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Medical Use of Marijuana Program
Annual Fund Report

March 1, 2015

About

Section 2KKKK of MGL Chapter 29 directs the Department of Public Health's (DPH) Medical Use of Marijuana Program (MMJ Program) to establish a Medical Marijuana Trust Fund for the purposes of program operations pursuant to Chapter 369 of the Acts of 2014 (medical marijuana ballot initiative), and submit an annual report to the Massachusetts General Court. This language reads as follows:

> "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."

The purpose of this report is to provide this mandated information, including an overview of the MMJ Program's 2013-2014 application process, online patient registration launch, and ongoing inspection and compliance operations.

Background

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. Per the statute, the Program must be revenue neutral with all fees collected by the Program to be used for day-to-day operations, including inspections, consumer support services, and IT system management.

The resulting law, Chapter 369 of the Acts of 2012, *"An Act for the Humanitarian Medical Use of Marijuana"*, requires the Department of Public Health (DPH) to issue regulations 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.

In the two years following passage of the ballot measure, the Medical Use of Marijuana (MMJ) Program has developed one of the first dispensary-based programs in the country, based on the dual principles of patient access and public safety. This has included one of the most comprehensive application processes developed by any state.

After issuing regulations, the Program conducted a two-phase application process. As a result of this two-phase application process, the Program approved 15 proposed Registered Marijuana Dispensaries (RMDs) to proceed to the Inspection Phase - the last step before receiving a Final Certificate of Registration. Based on the proposed locations of the dispensaries, over 98% of the state's population will be within 25 miles of a dispensary.

In December 2014, the Program issued the first Final Certificate of Registration to Alternative Therapies Group, Inc. (ATG) allowing ATG to begin the cultivation of marijuana at their site in Amesbury. The final product will be dispensed at ATG's Salem-based retail site. ATG estimates that product will be ready for dispensing to patients in Spring 2015.

In addition to the RMD application process, consistent with the DPH regulations, in October 2014 the Program launched the Medical Use of Marijuana Online System (MMJ Online System).

In FY2014, the revenue collected supported four major functions: 1) expert consulting and operations support services to assist with the application review process and launch of the Program; 2) IT development expenses to build the MMJ Online System; 3) phased-in hiring of staff to support daily operations; 4) build out and furnishings of program work space. In FY14, the MMJ Program left a positive balance of $394,807 which rolled over into FY2015.

While in FY2014 the Program was fully funded, the Program is projecting a deficit in FY2015 of $1,177,570. For FY2015, revenue includes patient and dispensary agent registration fees, new RMD provisional registration fees and RMD renewal registration fees. The variance is attributed to 1) total revenues falling below projections; 2) lack of funding for the significant start-up costs associated with launching this new program; 3) and IT development expenses exceeding original projections. It should be noted that the MMJ Program is currently forecasting FY2015 to be a one-time deficit with FY2016 and future fiscal years currently projected as revenue positive.

Program Report

Over the past two years following passage of the voter-led ballot initiative, the Program has been developing one of the first dispensary-based medical marijuana programs in the country, based on the dual principles of patient access and public safety.

In developing the regulations, DPH drew on the expertise and ideas of a wide range of groups. Namely, the Department convened more than 25 meetings with patient advocates, industry experts, law enforcement, clinician groups and municipal leaders. In addition, the Department held three public hearings (Boston, Northampton, and Plymouth) to elicit and gather feedback on the draft regulations. Close to 200 public comments were received and reviewed through these hearings.

The Department also analyzed the regulations of medical marijuana programs in 17 states to learn of best practices.

After enacting regulations, the Program conducted a two-phase application process which represented one of the most comprehensive application processes developed by any state regulating marijuana for medical use.

Phase 1, conducted in the summer of 2013, identified applicants who met the minimum requirements for a registered marijuana dispensary ("RMD"), including the demonstration of appropriate financing and incorporation.

Out of 181 applicants, 159 were invited to submit a Phase 2 application. One hundred (100) Phase 2 applications were submitted on November 21, 2013 and underwent an expert review by the contracted agency ICF International, LLC. ICF scored the applications based on responses to questions regarding proposed RMD operations, team experience, and location.

In addition to evaluating the application itself, over 600 individual background checks, including administrative, disciplinary, financial, and compliance reviews at the local, state, federal, and international levels, were conducted on management team members, investors, and corporations by the contracted agency Creative Services, Inc.

A Selection Committee comprised of DPH senior managers and external independent appointments, including representation from local law enforcement and municipal boards of health, assessed applications and recommended qualified applicants to the

Executive Director. The Selection Committee's recommendations were based on factors such as the expert review score, appropriateness of the site for patient access, geographical distribution of the proposed dispensaries, local support, and the applicants' ability to meet the overall health needs of registered patients while ensuring public safety.

On January 31, 2014, 20 RMD applicants were selected to proceed. After completing expanded background checks, on June 27, 2014, the Program announced that 11 RMDs were approved for the Inspection Phase. On November 4, 2014, the Program announced that four additional RMD applicants were moving forward into the Inspections Phase in counties without a designated RMD.

As a result of the 2014 application process, the Program approved 15 proposed RMDs to proceed to the Inspection Phase - the last step before receiving a Final Certificate of Registration. Based on the proposed locations of the dispensaries, over 98% of the state's population will be within 25 miles of a dispensary.

In December, 2014, the Program issued Alternative Therapies Group, Inc (ATG) the first Final Certificate of Registration. The Certificate allows ATG to begin the cultivation of marijuana at their site in Amesbury. The final product will be dispensed at ATG's Salem-based retail site. ATG estimates that product will be ready for dispensing to patients in early Spring, 2015.

