

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

House Bill 1129 (Delegate Petzold, *et al.*)
 Health and Government Operations

Vulnerable Adults - Home Care Providers - Registration and Regulation

This bill requires the Department of Health and Mental Hygiene (DHMH) and the Department of Aging to implement a registration system for home care providers of vulnerable adults.

Fiscal Summary

State Effect: DHMH general fund expenditures could increase by \$448,000 in FY 2007 to begin the registration program. This includes \$100,000 in one-time computer programming costs to develop the registry and \$20,000 in one-time costs to develop a provider training video and pamphlet. Future year expenditures assume an increasing number of registered providers and additional positions in DHMH to conduct required provider evaluations and inspections. Potential minimal increase in general fund revenues due to the bill’s criminal and civil penalty provisions.

(\$ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	-	-	-	-	-
GF Expenditure	.4	1.4	2.0	2.0	2.5
Net Effect	(\$.4)	(\$1.4)	(\$2.0)	(\$2.0)	(\$2.5)

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

Local Effect: Potential minimal increase in revenues due to the bill’s criminal penalty provision. No effect on expenditures.

Small Business Effect: Potential increase in turnover if existing personal care providers do not become registered and small business employers must hire registered individuals to take their place.

Analysis

Bill Summary: A home care provider must be registered to provide services. Registration is not required if the provider is related to each vulnerable adult by blood or marriage or is a friend of the vulnerable adult and the care is provided occasionally. A person may not advertise as a home care provider unless the person is registered.

DHMH must adopt regulations relating to the registration of providers which must be, so far as practicable, uniform with regulations adopted by other State agencies as those regulations relate to other types of in-home care provided to vulnerable adults.

The bill also sets minimum standards for DHMH regulations, including requiring the regulations to set:

- minimum standards of environmental health and safety;
- a thorough evaluation of each prospective provider that must be completed before DHMH accepts an initial registration;
- an initial home care provider registration that expires two years after its effective date;
- a continuing home care provider registration that is issued before the end of the initial registration period and remains effective until surrendered, revoked, or replaced by a conditional registration;
- an announced inspection of providers at least once every two years and an unannounced inspection of providers at least once in every 12-month period;
- a requirement for providers to have current basic first aid and CPR certificates; and
- complaint procedures.

DHMH must prepare and update a pamphlet for families and legal representatives of vulnerable adults receiving services from a provider. The pamphlet must contain an outline of provider regulations, a description of the rights and responsibilities of the vulnerable adult and the adult's family or legal representative, a description of complaint procedures, and the local health department's address and telephone number. Pamphlets

must be given to providers for distribution to the people they serve, their families, and their legal representatives.

Penalties

Any person who provides home care services or advertises as a home care provider without being registered is guilty of a misdemeanor and on conviction is subject to a maximum \$1,000 fine.

A DHMH employee charged with investigating and enforcing the regulations may serve a civil citation to a person who provides or advertises home care services without being registered. A violator of these provisions of the bill is subject to the following civil penalties: \$250 for the first violation; \$500 for the second violation; and \$1,000 for the third and each subsequent violation. A violator of any other provision of the bill is subject to a maximum \$1,000 civil penalty imposed in a civil action. A maximum of \$5,000 may be imposed in an action. Each day a violation occurs is a separate violation. Any money collected must be deposited into the State's general fund.

Additionally, DHMH may revoke a provider's registration for violating any provision of this bill or a regulation adopted to implement this bill. The provider must receive notice of the revocation at least 20 days before it happens, a statement of the grounds for the revocation, and an opportunity to be heard.

Appeals

Any person served with a civil citation may appeal the citation to the Office of Administrative Hearings. A provider also may appeal a revocation of registration.

A person aggrieved by a final decision of the highest administrative appellate authority in a contested case may take any further appeal as allowed by the Administrative Procedure Act. If further appeal is taken, any criminal prosecution and any injunction must be stayed pending the appeal, and the court has discretion as to the care of any vulnerable adult whose care is the responsibility of the person.

Current Law: Statute defines a vulnerable adult as an adult who lacks the physical or mental capacity to provide for the adult's daily needs.

