

**DATE:** December 15, 2015  
**TO:** Members of the House Appropriations Committee  
**FROM:** Paul B.A. Holland, Senior Fiscal Analyst  
**RE:** Depletion of the Autism Coverage Fund

## Introduction

The Autism Coverage Fund (ACF) was depleted as of November 24, 2015 when claims submitted to and approved by DIFS for reimbursement exceeded the balance available within the ACF. As of December 7, there is \$2.1 million in outstanding claims for reimbursement submitted by 15 carriers. This memo will provide a brief explanation of the Autism Coverage Reimbursement Program (ACRP) and the ACF, a description of the appropriations to and from the ACF, and an accounting of the number of claims submitted by carriers and amounts of reimbursements paid from the ACF.

Based on an analysis of trends in the amounts of past reimbursements for approved and outstanding claims, HFA estimates, subject to substantial uncertainty due to the substantial escalation of claims and latent participation of carriers, that the ACF would require an appropriation ranging from \$10 to \$20 million to support reimbursements throughout the remainder of FY 2015-16.

## Establishment and Implementation of the ACRP

2012 PA 101 established the ACRP to offset additional costs incurred due to the autism coverage mandate enacted by amendments to the Insurance Code of 1956 by 2012 PA 100.<sup>1</sup> The ACRP provides for the reimbursement of private health insurance carriers (i.e. health insurers, including Blue Cross Blue Shield; health maintenance organizations; and specialty prepaid or sponsored group health plans that self-adopt ASD coverage), either directly or via third party administrators (TPA), for paid claims associated with the diagnosis and treatment of autism spectrum disorder (ASD) rendered to residents of Michigan within Michigan. The ACRP does not reimburse public health programs or plans, nor are carriers eligible for reimbursement if they increase their premiums or rates to compensate for additional costs generated by the autism coverage mandate or for claims paid for services included within essential health benefits (EHB) as required by the federal Patient Protection and Affordable Care Act of 2010 (ACA).<sup>2</sup>

The Department of Insurance and Financial Services (DIFS) is responsible for implementing and administrating the ACRP and for developing the application, approval, and compliance processes necessary to operate and manage the ACRP. PA 101 also empowers DIFS to review paid claims for ASD treatments to ensure that such treatments are consistent with current protocols and cost-containment practices described in state law. Reimbursements to carriers for ASD diagnosis and

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<sup>1</sup>Nonetheless, the autism coverage mandate enacted by 2012 PA 100 remains in effect irrespective of whether the ACRP is operative.

<sup>2</sup>While there is some ambiguity concerning the rationale for the statutory exclusion of claims for services paid by carriers that are included within the EHB *as required pursuant to the ACA*, DIFS maintains that because DIFS, and not the ACA itself, requires, via Order No. 13-003-M issued on 01/07/13, qualified health plans offered through an Exchange to provide coverage for applied behavioral analysis (varied techniques widely utilized as treatments for ASD) under the EHB category of “rehabilitative and habilitative services and devices”, the statutory exclusion is not operative and DIFS will continue to reimburse such claims.

treatment services are made from the Autism Coverage Fund (ACF) created by PA 101 and administered by DIFS, subject to legislative appropriation. DIFS may expend up to one percent of the annual appropriation made to the ACF for the administration of the ACRP.

### Appropriations for and from the ACF

Because the ACF is not self-financing, the Legislature included appropriations from the General Fund (GF/GP) for an Autism Coverage Fund line item within the budget for the Department of Licensing and Regulatory Affairs (LARA) in FY 2012-13 and the DIFS budget in FY 2013-14, subsequent to Executive Order 2013-1 which transferred administration of the ACRP from LARA to the newly created DIFS.

Appropriations into the ACF were \$15.0 million GF/GP in FY 2012-13 and \$11.0 million GF/GP in FY 2013-14. Money within the ACF does not lapse and thus the previous fiscal year's balance carries forward into the subsequent fiscal year. There was no appropriation into the ACF in FYs 2014-15 or, thus far, 2015-16. However, \$8.5 million was appropriated from the ACF within the FY 2014-15 Department of Community Health (DCH) budget for autism provider education programs at five state universities (\$7.0 million) and family assistance services by the nonprofit Autism Alliance of Michigan (\$1.5 million).<sup>3</sup>

### ACRP Paid Claims Data

Since it became operational in October 2012, the ACRP has approved approximately 143,766 claims related to the diagnosis or treatment of ASD, totaling approximately \$17.4 million in reimbursements paid to carriers.<sup>4</sup>

As exhibited in Table 1, the amount paid for reimbursements during FY 2014-15 was substantially

<sup>3</sup>Due to the restriction, imposed by 2012 PA 101, that money from the ACF shall only be expended for the purpose of operating the ACRP, 2014 PA 401 amended 2012 PA 101 to authorize the expenditure of \$5.5 million from the ACF appropriated within the FY 2014-15 DCH budget (Art. IV of 2014 PA 252); 2015 PA 8 increased this amount by \$3.0 million to offset an equivalent GF/GP reduction made via a supplemental appropriation to DCH (2015 PA 6) which was part of an overall budget reduction package including 2015 PA 5 and EO 2015-5.

<sup>4</sup>A "claim" is defined by DIFS to consist of an actual service, properly coded, provided to a patient; reimbursements typically contain numerous claims associated with various patients.

Table 1.

