

2017/18 BUDGET BRIEFING

Report on Key Issues

HOUSE APPROPRIATIONS COMMITTEE (D)

JOE MARKOSEK, DEMOCRATIC CHAIRMAN

January 12, 2018



Tobacco Settlement Fund 2017/18

The 2017/18 budget spends \$362.3 million from the Tobacco Settlement Fund on health-related programs. As in previous years, the General Assembly amended the Fiscal Code's funding provisions to redirect tobacco revenue to help fund Medical Assistance long-term care in the Department of Human Services.

As part of the Republican plan to balance the 2017/18 state budget, the General Assembly amended the Tax Reform Code (Act 43 of 2017) to allow for the monetization of a portion of tobacco payments due the commonwealth. Monetization will reduce the amount of tobacco funds available to pay for health-related programs in future budgets.

Background

The Tobacco Settlement Fund is a special fund for the deposit of payments received by Pennsylvania under the 1998 Master Settlement Agreement between the major tobacco companies and 46 states. The agreement settled claims filed against the tobacco industry to recover Medicaid costs associated with treating smoking-related illnesses. In exchange for the states dropping their lawsuits, the tobacco companies agreed to make annual payments in perpetuity to the settling states.

Act 77 of 2001 (the Tobacco Settlement Act) created the Tobacco Settlement Fund and also established several health-related programs which are supported by the fund. Each year, annual tobacco payments are distributed to programs based on percentages set forth in state law.

The table below shows the allocation percentages established in the Fiscal Code under Act 71 of 2013. These percentages replaced permanently the allocation percentages that were initially part of the Tobacco Settlement Act.

The funding provisions in Act 71 allocate most of the annual tobacco payments (77.3 percent) to specific programs and retain the rest of the payments in the Tobacco Settlement Fund to be appropriated by the General Assembly for other health-related purposes. Additionally, Act 71 requires all other payments and revenues received in the Tobacco Settlement Fund to be appropriated for health-related purposes.

Programs Funded with Annual Tobacco Payments	Act 71-2013 Allocation Percentages
Home & Community-Based Services	13%
Tobacco Use Prevention & Cessation	4.5%
Health Research - Health Priorities	12.6%
Health Research – National Cancer Institute	1%
Hospital Uncompensated Care	8.18%
Medical Assistance for Workers with Disabilities	30%
PACENET Transfer	8%
Health-Related Purposes	22.72%

Revenues and Funding Modifications

The 2017/18 budget spends \$362.3 million from the Tobacco Settlement Fund, including:

- \$351.6 million from the annual payments Pennsylvania anticipates from tobacco companies in April 2018, a \$32.1 million increase from 2017; and
- \$10.7 million from available balances in the Tobacco Settlement Fund.

Through amendments to the Fiscal Code (Act 44/House Bill 674), the General Assembly eliminated the 8 percent allocation for PACENET and increased the allocation for health-related purposes from 22.72 percent to 30.72 percent. This change redirects \$28.1 million in 2017/18 to help fund long-term care in the Department of Human Services. The Act 44 funding formula is the same one the General Assembly adopted in the previous two budgets.

In addition to the redirected dollars, the enacted budget appropriates lapsed (unspent) funds from the prior year for health-related purposes, increasing tobacco funds for long-term care by another \$10.7 million.

Act 43 of 2017

Act 43 of 2017 authorizes the Commonwealth Finance Authority to explore the monetization of tobacco payments due the commonwealth under the Master Settlement Agreement. This authorization allows for either the sale or securitization of MSA revenues, with the selection between the two approaches delegated to CFA. In December, the authority opted to pursue securitization after no bids were received for a direct sale of revenues. This means that the commonwealth will borrow money to balance this year's budget by issuing bonds that will be secured with future tobacco payments. CFA expects to price revenue bonds for the securitization in January and close the transaction in February 2018.

The debt service on bonds issued through this securitization will only be payable from future MSA payments (the holders of the bonds will not have any claim to other commonwealth revenues and the full faith and credit of the commonwealth will not be pledged for repayment).

The proposed securitization will raise up to \$1.5 billion in net proceeds and have a maximum term for repayment of 30 years. CFA is also permitted to capitalize the interest payments due on the bonds for a period of up to 2 years, which will reduce the early debt service payments while increasing the total debt service cost over the life of the bonds. This will limit the immediate impact of reduced MSA revenues available for programmatic spending.

Program Expenditures

The table below details 2017/18 Tobacco Settlement Fund expenditures by program, beginning with those designated in Act 77 to receive ongoing support. Three programs rely exclusively on tobacco funding for their support: health research, tobacco use prevention and cessation, and hospital uncompensated care payments. The remaining programs are supported with other revenue sources, including the General Fund, Lottery Fund and federal funds.

Expenditures for the two health-related programs – long-term care and life sciences greenhouses – are appropriated from the Tobacco Settlement Fund as part of the General Appropriations Act. All Act 77 program expenditures are made by executive authorizations according to the allocation percentages in the Fiscal Code.

