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The Office of Health and Human Services  
Department of Public Health  
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Governor

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Lieutenant Governor

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March 21, 2017

Steven T. James  
House Clerk  
State House Room 145  
Boston, MA 02133

William F. Welch  
Senate Clerk  
State House Room 335  
Boston, MA 02133

Dear Mr. Clerk,

Pursuant to section 2K K K K of chapter 29 of the General Laws, please find enclosed a report from the Department of Public Health entitled "*Medical Marijuana Trust Fund Annual Report.*"

Sincerely,

Monica Bharel, MD, MPH  
Commissioner  
Department of Public Health

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**Charles D. Baker**  
Governor

**Karyn Polito**  
Lieutenant Governor



**Marylou Sudders**  
Secretary

**Monica Bharel, MD, MPH**  
Commissioner

# **Medical Marijuana Trust Fund Annual Report**

**March 2017**

Massachusetts Department of Public Health



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## **Legislative Mandate**

The following report is hereby issued pursuant to Section 2K K K K of Chapter 29 of the General Laws, which reads as follows:

Section 2K K K K. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Medical Marijuana Trust Fund, to be expended without prior appropriation by the department of public health. Unless a greater amount is authorized by law, the fund shall consist of revenue generated from fees collected after July 1, 2013, as authorized by section 3B of chapter 7 of the General Laws and section 13 of chapter 369 of the acts of 2012. The commissioner of public health or a designee shall administer the fund and shall make expenditures from the fund for the administrative costs of operations and programs related to said chapter 369. The department may incur expenses and the comptroller may certify for payment, amounts in anticipation of expected receipts; provided, however, that no expenditure shall be made from the fund which shall cause the fund to be in deficit at the close of a fiscal year. Moneys deposited in the fund that are unexpended at the end of a fiscal year shall not revert to the General Fund. The commissioner shall report annually not later than March 1 to the house and senate committees on ways and means on the fund. The report shall include, but not be limited to, revenue received by the fund, revenue and expenditure projections for the forthcoming fiscal year and details of all expenditures from the fund, including an analysis of whether the fund expenditures assisted the department in meeting its regulatory mandates.

## **Executive Summary**

### Purpose

The purpose of this report is to provide information regarding the Medical Marijuana Trust Fund, Section 2K K K K of Chapter 29 of the General Laws, revenues and expenditures, and an analysis of whether these expenditures assisted the Department of Public Health (DPH) in meeting its regulatory mandates.

### Findings

An analysis of revenues and expenditures for the Medical Marijuana Trust Fund for Fiscal Years 2016 and 2017 (projected) demonstrates that expenditures assisted DPH in meeting its regulatory mandates.

### Recommendations

Revenues and expenditures from the Medical Marijuana Trust fund will continue to support the operations of DPH to further the operations and programs related to the Humanitarian Medical Use of Marijuana Act, Chapter 369 of the Acts of 2012.

## Introduction

On November 6, 2012, Ballot Question 3, "An Initiative Petition for a Law for Humanitarian Medical Use of Marijuana" passed with 63.3% of the vote, making Massachusetts the 18<sup>th</sup> state in the nation, in addition to the District of Columbia, to approve the use of marijuana for medical purposes. The resulting law, Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana," (Act) required DPH to promulgate regulations, 105 CMR 725.000, et seq., implementing the ballot measure, including the registration of non-profit organizations to cultivate and dispense marijuana for medical use, and the registration of physicians, patients, personal caregivers, and dispensary agents.

DPH established the Medical Use of Marijuana Program (Program), which is required by the ballot question to be revenue neutral, with all fees collected used for day-to-day operations that include regulatory enforcement, patient support services delivery, Registered Marijuana Dispensary (RMD) application processing, and the deployment of information technology support systems.

In the four years following passage of the ballot measure, DPH developed one of the first dispensary-based programs in the country, grounded in the core principles of patient access and public safety. As of the date of this report, nine RMDs are open for retail sales and an additional 88 are registered in various stages of buildout. The seven full-time staff members of the Compliance Unit consist of compliance officers, compliance investigators, and a compliance director who conducts ongoing announced and unannounced inspections of RMD facilities and completes investigations regarding complaints filed with the Program.

The Program's Support Center (Center) includes eight full-time employees and one Center manager. These individuals staff a call center, fielding approximately 175 calls and email questions each day from constituents inquiring about a variety of topics, including, but not limited to, online patient registration and renewal, the process for obtaining a Program ID card, how to obtain a physician certification, and others. Each day, the Center processes approximately 125 electronic and paper applications for registration submitted by patients, caregivers, and RMDs. As of January 31, 2017, 179 physicians had certified 39,778 patients to possess marijuana for medical use. Of those, 34,189 patients had registered with the Program and received Program ID cards. In addition, the Program has registered 2,883 personal caregivers to assist a registered qualifying patient's medical use of marijuana.

