

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 642
 Finance

(Senator Kelley, *et al.*)

Health and Government Operations

Home- and Community-Based Waiver Services – Study and Task Force

This bill requires the Maryland Department of Health (MDH), in consultation with the Hilltop Institute, to conduct a specified study that provides a cost-benefit analysis of expanding access to long-term care services through home- and community-based waivers. The bill also establishes a Task Force on Home- and Community-Based Waiver Services to be staffed by the Department of Legislative Services (DLS). **The bill takes effect July 1, 2020; the task force terminates June 30, 2021.**

Fiscal Summary

State Effect: MDH general fund expenditures increase by \$200,000 in FY 2021 only to conduct the required cost-benefit analysis study. DLS can staff the task force using existing budgeted resources. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	200,000	0	0	0	0
Net Effect	(\$200,000)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to have a fiscal or operational impact on local governments.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Cost-benefit Analysis Study

MDH, in consultation with the Hilltop Institute at the University of Maryland Baltimore County, must conduct a cost-benefit analysis study, which must include (1) a comparison of all health care costs incurred by individuals – by different levels of acuity – who have moved into waiver services and those who remain on the waiting list for waiver services; (2) to the extent practicable, comparison data for a five-year period; (3) how to capture savings from the provision of waiver services through Medicaid that accrues to Medicare for the benefit of Medicaid; (4) the extent to which the provider community can accommodate additional individuals served through the waiver and similar Medicaid services; and (5) any other information that is necessary to adequately capture the full extent of incurred cost and cost avoidance from more fully using waiver services.

By December 1, 2020, MDH must report its findings and recommendations to the Governor and the General Assembly.

Task Force on Home- and Community-based Waiver Services

The task force must study and make recommendations regarding (1) modernization of MDH policies to reflect the State's goal of ensuring the delivery of care in the most appropriate setting; (2) use of State policies and payment mechanisms to support community-based models of care, improve transparency and efficiency in providing waiver services, and eliminate the waiting list for waiver services; and (3) programs Medicaid could implement to serve the population in need of home- and community-based services (HCBS).

A member of the task force may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations. By December 1, 2020, the task force must report its findings and recommendations to the Governor and the General Assembly.

Current Law: The Medicaid Home and Community-Based Services program, authorized under § 1915(c) of the federal Social Security Act, permits a state to furnish an array of HCBS that assist Medicaid beneficiaries to live in the community and avoid institutionalization.

If permitted by the federal Centers for Medicare and Medicaid Services, an individual must be determined medically eligible to receive services if the individual requires skilled

nursing care or other related services, rehabilitation services, or health-related services above the level of room and board available only through nursing facilities.

The Medicaid Home and Community-Based Options Waiver (HCBOW) must include (1) an initial cap on waiver participation of 7,500 individuals; (2) a limit on annual waiver participation based on general fund support as provided in the budget bill; (3) specified financial eligibility criteria; (4) waiver services that include specified services; (5) the opportunity to provide eligible individuals with waiver services as soon as they are available without waiting for placement slots to open in the next fiscal year; (6) an increase in participant satisfaction; (7) the forestalling of functional decline; (8) a reduction in Medicaid expenditures by reducing utilization of services; and (9) the enhancement of compliance with *Olmstead v. L.C.* (1999) by offering cost-effective community-based services in the most appropriate setting.

Background: A 2009 study by Kaye, *et al.* found that, although expansion of HCBS programs initially requires increased spending, states with established HCBS programs reduce their long-term care spending over time through a reduction in institutional spending and long-term cost savings.

In federal fiscal 2016, Maryland expenditures on HCBS as a percentage of Medicaid long-term services and supports (LTSS) was 56%, just below the national average of 57%. However, 18 states spent a higher percentage of LTSS funding on HCBS.

MDH advises that, as of January 28, 2020, there were 20,869 individuals on the HCBOW registry (waiting list). Of these individuals, 3,846 are already enrolled in and receiving LTSS. Another 803 people are in a nursing facility and are already eligible to apply for the waiver. A total of 4,308 individuals are currently enrolled in HCBOW.

State Expenditures: Based on similar work done by the Hilltop Institute for Medicaid, MDH general fund expenditures increase by an estimated \$200,000 in fiscal 2021 only to conduct the required cost-benefit analysis study and report findings and recommendations to the Governor and the General Assembly by December 1, 2020.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1163 (Delegate Cullison, *et al.*) - Health and Government Operations.

Information Source(s): AARP Public Policy Institute; Medicaid Innovation Accelerator Program; Maryland Department of Aging; Maryland Department of Disabilities; Maryland Department of Health; Department of Legislative Services

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