

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1200  
Economic Matters

(Prince George's County Delegation)

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**Prince George's County - Community-Based Developmental Disabilities Services  
Providers - County Minimum Wage Reimbursement  
PG 414-16**

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This bill requires the Department of Health and Mental Hygiene (DHMH) to reimburse community providers located in Prince George's County at a rate sufficient to ensure that the hourly wage paid to community direct service workers in the county is the same percentage above the county minimum wage rate as community direct service workers outside the county are paid above the State minimum wage rate. The county has to reimburse DHMH for the additional cost of reimbursing community providers located in Prince George's County at the increased rates (after DHMH notifies the county of the amount required for reimbursement); that amount must be used to fund the increased rates.

The bill takes effect July 1, 2016.

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**Fiscal Summary**

**State Effect:** Expenditures for the Developmental Disabilities Administration (DDA) increase in FY 2017 to modify existing programs to calculate and pay provider rates in, and to collect reimbursement from, Prince George's County. As DDA must be reimbursed by Prince George's County, there is no net impact on DDA for increased provider rates, although federal matching funding may be affected.

**Local Effect:** Expenditures for Prince George's County increase by a significant but unknown amount beginning in FY 2017. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Meaningful. Providers in Prince George's County receive additional funding to pay community direct service workers higher hourly wages, based on the current county minimum wage.

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## Analysis

### **Current Law/Background:**

#### *Minimum Wage in Maryland*

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act (FLSA) of 1938. State law sets minimum wage standards to provide a maintenance level consistent with the needs of the population. State law specifies that an employee must be paid the greater of the federal minimum wage, which is currently \$7.25 per hour, or the State minimum wage. Under Chapter 262 of 2014, with limited exceptions, the State minimum wage increased from \$8.00 per hour to \$8.25 per hour on July 1, 2015. The State minimum wage is scheduled to increase on an incremental basis to:

- \$8.75 per hour as of July 1, 2016;
- \$9.25 per hour as of July 1, 2017; and
- \$10.10 per hour as of July 1, 2018.

The Maryland Wage and Hour Law, and minimum wage requirements, do not apply to certain categories of employees, including those defined as administrative, executive, or professional, certain seasonal employees, part-time employees younger than age 16, or employees training in a special education program in a public school.

#### *Minimum Wage in Prince Georges County*

Prince George's County passed a local minimum wage law in 2013, phasing in minimum wage increases over four years. Thus, the county minimum wage increased to \$8.40 per hour beginning October 1, 2014, and to \$9.55 per hour beginning October 1, 2015. The remaining scheduled increases are to:

- \$10.75 per hour as of October 1, 2016; and
- \$11.50 per hour as of October 1, 2017.

The county minimum wage does not apply to an employee who is exempt from the minimum wage requirements of the Maryland Wage and Hour Law or the federal FLSA or to an employee who is younger than age 19 and is employed no more than 20 hours in a week.

Montgomery County passed a similar law, Montgomery County Bill 27-13, the same year.

## *Community-based Services*

DDA provides community-based services through a variety of programs. Examples of community-based services include resource coordination, residential habilitation, day habilitation, supported employment, family and individual support services, and community-supported living arrangements. Chapter 262 of 2014 included 3.5% rate increases for community services providers from fiscal 2016 through 2019. The increase for fiscal 2016 only was subsequently moderated to be 3% in the operating budget (Chapter 310 of 2015).

Serving individuals in the community continues to be the model of service delivery pursued by DDA. Accordingly, DDA's Community Services Program has experienced significant budgetary growth in recent years, in large part due to expansion of services, including the Transitioning Youth Program, crisis services, emergency services, court-involved placements, and Waiting List Equity Fund placements. Community services are typically expanded every year. In fiscal 2016, expenditures reached \$1.03 billion (total funds). The Governor's proposed fiscal 2017 State budget includes \$1.09 billion (including a \$569.72 million mandated general fund appropriation) for contractual community services.

**State Expenditures:** DDA advises that it is in the process of phasing out its existing information technology (IT) system and transitioning to a new system in the next 18 to 24 months. Altering the reimbursement rate for community providers located in Prince George's County would require a change order to the vendor responsible for implementing the new IT system. Without a specific scope of work, an estimate for the costs of such a change cannot be reliably estimated.

DDA also advises that the majority of services provided by the providers in Prince George's County fall under the Community Pathways Waiver, which receives matching federal funds. As such, the federal Centers for Medicare and Medicaid Services would need to approve the increased reimbursement rate. In order to justify the increased rate, DDA would likely be required to submit a unique rate study. The costs associated with hiring a contractor to perform the rate study, according to DDA, might range from \$50,000 to \$100,000, but a precise estimate is not available at this time.

**Local Expenditures:** Prince George's County expenditures increase, beginning in fiscal 2017, to reflect reimbursements to DHMH to ensure that the minimum hourly wage for community direct service workers in Prince George's County meets the requirements of the bill. Prince George's County was unable to produce a credible estimate of the costs associated with the bill's requirements in time for this analysis. Even so, a provider advocacy group, the Prince George's Provider Council, which represents the interests of several community-based services providers, has estimated that the total cost of the bill could reach \$7.29 million in fiscal 2017, including \$4.23 million from Prince George's

County and an anticipated \$3.06 million in federal matching funds. However, the data used to develop this estimate was not made available, and as such, this amount is only illustrative of the magnitude of the impact on Prince George's County, rather than a specific cost estimate.

**Additional Comments:** DDA advises that it has retained an outside consultant to conduct a rate-setting study for all services paid for by DDA. The consultant is aware of the minimum wage requirements in Prince George's County, and it is expected that the consultant's report will provide some guidance on how to handle this issue, as the same concern regarding the county minimum wage exists in Montgomery County.

DDA further advises that the difficulty of estimating the fiscal impact of the bill is due in substantial part to the fundamental difference between the way the bill calculates the increased rate to be paid to providers in Prince George's County, and the way providers are currently paid. DDA reimburses providers based on rates for *specific services* provided to individuals, not based on what staffing agencies pay their employees. Further, neither DDA nor Prince George's County has employee-specific information that could be used to calculate the impact of the bill's requirements. While wage expenditures are reported by providers as part of an annual wage survey, which includes breakdowns based on groups of employees, the information is not detailed enough to calculate the rate increase required to allow funds to be passed along to the lowest paid employees. DDA notes that some information included in the survey responses is incorrect or missing such that DDA is only able to identify the *number of employees* employed by 18 of the approximately 28 providers operating in Prince George's County.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Prince George's County, Department of Health and Mental Hygiene, Prince George's Provider Council, Department of Legislative Services

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