(Dollars in Thousands)

Tobacco Settlement Fund Expenditures	2016/17 Actual	2017/18 Enacted
Act 77 Programs:		
Home and Community-Based Services	\$41,534	\$45,706
Tobacco Use Prevention and Cessation	\$14,377	\$15,822
Health Research - Health Priorities	\$40,256	\$44,300
Health Research - National Cancer Institute	\$3,195	\$3,516
Hospital Uncompensated Care	\$26,134	\$28,760
Medical Assistance for Workers with Disabilities	\$95,847	\$105,476
PACenet Transfer	\$0	\$0
Health-Related Purposes:		
Medical Assistance - Long Term Care	\$132,940	\$115,747
Life Sciences Greenhouses	\$3,000	\$3,000
TOTAL	\$357,282	\$362,327

Program Descriptions

Home and Community-Based Services. Act 77 designated this funding to enable more seniors to receive home- and community-based services as an alternative to nursing home care. The Department of Human Services uses the allocation to support the aging waiver program for seniors, age 60 or older, who are eligible for Medical Assistance. These tobacco funds earn federal Medicaid matching funds.

- NOTE: In addition to the tobacco allocation, the aging waiver is supported in the 2017/18 budget with a \$360.5 million appropriation from the General Fund and a \$120.7 million appropriation from the Lottery Fund.

Tobacco Use Prevention and Cessation Programs. As directed by Act 77, the Department of Health administers a comprehensive tobacco control program that is based on best practices from the national Centers for Disease Control. The department must use at least 70 percent of the annual tobacco allocation to develop local programs in designated service areas throughout the commonwealth. It uses the remaining allocation for statewide efforts, including enforcement of the Clean Indoor Air Act.

Health Research. Act 77 established the Commonwealth Universal Research Enhancement, or CURE, program in the Department of Health to fund research projects conducted by Pennsylvania-based researchers, universities, medical schools and other institutions. The statutory formula allocates 13.6 percent of annual tobacco payments to CURE, with 12.6 percent designated for broad-based health research and one percent awarded to eligible institutions that received National Cancer Institute funding.

Hospital Uncompensated Care. Act 77 established the hospital uncompensated care program in the Department of Human Services to partially reimburse hospitals for costs incurred in treating patients with inadequate or no insurance. The department must use 85 percent of its tobacco allocation for uncompensated care payments to hospitals for the cost of treatment provided to individuals who are uninsured or unable to pay for services, and 15 percent for extraordinary expense payments to hospitals for treating uninsured patients whose cost of care exceeds twice the hospital's average cost per stay. Eligible hospitals may choose to receive either the uncompensated care payment or the extraordinary expense payment, but cannot receive both. The tobacco funds qualify for federal Medicaid matching funds.

Medical Assistance for Workers with Disabilities, or MAWD. The Department of Human Services administers this Medical Assistance purchase program, which was established under Act 77 for working Pennsylvanians, age 16 to 64, who have a disability and whose income is less than 250 percent of the federal poverty level. Act 77 requires Medical Assistance for Workers with Disabilities enrollees to pay the department a monthly premium, equal to five percent of their monthly premium, to purchase their Medical Assistance coverage. The department uses its tobacco allocation to pay the remaining state share of program costs. These tobacco funds qualify for federal Medicaid matching funds.

- NOTE: If the annual tobacco allocation is not sufficient to cover the state share of program expenditures, the difference is paid with revenue from the General Fund. For 2017/18, the General Fund budget includes a \$20.7 million state appropriation for MAWD.

PACENET Transfer. These funds are to be transferred to the PACE Fund to support provisions in Act 77, which expanded PACENET, a pharmaceutical assistance program for seniors administered by the Department of Aging. Act 77 increased income eligibility for PACENET by \$1,000 in 2001, raising the annual income limit to \$17,000 for single individuals and \$20,200 for married couples. (Please note that due to subsequent legislation amending the state lottery law, the current PACENET income limit is \$23,500 for single individuals and \$31,500 for married couples.)

Medical Assistance Long-Term Care. Nursing home care for Medicaid recipients is funded through the Medical Assistance Long Term Care appropriation in the Department of Humans Services. The department uses tobacco funds to offset the state General Fund costs for nursing home care – each dollar appropriated from the Tobacco Settlement Fund means one less state dollar needs to be appropriated from the General Fund. These tobacco funds earn federal Medicaid matching funds.

- The General Assembly first appropriated tobacco funds for long-term care in 2002/03 and has appropriated funds every fiscal year since 2005/06.

Life Sciences Greenhouses. The Department of Community and Economic Development uses these funds to support the three regional biotechnology research centers that were created under Act 77. The life sciences greenhouses invest in companies focused on the research, development and commercialization of cutting-edge therapies and medical technologies. Act 77 included \$100 million in start-up funding for the greenhouses.

- The General Assembly has appropriated tobacco funds for the greenhouses every fiscal year since 2006/07.

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