget, DBM is concerned that such a survey would trigger the filing of an Unfair Labor Practice against the State.

DBM plans to comply with all of OLA's recommendations on both audits. A statewide management training program is currently being developed as recommended by OLA. DBM is also revising the PEP policies and procedures to comply with OLA's recommendations. We are slightly behind on the implementation of the reporting and data compilation recommendations due to staff resources being fully engaged in the on-line benefits implementation.

State Workers' Compensation Liabilities

DBM agrees that, subject to the availability of funds, additional funding should be provided for settlements as they are a cost-effective strategy. Each year consideration is given to how much is available to budget for settlements within the context of the broader budget. That approach will continue in the future. As noted in the analysis, the last time the State provided funding for unfunded liabilities was FY 2003.

* * * * *

<u>DLS Recommendations</u>

DBM concurs with ten (10) of the twelve (12) operating budget recommendations made by the analyst. The Department does not concur with recommendations 4 and 6, as described below:

Recommendation 1: *Add language restricting funds until the department submits closeout information on the Employee and Retiree Health Insurance Account.*

> **DBM Response:** DBM concurs with the intent of the language; however, we oppose the restriction of $50,000 pending the submission the report, which has generally been provided in a timely fashion.

Recommendation 2: *Adopt committee narrative requesting the Department of Budget and Management to submit quarterly reports on prescription drug utilization and costs in fiscal 2019 and 2020.*

> **DBM Response:** DBM concurs with the provision of quarterly reports but would note that significant trends in utilization patterns are more likely to be seen with an annual report. DBM respectfully requests, if the Committee does opt for quarterly reports, that the submission dates be amended from those in DLS's recommendation to September 15, December 15, March 15, and June 15, since quarterly data is submitted 60 days after the conclusion of the quarter.

Recommendation 3: *Adopt narrative requesting the Department of Budget and Management to submit quarterly reports on medical and dental plan performance in fiscal 2019 and 2020.*

> **DBM Response:** DBM concurs with the provision of quarterly reports but would note that significant trends in utilization patterns are more likely to be seen with an annual report. DBM respectfully requests, if the Committee does opt for quarterly reports, that the submission dates be amended from those in DLS's recommendation to September 15, December 15, March 15, and June 15, since quarterly data is submitted 60 days after the conclusion of the quarter.

Recommendation 4: *Abolish 2 pins.*

DBM Response: Oppose. The Classification and Salary Division needs a second salary administrator in order to mitigate the current unacceptable level of risk associated with having a single salary administrator to implement changes to the State's multiple pay scales. The second pin is being moved to the Employee Benefits Division to assist the Division with the massive change management and process reengineering effort associated with the new on-line benefits implementation.

Recommendation 5: *Delete general funds provided for park services positions.*

DBM Response: Concur.

Recommendation 6: *Delete funding for State employee student loan benefit.*

DBM Response: DLS has frequently criticized DBM for not finding innovative solutions to the State's recruitment and retention issues in hard to fill classifications such as correctional officers and nurses. We believe that the SmartWork Loan Repayment Plan which was negotiated with the State Law Enforcement Officers' Labor Alliance, the MdTA Fraternal Order of Police, the Maryland Professional Employees Council and the American Federation of Teachers-Healthcare is exactly the type of innovative and aggressive solution that is needed to help fill these jobs. We are dismayed that DLS has recommended cutting the funding for this plan after so many years of criticizing the State's efforts to recruit and retain employees. The Plan has been negotiated in good faith with our exclusive bargaining representatives and employees are already anxiously awaiting the start of SmartWork to commit to working for the State for the next 10 years. The sooner we start this plan, the sooner we can begin filling the employment gaps in our agencies.

Recommendation 7: *Delete excess funding for the University System of Maryland's 0.5% general salary increase.*

DBM Response: Concur.

Recommendation 8: *Add a section the requiring the General Accounting Division of the Comptroller's Office to establish a subsidiary ledger control account tor track worker's compensation payments and require a monthly report on the status.*

DBM Response: Concur.

Recommendations 9, 10, 11, and 12 are annual language with which DBM concurs.