As part of the Inspection Phase, the Program is currently conducting visits to dispensary and cultivation sites to review organizations' floor plans, security systems, and cultivation operations to ensure product safety and quality and that the organizations are ready to cultivate, process, and dispense. After opening their doors to patients, all RMDs will be subject to ongoing oversight, including announced and unannounced inspections to monitor compliance with the regulations.

In addition to the RMD application process, in October, 2014 the Program launched the MMJ Online System, which allows patients, personal caregivers, health care providers and dispensary agents to register with the Program; RMDs to track dispensing activity; and RMDs and law enforcement officials to verify the registration status of individuals.

As of March 1, 2015 there are:

- 11,715 certified patients
- 5,600 certified patients who are registered
- 1,463 pending patient registrations
- 54 registered physicians currently certifying patients

The Program also established and operates a call center which fields an average of 115 calls a day from patients, caregivers, and physicians seeking assistance.

Additionally, the Program has prioritized hiring staff (call center staff, compliance officers, managers, and support staff) and establishing Program operations.

Budget

Per the statute, the Program must be revenue neutral with all fees collected by the Program to be used for day-to-day operations, including inspections, consumer support services, and IT system management. The fee schedule is as follows:

- 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

The following tables outline the Program finances by Fiscal Year.

A. Fiscal Year 2014

a. Revenue

REVENUE SOURCE	AMOUNT
Phase 1 Application (181)	$ 271,500
Phase 2 Application fee (100)	$ 3,000,000
RMD Registration fees	$ 550,000
Name change fees	$ 200
Total	**$ 3,821,700**

b. Expenditures

EXPENSE TYPE	AMOUNT
Administrative expenses	$ 14,796
IT expenses	$ 1,375,299
Consultant services	$ 1,074,692
Office equipment purchase	$ 73,024
Infrastructure	$ 50,076
IT non-payroll expenses	$ 22,229
Operational services	$ 513,194
Pension and insurance related expenses	$ 65,695
Regular employee compensation	$ 237,339
Regular employee related expenses	$ 549
Total	**$ 3,426,893**

c. Budget Analysis

In FY2014 the Program collected a total of $3,821,700 in revenue with most of it (86%) coming from RMD application fees. The revenue collected supported four major functions in FY2014 and breaks out as follows:

- **$1,587,886:** Operational services and expert consulting to assist with the application review process and launch of the Program, consistent with 105 CMR 725.100, which outlines the requirements for the application process for selecting RMDs to serve qualified patients in the Commonwealth. Specifically, consultant tasks included background checks, application scoring, GIS analysis during the application review, and assistance in development of the application.
- **$1,375,299:** IT development expenses to build the MMJ Online System, consistent with 105 CMR 725.000, et seq., which require the MMJ Program to register patients, caregivers, physicians and RMD agents; issue MMJ Program IDs; track certifications; track RMD sales and manage for diversion.
- **$325,821:** Phased-in hiring of staff to support daily operations. Staffing includes Inspection Officer(s) to ensure compliance with 105 CMR 725.300, which authorizes DPH to conduct ongoing inspections of RMDs. Funding also includes an allocation for MMJ Program Management staff to direct program operations, develop and operationalize the MMJ Online System, support services staff to enable the Program to respond to questions from constituents regarding multiple issues, including the registration process.
- **$123,100:** Build out and furnishing of program workspace.

As a result, total expenses for FY2014 were $3,426,893, leaving a positive balance of $394,807 which rolled over into FY2015.

In FY2014, the revenue received was used to both implement the RMD application process and operationalize the Program. Implementation of the application process included an independent review of the applications and background checks. In an effort to launch the RMD application process early, funding was allocated to support the process since the Program was not yet staffed.

Operationalizing the Program included the development of the MMJ Online System and hiring of staff. The Program implemented an accelerated IT process to develop the online system which, in part, serves the key function of tracking medical use of marijuana utilization in the Commonwealth and managing for diversion.

FY2014 closed with a positive balance of $394,807 which rolled over into FY2015.

B. Fiscal Year 2015 (projected)

a. Revenue

REVENUE SOURCE	AMOUNT
Revenue balance from FY 2014	$ 394,807
RMD registration renewal fees	$ 550,000
RMD registration fees	$ 250,000
Patient and Agent registration fees	$ 550,000
Total	**$ 1,744,807**

b. Expenditures

EXPENSE TYPE	AMOUNT
Regular employee compensation	$ 995,321
Training/Traveling/Emp. Reimbursement	$ 25,000
IT expenses	$ 1,331,628
Consulting services	$ 215,328
Operational services	$ 347,600
Infrastructure	$ 7,500
Total	**$ 2,922,377**

c. Budget Analysis

While in FY2014 the Program was fully funded, the Program is projecting a deficit in FY2015. Total revenue projected for FY2015 is $1,744,807. Expenses are projected to be $2,922,377, leaving a negative variance of $1,177,570.

For FY2015, revenue includes patient and dispensary agent registration fees, new RMD provisional registration fees and RMD renewal registration fees. The negative variance is attributed to the following:

- Total revenues fell below projections since the Program did not issue as many provisional certificates as initially projected. The Program's original budget was based on registering 20 RMDs. As a result of a comprehensive review process, the Program identified 15 RMDs that are qualified to provide high quality services to qualifying patients.
- No allocations were made for the significant start-up costs associated with launching a new program. The Program anticipates the one-time start-up costs to be paid for within three years.
- IT development expenses led by EOHHS IT far exceeded original projections and includes on-going implementation and upgrades of the online system.

It should be noted that the MMJ Program is currently forecasting FY2015 to be a one-time deficit with FY2016 currently projected as a positive variance.