

Department of Legislative Services  
 Maryland General Assembly  
 2020 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1163 (Delegate Cullison, *et al.*)  
 Health and Government Operations

Home- and Community-Based Waiver Services - Alterations and Task Force

This bill requires the Maryland Department of Health (MDH) to include a plan for waiver participation of *not fewer than* 7,500 individuals in the Medicaid Home and Community-Based Options Waiver (HCBO). MDH must send monthly waiver notice letters to individuals who are eligible or likely to be eligible for waiver participation in sufficient quantity to allow for at least 7,500 individuals to participate in the waiver each fiscal year. If a person is determined eligible for waiver services, MDH must ensure that the individual receives waiver services within 30 days after the determination of eligibility was made. 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:** Medicaid expenditures increase by *at least* \$27.6 million (50% general funds, 50% federal funds) in FY 2021. Costs are likely significantly higher; future years reflect annualization and ongoing costs. Federal fund revenues increase accordingly. DLS can staff the task force using existing budgeted resources. **This bill increases the cost of an entitlement program beginning in FY 2021.**

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
FF Revenue	\$13.8	\$38.4	\$50.8	\$50.9	\$50.9
GF Expenditure	\$13.8	\$38.4	\$50.8	\$50.9	\$50.9
FF Expenditure	\$13.8	\$38.4	\$50.8	\$50.9	\$50.9
Net Effect	(\$13.8)	(\$38.4)	(\$50.8)	(\$50.9)	(\$50.9)

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

**Local Effect:** Revenues and expenditures increase for local health departments (LHDs) to conduct additional eligibility assessments, as discussed below.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** 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.

HCBS 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 Fiscal Effect:** To meet the bill’s requirement, MDH must increase the number of individuals served by the waiver to *at least* 7,500 per year. Based on current enrollment, an additional 3,192 individuals must be served under the waiver beginning in fiscal 2021.

Medicaid expenditures (50% general funds, 50% federal funds) increase by *at least* \$27.6 million in fiscal 2021, which accounts for a 90-day start-up delay from the bill’s July 1, 2020 effective date. This reflects the cost of hiring six additional full-time permanent positions to contact individuals on the registry and invite them to apply, accept applications, process technical and financial eligibility, preauthorize services for waiver participants once they are enrolled, and provide ongoing services related to waiver participation to the additional enrollees. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses for the new personnel as well as the costs associated with medical eligibility assessments and provision of waiver services.

	<u>FY 2021</u>	<u>FY 2022</u>
Permanent Positions	6.0	-
Waiver Services	\$24,937,076	\$74,811,227
Medical Eligibility Assessments	2,371,767	1,541,649
Salaries and Fringe Benefits	307,128	395,312
One-time Start-up Expenses	29,340	-
Ongoing Operating Expenses	<u>2,858</u>	<u>3,810</u>
<b>Total GF/FF Expenditures</b>	<b>\$27,648,169</b>	<b>\$76,751,998</b>

The information and assumptions used in calculating the estimate are stated below:

- Medicaid hires six additional personnel who are in place on October 1, 2020, to contact individuals on the registry, invite them to apply, accept and process applications, and provide ongoing services;
- to achieve the required level of waiver participation, Medicaid mails approximately 8,185 letters to individuals on the waiting list;
- based on historical data, only 60% of these individuals (4,911) submit a waiver application;

- each individual who submits a waiver application must receive an assessment of medical eligibility performed by an LHD, which is reimbursed by Medicaid at a rate of \$482.95 per assessment;
- once enrolled, each waiver participant must receive this assessment on an annual basis;
- of the 4,911 individuals who submit a waiver application, only 65% (3,192) will be eligible for and enroll in the waiver;
- the process for invitation, application, and determination of eligibility delays receipt of services until on or after January 1, 2021;
- during the first year (calendar 2021), enrollees are assumed to be enrolled for only six months to account for rolling enrollment;
- the estimated annual cost per person *for waiver services only* is \$31,248 in fiscal 2021; however, Medicaid advises that the *full cost* to serve individuals in the waiver is on average \$61,255 per person in fiscal 2021, which is not reflected in this analysis;
- comparatively, the annual cost per person for nursing facility services is approximately \$82,000; and
- federal fund matching revenues cover one-half of the costs.

Total costs increase to *at least* \$101,698,236 beginning in fiscal 2023 and annually thereafter. Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. This estimate does not reflect any potential rate increases for waiver services, any change in the number of waiver participants over time, or any potential offset of avoided nursing home costs for individuals on the waiting list. As stated above, the per participant cost utilized in this estimate reflects the cost of *waiver services only* and does not reflect the potential full cost of Medicaid services for waiver participants, which could nearly double the cost of waiver services shown above.

**Local Fiscal Effect:** LHD revenues increase by an estimated \$2.4 million in fiscal 2021, and \$1.5 million in fiscal 2022 and annually thereafter from reimbursement to conduct medical eligibility assessments for waiver applicants and enrollees. LHD expenditures also increase to conduct the assessments.

**Small Business Effect:** Small business health care providers serve additional waiver participants under the bill.

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### **Additional Information**

**Prior Introductions:** SB 700 of 2019, a similar bill, received a favorable report from the Senate Finance Committee and was referred to the Senate Budget and Taxation Committee.

Its cross file, HB 1009, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

**Designated Cross File:** SB 642 (Senator Kelley, *et al.*) - Finance.

**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

**Fiscal Note History:** First Reader - March 3, 2020

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