

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 371

(Senator Lam)

Finance

Health and Government Operations

Maryland Medical Assistance Program - Personal Care Aides - Wage Reports

This bill requires each residential service agency (RSA), by September 1, 2025, and annually thereafter, to submit a report to the Maryland Department of Labor (MDL) documenting the RSA's average wage rate and highest and lowest wage rates for personal care aides (PCAs). The Maryland Department of Health (MDH) must submit a specified report on the Ensuring Access to Medicaid final federal rule and the plans or steps the department will take to operationalize the rule. **The bill takes effect June 1, 2024.**

Fiscal Summary

State Effect: MDL can receive RSA wage reports, and MDH can submit the required report using existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The reporting requirement applies to personal assistance services provided through an RSA under Community First Choice, Community Options, Community Personal Assistance Services, and any other home- and community-based services (HCBS) administered by MDH. It does not apply to personal care services provided through the Developmental Disabilities Administration.

Residential Service Agency Requirements

By September 1, 2025, and annually thereafter, each RSA must submit to MDL a report that includes documentation of the RSA's average wage rate and highest and lowest wage rates for PCAs and any other information that MDL determines appropriate. The report must be signed by an authorized representative of the RSA.

Maryland Department of Health Requirements

Uncodified language requires MDH, by the 180th day following release of the final federal Ensuring Access to Medicaid Services rule, to report to the Senate Finance Committee and the House Health and Government Operations Committee on an overview of the final rule and the plans or steps the department will take to operationalize the rule. The report must include the process MDH will use to review wage reports of PCAs and how the data will be used to review Medicaid reimbursement rates as outlined in the rule.

Current Law: Chapters 10 and 11 of 2019 (Fight for Fifteen), among other actions, required the Governor's proposed budget to include specified rate increases for several types of health care providers over the funding provided in the prior year's legislative appropriation. For fiscal 2021 through 2026, the Governor's proposed budget had to include a 4.0% rate increase over the funding provided in the prior year's legislative appropriation for provider reimbursement in Medicaid and the Maryland Children's Health Program for nursing home services, medical day care services, private-duty nursing services, personal care services, HCBS, and services provided through the Community First Choice program.

The federal American Rescue Plan Act (ARPA) authorized a 10-percentage point increase to the federal matching rate on certain qualifying HCBS expenses. Funds had to be reinvested to enhance, expand, or strengthen Medicaid HCBS. Chapter 357 of 2021 (the fiscal 2022 budget bill) required that at least 75% of the funding be used on a one-time provider rate increase. Thus, Medicaid HCBS providers, including those providing personal care services, received a 5.2% rate increase effective November 1, 2021. Further, Medicaid reimbursement rates for personal assistance service providers increased by 12% in fiscal 2023 (4% under Fight for Fifteen, an additional 4% under the fiscal 2023 budget, and a temporary 4% tied to ARPA).

Chapter 2 of 2023 (the Fair Wage Act of 2023) repealed the provider rate increases required under Fight for Fifteen for fiscal 2025 and 2026. Instead, the fiscal 2024 budget included funding for an 8.0% rate increase, annualized to align with the January 1, 2024 acceleration of the minimum wage increase, which equated to 4.0% year-over-year. Accordingly, in fiscal 2024, reimbursement rates for personal assistance service providers had an aggregate 8% rate increase per the fiscal 2024 budget and the Fair Wage Act of 2023.

There are currently 920 RSAs enrolled in Medicaid that provide personal assistance services, primarily to individuals receiving community long-term services and supports as an alternative to nursing home placement. In fiscal 2023, MDH reimbursed RSAs \$394.4 million for personal assistance services provided to 14,230 Medicaid participants.

In May 2023, the federal Centers for Medicare and Medicaid Services published a [proposed rule](#) (Ensuring Access to Medicaid Services) intended to increase transparency and accountability, standardize data and monitoring, and create opportunities for states to promote active beneficiary engagement in their Medicaid programs, with the goal of improving access to care. Among other things, the rule proposes that states transparently publish a payment rate disclosure that collects and reports the average hourly rate paid to individual providers and providers employed by an agency and report annually on the percent of payments for personal care services that are spent on compensation for direct care workers. The proposed rule also requires that at least 80% of Medicaid payments for personal care services be spent on compensation.

Small Business Effect: Small business RSAs must submit annual wage reports to MDL, and they may be required to include any other information that MDL determines to be appropriate.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced in the last three years. See HB 318 and SB 604 of 2023.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Maryland Department of Labor; Department of Legislative Services

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