



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
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MONICA BHAREL, MD, MPH
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March 26, 2018

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 2KKKK 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, 2018



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Legislative Mandate

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

Section 2KKKK. 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 2KKKK 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 2017 and 2018 (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 18th 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 corporations to cultivate and dispense marijuana for medical use, and the registration of physicians, patients, personal caregivers, dispensaries, caregiving institutions, independent testing laboratories and their associated 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 to support day-to-day programmatic operations including regulatory enforcement, patient support activities, registration application processing, stakeholder outreach, and information technology support systems.

In the five years following passage of the ballot measure, DPH developed a dispensary-based program grounded in the core principles of patient access and public safety. As of December 31, 2017, 19 Registered Marijuana Dispensaries (RMDs) are open for retail sales and an additional 108 are provisionally registered and in various stages of buildout; 218 physicians have certified 49,505 patients to possess marijuana for medical use, and of those, 45,319 patients have registered with the Program. In addition, 4,891 personal caregivers have registered with the Program to assist registered, qualifying patients with the medical use of marijuana.

During State Fiscal Year 2017 (July 1, 2016 through June 30, 2017), patients purchased on average 4.96 ounces of product (as flower) and averaged 14.2 transactions over the course of the year. In December 2017, 27,390 patients purchased at least one medical marijuana product (60% of registered patients at that time).

Program staff includes 19 positions and is composed of a Program Director, a Deputy Director (overseeing eight Support Center Coordinators), a Director of Compliance (overseeing one Compliance Investigator and two Compliance Officers), and a RMD Applications Manager (overseeing one RMD Applications Coordinator). Support staff includes a Health Planner/Epidemiologist, an Office Support Specialist, and a Business Analyst. Five additional hires are planned for the remainder of FY 2018, which includes four Compliance Officers and one Compliance Investigator to support the large number of RMDs that continue to register and open for retail sales.

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 operations 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.

In 2017, the Program also worked to implement Chapter 351 of the Acts of 2016, *An Act further Regulating the Cultivation of Marijuana and Marihuana*, which requires DPH to conduct a baseline study to investigate patterns of use and perceptions of marijuana, incidents of marijuana-impaired driving and marijuana-related use of the health system, and estimated economic and fiscal impacts of legalizing retail marijuana use. This study, referred to as the Marijuana Baseline Health Study (MBHS), is directed by DPH in consultation with an Advisory Panel consisting of representatives from the Executive Office of Health and Human Services, Executive Office for Administration and Finance, and the Executive Office of Public Safety and Security. The work is funded by the Medical Marijuana Trust Fund and the in-kind support of personnel from DPH and other state agencies. DPH is collaborating with a number of research entities to conduct the study and findings must be reported to the State Legislature by no later than July 1, 2018.

Additionally, on November 8, 2017, the Program requested final promulgation by the Public Health Council of the proposed revisions to 105 CMR 725.000, *Implementation of an Act for the Humanitarian Medical use of Marijuana*, following analysis of public comments received during a public comment period, including two public hearings. The revisions streamlined existing processes, clarified language, and aligned the regulations with an amendment to Board of Registration in Nursing Regulations, 244 CMR 4.06, which allow Certified Nurse Practitioners to certify patients for the medical use of marijuana. The proposed amendments were approved and went into effect on December 1, 2017.

In 2018, the Program will continue to expand internal capacity to successfully regulate the growing medical marijuana industry in the Commonwealth. Chapter 55 of the Acts of 2017, *An Act To Ensure Safe Access to Marijuana*, mandates that the Program be transferred to the Cannabis Control Commission (Commission) upon the execution of a transfer agreement or on December 31, 2018, whichever occurs first. The Program is collaborating with the Commission to prepare for the transfer.

Report

As required by Chapter 369 of the Acts of 2012, 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, independent testing laboratory, caregiving institution and RMD registration applications; (2) a compliance unit responsible for ensuring registrant 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 2017

1. Program Highlights

During Fiscal Year 2017 (FY2017), received revenues supported the continued expansion of the Program. Key metrics include the following:

- 24,311 patients and 3,115 caregivers registered
- 69,679 calls received and processed from constituents
- 151 new RMD applications processed
- 71 RMDs granted a Provisional Certificate of Registration
- 8 RMDs granted a Final Certificate of Registration to begin product cultivation
- 6 RMDs opened for retail sales

Additionally, as noted in the Introduction, the Program requested final promulgation by the Public Health Council of the proposed revisions to 105 CMR 725.000, *Implementation of an Act for the Humanitarian Medical use of Marijuana*. The proposed revisions, which were effective December 1, 2017, streamlined existing processes, clarified language, and aligned the regulations with an amendment to Board of Registration in Nursing Regulations pertaining to the ability of Certified Nurse Practitioners to certify patients for the medical use of marijuana. In 2017, the Program also made significant enhancements to its public-facing website utilized by patients, caregivers, physicians, and RMDs for patient certification and Program registration.