Chapter 439 of 2005 transferred the Office of Personal Assistance Services, including the Attendant Care Program, from the Department of Human Resources (DHR) to the Department of Disabilities (DD). All functions and activities of the office, except for those relating to the Living-at-home Waiver, were transferred to DD. It established the Personal Assistance Services Advisory Committee within DD. The committee must

provide guidance to DD on personal care, attendant care, and home care services. The Office of Personal Assistance Services must staff the committee. The committee must report to the Governor and the General Assembly by October 1 annually.

Background: Maryland provides personal assistance services through eight different programs housed in four departments, which are expected to be the programs primarily affected by the bill. **Exhibit 1** below lists these programs and the services they provide.

Exhibit 1
Community-based Programs Offering Personal Assistance Services

<u>Department</u>	<u>Program</u>	<u>Services Provided</u>
DHMH	Medicaid Personal Care Program	Personal care services to individuals with disabilities
DHMH	Medicaid Living-at-home Waiver	Services include personal assistance, skilled nursing supervision, assistive technology, and personal emergency response systems
DHMH	Individual Support Services	Services include help with home skills, respite services, environmental modifications, adaptive equipment, and transportation
DHMH	Community Supported Living Arrangement	Services to help individuals with disabilities who live in their own home, including help with medical needs
Department of Aging	Medicaid Older Adults Waiver	Allows for services typically covered by Medicaid only in a nursing facility to be provided to eligible individuals in their homes or in assisted living facilities
Department of Aging	Senior Care Services	Services and case management to individuals 65 or older at risk of nursing home placement
DD	Attendant Care Program	Reimburses individuals with chronic or severe physical disabilities who require attendant care services for the costs of those services
DHR	In-home Aide Services	Provides assistance with personal care, chores, and other daily living activities

DD's Personal Assistance Service Advisory Committee is in the process of developing recommendations to be included in its 2007 State Disabilities Plan regarding standards for personal care workers, the feasibility of an individual provider referral system, the feasibility of a personal care worker registry, and personal care worker compensation.

The Department of Legislative Services (DLS) assumes that at least 10,000 home care providers will require registration as a result of the bill. DHMH's Developmental Disabilities Administration estimates that there are 6,500 providers working in programs funded through them. The Department of Aging estimates that there are 3,000 providers serving individuals in its programs. DHR advises that it has contracts with 18 agencies to provide in-home aide services.

State Revenues: General fund revenues could increase minimally under the bill's civil penalty provisions and criminal monetary penalty provision for those cases heard in the District Court.

State Expenditures: General fund expenditures could increase by an estimated \$448,164 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring one administrator to write the regulations establishing the registration program, four program coordinators to conduct 2,500 initial evaluations, and one secretary. It includes a one-time \$100,000 computer programming cost to develop and test a registry that would be available to the public, \$20,000 in contractual expenditures to develop a provider training video and pamphlets, salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	6
Salaries and Fringe Benefits	\$249,044
Computer Programming Costs	100,000
Operating Expenses	79,120
Provider Training Video	<u>20,000</u>
Total FY 2007 State Expenditures	\$448,164

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; (2) a total of 17 coordinators of special programs conducting initial evaluations and inspections in fiscal 2008; (3) a total of 24 coordinators of special programs conducting evaluations and inspections in fiscal 2009 and 2010; (4) a total of 28 coordinators of special programs conducting initial evaluations and inspections in fiscal 2011; and (5) 1% annual increases in ongoing operating expenses.

Future years also assume: (1) in fiscal 2008, 7,500 initial provider evaluations plus one announced and one unannounced inspection of 2,500 providers; (2) in fiscal 2009, one announced and one unannounced inspection of 7,500 providers, one unannounced inspection of 2,500 providers, and 1,000 initial provider evaluations; (3) in fiscal 2010, one unannounced inspection of 7,500 providers, one announced and one unannounced inspection of 3,500 providers, and 1,000 initial provider evaluations; and (4) in fiscal 2011, one announced and one unannounced inspection of 8,500 providers, one unannounced inspection of 2,500 providers, and 1,000 initial provider evaluations.

Local Revenues: Revenues could increase minimally under the bill's monetary criminal penalty provision for those cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Health and Mental Hygiene, Department of Aging, Department of Disabilities, Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2006
ncs/ljm

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