Over the past year, programmatic staff increased from nine full time employees to 19, with four more positions to be added during the third quarter of Fiscal Year 2017. This growth is necessary to support the large number of RMDs registered during Fiscal Years 2016 and 2017 as part of the revised RMD application process as well as the ongoing growth in patient, caregiver, and RMD Agent program registrants.

The Program continues to prioritize ongoing collaboration with key stakeholders including RMDs, patients, physicians, advocacy groups and testing laboratories. Meetings take place on a regular basis during which time feedback is received regarding the Program's operational rollout in the Commonwealth. Information on new initiatives is discussed. Covered topics have included, but are not limited to, laboratory testing protocols, improvements to the online registration system, and planning around internal Program capacity building to keep pace with the fast-growing industry.

On September 14, 2016, the Program presented proposed amendments to 105 CMR 725.000, *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, to the Public Health Council as part of the regulatory review process mandated by Executive Order 562. The amendments embody common sense reforms to simplify and clarify the regulation and emphasize the program's ongoing goal of being transparent, streamlined, and efficient. The proposed amendments will make the regulation consistent with changes made in related laws, as well as respond to feedback from the medical community, the industry, and patients. The amended regulation will be presented for promulgation following analysis of public comments received since the proposal.

During the third quarter of Fiscal Year 2017, a release of major technical enhancements to the Medical Use of Marijuana Online System (MMJ Online System) is planned. The MMJ Online System is the public-facing website utilized by patients, caregivers, physicians and RMDs for patient certification and Program registration. Enhancements will focus on a simplified interface to improve user satisfaction, the addition of robust data reporting capabilities, and functionality to support RMD inspections and related follow-up.

In 2017, the Program will continue to expand internal capacity to successfully regulate the growing marijuana for medical use industry in the Commonwealth. With the passage of the recreational use of marijuana ballot initiative in November 2016, the Program will collaborate with the State Treasurer's Office who is responsible for implementing the new law. Additionally, the Program anticipates the release of a new report that will provide an overview of the analytical laboratory testing process and results from evaluating medical marijuana products.

## **Report Body**

As required by the Act, the Program must remain revenue neutral with all fees collected to be used for day-to-day operations that include three major programmatic functions: (1) a support center fielding calls and conducting processing activities for the review and approval of patient, caregiver and RMD registration applications; (2) a compliance unit responsible for ensuring RMD compliance; and (3) an RMD application processing team to review and process RMD applications for Certificates of Registration.

Fees include patient, RMD and RMD agent registration and renewals, hardship cultivation registration and renewal, registration card replacement, and RMD activities such as architectural reviews, name changes, and changes of location. Addendum 1 outlines the Program's fee schedule.

### **A. Fiscal Year 2016**

#### **1. Program Highlights**

During Fiscal Year 2016, revenues received supported continued expansion of the Program. Eighty-one new RMD applications were received by the Program as part of the new RMD application process that launched in June 2015; new proposed marijuana for medical use product testing Protocols were released for public comment and posted on the Program's website in November 2015; and five RMDs opened their doors to patients.

#### **2. Revenues**

FY2016 actual revenues are outlined in Addendum 2. A total of \$7,227,356 in revenue was received, including a \$6,004 balance forwarded into the trust account from FY2015 due to a combination of higher revenues of \$4,533 and lower expenditures of \$1,470 related to prompt pay discounts. The highest revenue stream included \$4,170,000 from Phase 2 application fees, \$167,100 for new RMD applicants, followed by \$1,490,240 in RMD and RMD Agent registration and renewal fees, and \$1,400,016 in patient fees. A \$5,001,637 surplus was forwarded into the FY2017 budget.

#### **3. Expenses**

FY2016 expenses are outlined in Addendum 2. Expenditures included \$960,252 in salaries and related expenses, \$906,086 in information technology development costs associated with the rollout of new enhancements for the MMJ Online System; \$181,239, \$108,104, and \$69,024 that were allocated to operational services, infrastructure, and administrative costs, respectively, and \$7,018 in employee-related fees, including training and reimbursements.