2. Revenues

FY2017 actual revenues are outlined in Addendum 2. A total of \$15,621,151 in revenue was received, including a \$4,995,633 surplus forwarded into the trust account from FY2016 due to a large number of RMD registrations and annual renewals. The highest revenue stream included \$7,800,858 in RMD registration and renewal fees; \$1,915,660 in patient registration and

renewal fees; \$750,000 in Phase 2 RMD application fees; and \$159,000 in Phase 1 RMD application fees. A \$11,231,591 surplus was forwarded into the FY2018 budget.

3. Expenses

FY2017 expenses are outlined in Addendum 2. Expenditures included \$2,098,595 in salaries and benefits; \$1,079,512 in information technology maintenance and development costs mostly attributed to the Program's Online Registration System; \$541,546, \$455,303 and \$197,635 that were allocated to operational services, infrastructure, and administrative costs, respectively; and \$16,969 in employee-related fees such as training and travel reimbursements.

C. Fiscal Year 2018

1. Program Highlights (Projected)

During the first half of Fiscal Year 2018 (FY2018), several milestones were achieved. Key metrics¹ include the following:

- 12,945 patients and 2,024 caregivers registered
- 24,488 calls received and processed from constituents
- 108 new RMD applications processed
- 14 RMDs granted a Provisional Certificate of Registration
- 8 RMDs received a Final Certificate of Registration to begin product cultivation
- 7 RMDs opened for retail sales

2. Revenues (Projected)

FY2018 projected revenues are outlined in Addendum 3. A total of \$19,835,779 in revenue is projected, including a \$11,231,591 balance forwarded into the trust account from FY2017 primarily due to a large number RMD registrations and annual renewals. The highest revenue stream includes \$6,144,000 in RMD fees, followed by \$2,145,188 in patient registration and renewal fees, and \$300,000 in RMD Phase 2 application fees. It is expected that \$15,000 in RMD Phase 1 application fees will be received. A \$13,933,048 surplus is projected to be forwarded into the FY2019 budget.

3. Expenses (Projected)

FY2018 projected expenses are outlined in Addendum 3. Expected expenditures include \$2,948,145 in salaries and related expenses and \$1,625,000 for information technology development and maintenance costs. Further, \$567,000, \$525,926, and \$210,010 have been allocated to operational services, infrastructure, and administrative costs, respectively. Finally, \$26,650 in employee-related fees, such as travel reimbursements, is projected.

¹ Data as of December 31, 2017

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 2017 and 2018 (projected). An analysis of this information demonstrates that fund expenditures have assisted DPH in meeting its regulatory mandates to register organizations to cultivate and dispense marijuana for medical use, and to register physicians, patients, personal caregivers, dispensaries, caregiving institutions, independent testing laboratories, and their associated agents.

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 - FY2017

Balance forward from FY2016:	\$	4,995,633
Revenue:		
RMD fees	\$	7,800,858
Patient fees	\$	1,915,660
RMD application fees - Phase 1	\$	159,000
RMD application fees - Phase 2	\$	750,000
Total Revenues	\$	10,625,518
Total Available for Expenditure in FY17	\$	15,621,151
Expenditures:		
Administrative	\$	197,635
Information technology	\$	1,079,512
Infrastructure	\$	455,303
Operational services	\$	541,546
Salaries and benefits	\$	2,098,595
Employee related expenses	\$	16,969
Total Expenditures	\$	4,389,560
Balance	\$	11,231,591

**Addendum 3: Medical Marijuana Trust Fund - Revenues & Expenses - FY2018
(Projected)**

Balance forward from FY2017:	\$	11,231,591
Revenue:		
RMD fees	\$	6,144,000
Patient fees	\$	2,145,188
RMD application fees - Phase 1	\$	15,000
RMD application fees - Phase 2	\$	300,000
Total Revenues	\$	8,604,188
Total Available for Expenditure in FY18	\$	19,835,779
Expenditures:		
Administrative	\$	210,010
Information technology	\$	1,625,000
Infrastructure	\$	525,926
Operational services	\$	567,000
Salaries and benefits	\$	2,948,145
Employee related expenses	\$	26,650
Total Expenditures	\$	5,902,731
Balance	\$	13,933,048