

**Department of Legislative Services**  
Maryland General Assembly

**FISCAL NOTE**

House Bill 1371 (Delegate Frush)

Environmental Matters

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**Assisted Living - Aggrieved Parties - Hearings and Appeals**

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This bill authorizes an individual who is aggrieved by a Department of Health and Mental Hygiene (DHMH) action or inaction concerning the level of care in an assisted living program to request an informal hearing before a designee of the Secretary of DHMH. The individual is authorized to request that the Secretary conduct a review of the decision made at an informal hearing; the review is to be conducted in accordance with the Administrative Procedure Act. The individual is further authorized to seek judicial review of the Secretary's final decision.

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**Fiscal Summary**

**State Effect:** Expenditures could increase by \$184,000 in FY 1999; future year expenditures increase with annualization and inflation. Revenues would not be affected.

| (in dollars)    | FY 1999     | FY 2000     | FY 2001     | FY 2002     | FY 2003     |
|-----------------|-------------|-------------|-------------|-------------|-------------|
| GF Revenues     | \$0         | \$0         | \$0         | \$0         | \$0         |
| GF Expenditures | 184,000     | 215,700     | 223,300     | 231,200     | 239,400     |
| Net Effect      | (\$184,000) | (\$215,700) | (\$223,300) | (\$231,200) | (\$239,400) |

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

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

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## Fiscal Analysis

**Background:** New assisted living regulations proposed by DHMH (COMAR 10.07.14.01.) are currently before the Administrative, Executive, and Legislative Review (AELR) committee. The regulations establish three levels of care to promote opportunities for residents to “age in place” when possible. Providers are authorized to provide the level of care for which the program has been licensed and any lower level of care. A provider wishing to provide a higher level of care than that for which it is licensed must request authority from DHMH to do so. The regulations authorize a provider aggrieved by DHMH’s decision to appeal the decision by filing a request for a hearing with the Office of Administrative Hearings. When an individual resident whose level of care has exceeded the level of care for which the provider is authorized, the provider will be required to request a resident-specific level of care waiver from DHMH to continue to serve that resident. A resident-specific waiver request denied by DHMH is not subject to appeal.

**State Expenditures:** General fund expenditures could increase by an estimated \$184,030 in fiscal 1999, which accounts for the bill’s October 1, 1998 effective date. This estimate reflects the cost of four new positions (one Physician Administrator, one Assistant Attorney General, one Program Administrator, and one Administrative Specialist) to handle appeals regarding the level of care for assisted living programs. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- 4,000 assisted living programs;
- at least 15,000 assisted living residents; and
- 1% of residents are involved in 150 informal hearings or contested cases a year regarding a resident-specific waiver.

|   |                  |
|---|------------------|
| Salaries and Fringe Benefits            | \$159,076        |
| Other Operating Expenses                | <u>24,954</u>    |
| <b>Total FY 1999 State Expenditures</b> | <b>\$184,030</b> |

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

**Small Business Effect:** There are approximately 4,000 assisted living programs, most of which would be considered small businesses. Assisted living programs would be favorably affected by the bill because it provides the opportunity to appeal DHMH's denial of a resident-specific level of care waiver.

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**Information Source(s):** Department of Health and Mental Hygiene (Licensing and Certification Administration), Office on Aging, Department of Human Resources, Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 1998

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