### **C. Fiscal Year 2017**

#### **1. Program Highlights (Projected)**



During the first half of Fiscal Year 2017, several milestones were achieved. Nine new staff members were hired to support activities in the Stakeholder Support Center and Compliance Unit; in collaboration with the Bureau of Environmental Health, a product characterization report of all marijuana tested and sold during Fiscal Year 2016 was drafted with a planned release later in 2017; the Program presented proposed amendments to 105 CMR 725.000, *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, to the DPH Public Health Council as part of the regulatory review process; public hearings were conducted on the proposed amendments; and the analysis of public comments on the proposed amendments began. Major enhancements to the public-facing website utilized by patients, caregivers, physicians and RMDs for patient certification and Program registration is planned for deployment in the third quarter of the fiscal year.

## **2. Revenues (Projected)**

FY2017 projected revenues are outlined in Addendum 3. A total of \$13,171,321 in revenue is projected, including a \$5,001,637 balance forwarded into the trust account from FY2016 primarily due to the large number RMD registrations and annual renewals. The highest revenue stream includes \$5,849,000 in RMD fees, followed by \$1,704,375 in patient registration and renewal fees, and \$540,000 in RMD Phase 2 application fees. \$43,500 in RMD Phase 1 application fees is expected. A \$7,370,763 surplus is projected to be forwarded into the FY2018 budget.

## **3. Expenses (Projected)**

Expected expenditures include \$2,835,152 in salaries and related expenses, an increase relative to Fiscal Year 2017 that is attributed to a significant increase in employees to support programmatic operations (from 9 full-time staff in Fiscal Year 16 to a planned 23 in Fiscal Year 2017). \$1,625,000 for information technology development costs associated with enhancements to the MMJ Online System is expected. \$615,000, \$469,050, and \$202,447 have been allocated to operational services, infrastructure, and administrative costs, respectively, and \$21,100 in employee-related fees, such as reimbursements, is budgeted. FY2016 projected expenses are outlined in Addendum 3.

## **Conclusion**

This report has highlighted key milestones and operational activities associated with the Medical Use of Marijuana Program, and provided information regarding revenues and expenses associated with the Medical Marijuana Trust Fund for Fiscal Years 2016 and 2017 (projected). An analysis of this information demonstrates that fund expenditures have assisted the department in meeting its regulatory mandates to register non-profit organizations to cultivate and dispense marijuana for medical use, and to register physicians, patients, personal caregivers, and dispensary agents. As of January 31, 2017, 34,189 patients were certified by a physician and active with the Program along with 2,883 caregivers. Nine RMDs are now dispensing marijuana for medical use in the form of flower, oils, and marijuana-infused products.



### **Addendum 1: Medical Marijuana Trust Fund Fee Schedule**

- Patient registration: \$50, annually
- ID Card replacement: \$10
- Hardship cultivation: \$100
- Dispensary Agent registration: \$500, annually
- Phase 1 Application: \$1,500
- Phase 2 Application: \$30,000
- RMD registration: \$50,000, annually
- Location change: \$10,000
- Name change: \$100
- Architectural review: \$8.25 per \$1,000 of construction costs (\$1,500 minimum)

**Addendum 2: Medical Marijuana Trust Fund - Revenues & Expenses - FY2016**

<b>Balance forward from FY2015:</b>	\$	6,004
<b>Revenue:</b>		
RMD fees	\$	1,490,240
Patient fees	\$	1,400,016
RMD application fees - Phase 1	\$	167,100
RMD application fees - Phase 2	\$	4,170,000
<b>Total Revenues</b>	\$	<b>7,227,356</b>
<b>Total Available for Expenditure in FY16</b>	\$	<b>7,233,360</b>
<b>Expenditures:</b>		
Administrative	\$	69,024
Information technology	\$	906,086
Infrastructure	\$	108,104
Operational services	\$	181,239
Salaries and benefits	\$	960,252
Employee related expenses	\$	7,018
<b>Total Expenditures</b>	\$	<b>2,231,723</b>
<b>Balance</b>	\$	<b>5,001,637</b>

**Addendum 3: Medical Marijuana Trust Fund - Revenues & Expenses - FY2017  
(Projected)**

<b>Balance forward from FY2016:</b>	\$	5,001,637
<b>Revenue:</b>		
RMD fees	\$	5,849,000
Patient fees	\$	1,704,375
RMD application fees - Phase 1	\$	43,500
RMD application fees - Phase 2	\$	540,000
<b>Total Revenues</b>	\$	8,136,875
<b>Total Available for Expenditure in FY17</b>	\$	<b>13,138,512</b>
 <b>Expenditures:</b>		
Administrative	\$	202,447
Information technology	\$	1,625,000
Infrastructure	\$	469,050
Operational services	\$	615,000
Salaries and benefits	\$	2,835,152
Employee related expenses	\$	21,100
<b>Total Expenditures</b>	\$	<b>5,767,749</b>
 <b>Balance</b>	\$	<b>7,370,763</b>