ACRP Statistics by Month			
Month	# Claims	\$ Paid	\$ Cum.
December	2	\$244	\$244
January	57	\$6,981	\$7,225
February	52	\$4,324	\$11,548
March	59	\$2,172	\$13,721
April	0	\$0	\$13,721
May	0	\$0	\$13,721
June	29	\$1,091	\$14,811
July	0	\$0	\$14,811
August	5	\$394	\$15,206
September	710	\$86,851	\$102,057
<b>FY 2013 Total</b>	<b>914</b>	<b>\$102,057</b>	
October	0	\$0	\$102,057
November	2,752	\$396,269	\$498,326
December	18	\$3,265	\$501,591
January	55	\$5,535	\$507,126
February	0	\$0	\$507,126
March	3,046	\$438,071	\$945,198
April	1,396	\$153,684	\$1,098,881
May	3,318	\$471,571	\$1,570,452
June	214	\$24,106	\$1,594,558
July	346	\$56,599	\$1,651,157
August	0	\$0	\$1,651,157
September	7,846	\$1,010,196	\$2,661,353
<b>FY 2014 Total</b>	<b>18,991</b>	<b>\$2,559,296</b>	
October	9,053	\$988,501	\$3,649,854
November	33	\$4,206	\$3,654,060
December	4,067	\$546,081	\$4,200,141
January	4,153	\$653,042	\$4,853,184
February	8,341	\$1,083,261	\$5,936,445
March	141	\$20,189	\$5,956,634
April	1,576	\$186,638	\$6,143,272
May	20,144	\$2,179,861	\$8,323,133
June	9,953	\$1,192,155	\$9,515,288
July	170	\$22,327	\$9,537,615
August	11,527	\$1,815,086	\$11,352,701
September	1,266	\$195,599	\$11,548,300
<b>FY 2015 Total</b>	<b>70,424</b>	<b>\$8,886,947</b>	
October	6,614	\$884,806	\$12,433,106
November	21,190	\$2,472,345	\$14,905,451
Pending	25,633	\$2,536,014	\$17,441,465
<b>FY 2016 YTD</b>	<b>53,437</b>	<b>\$5,893,165</b>	
<b>GRAND TOTAL</b>	<b>143,766</b>	<b>\$17,441,465</b>	

SOURCE: Office of Financial and Administrative Services, Department of Insurance and Financial Services, updated 12/01/2015.



## ACF Balance and Depletion

As noted above, the ACF was depleted as of November 24, 2015 with \$2.1 million in claims for reimbursement submitted by 15 carriers currently outstanding. Although PA 101 stipulates that the ACRP reimburse carriers for approved paid claims associated with ASD from the ACF within 30 days of receiving application for reimbursement, the statute specifies that if DIFS believes that, within 60 days, the reserves within the ACF will become insufficient to offset approved paid claims, DIFS shall notify carriers of the shortfall, who shall then be reimbursed in the order in which their applications for reimbursement are approved. Further reimbursements shall not be made unless or until revenue within the ACF becomes available, and increases in carriers' rates to offset unreimbursed claims shall not be considered compensation if determined reasonable by DIFS. On November 19, 2015, DIFS sent out an email notifying carriers that the ACF would be depleted within a week and stipulating that outstanding claims would be reimbursed in the order in which they were submitted if additional money became available.<sup>5</sup>

The revenue deposited into and the expenditures withdrawn from the ACF are exhibited in Table 3 as is the balance currently within the ACF. Of the \$26.0 million appropriated for the ACF in FY 2012-13 and FY 2013-14, \$8.5 million was appropriated for autism-related purposes within the DCH budget and \$17.4 million has been paid to carriers for reimbursements of ASD diagnosis and treatment services. Inclusive of DIFS administrative expenses and common cash earnings, the balance of the ACF was \$20,581 as of December 1, 2015. DIFS anticipates expending the remaining balance and unrealized interest earnings to support administrative expenses and outstanding claims.

Table 3.

<b>ACF Balance</b>	
Legislative Appropriations (from GF/GP)	\$26,000,000
Transfer to DCH (2014 PA 401 & 2015 PA 8)	(\$8,500,000)
ACRP Reimbursements (as of 12/1/15)	(\$17,441,465)
Miscellaneous Expenses (DIFS/DTMB)	(\$77,553)
Common Cash Earnings	\$39,598
<b>Balance (as of 12/1/15)</b>	<b>\$20,581</b>

SOURCE: Office of Financial and Administrative Services,  
Department of Insurance and Financial Services and HFA query  
of MAIN accounting system on 12/01/2015.

While the autism coverage mandate enacted by 2012 PA 100 is effective regardless of whether the ACRP is operative, the Legislature could decide to make additional money available to the ACF via a supplemental appropriation for FY 2015-16 or the FY 2016-17 appropriations act. Due to the sustained and escalating growth in the number of claims and amount of reimbursements and the fact that several sizable health insurers and HMOs have not yet submitted, but could submit, claims for reimbursement, DIFS is unable to provide an accurate projection of the amount of money necessary to sufficiently support annual approved claims for reimbursement during the current and future fiscal years.<sup>6</sup> However, based on an analysis of trends in the amounts of past reimbursements for approved

<sup>5</sup>The notice was sent out significantly less than 60 days before the ACF was depleted; the reason being that DIFS was unable to predict the number of claims and amount of reimbursements submitted for approval during future months and claims for reimbursements submitted in October and November of 2015 were substantially greater than in prior years.

<sup>6</sup>Moreover, 2012 PA 101 does not establish a deadline for carriers to submit claims for reimbursement (i.e., no time limit between the date ASD services are provided and the date claims are submitted); consequently, it is unknown whether

and outstanding claims, HFA estimates, subject to substantial uncertainty, that the ACF would require an appropriation ranging from \$10 to \$20 million to support reimbursements throughout the remainder of FY 2015-16.

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carriers will submit claims in the future for services provided well into the past, which further impedes the accuracy of any estimates of future reimbursements.