

Department of Legislative Services  
 Maryland General Assembly  
 2006 Session

FISCAL AND POLICY NOTE

House Bill 1319 (Delegate Walkup, *et al.*)  
 Economic Matters

Unemployment Insurance - Home Health Care and Personal Care Providers  
 Referred by Agencies - Coverage

This bill exempts specified home health care or personal care providers from covered employment for unemployment insurance purposes.

The bill is retroactive and applies to all determinations by the Department of Labor, Licensing, and Regulation pertaining to: (1) rates of contributions for employing units beginning on or after January 1, 2000; and (2) benefit charges for unemployment insurance claims for work performed by a home health care or personal care provider on or after January 1, 2000.

Wages that are paid for work performed by a home health care or personal care provider through September 30, 2006 may be used in determining monetary eligibility for unemployment insurance benefits.

Fiscal Summary

**State Effect:** The bill would not directly affect State operations or finances.

**Unemployment Insurance Trust Fund (UITF):** FY 2007 revenues would decrease by \$12.1 million due to retroactive application. In future years, revenues would decrease by \$2.0 million annually as unemployment insurance taxes are not assessed for certain payments to home health care or personal care providers, and expenditures would decrease by \$966,000 in FY 2008 and \$1.3 million annually beginning in FY 2009 for decreased unemployment insurance benefits.

(\$ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
NonBud Rev.	(\$12.1)	(\$2.0)	(\$2.0)	(\$2.0)	(\$2.0)
NonBud Exp.	0	(1.0)	(1.3)	(1.3)	(1.3)
Net Effect	(\$12.1)	(\$1.0)	(\$.7)	(\$.7)	(\$.7)

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

**Local Effect:** None.

**Small Business Effect:** Minimal decrease in unemployment insurance expense.

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## Analysis

**Bill Summary:** A home health care or personal care provider referred by a referral service agency or staff agency is not covered employment if the Secretary of Labor, Licensing, and Regulation is satisfied that:

- the home health care or personal care provider may accept or reject the referral from the referral agency;
- the home health care or personal care provider has entered into a written agreement with the referral agency that is currently in effect; and
- the written agreement states that the individual knows of the responsibility to pay State and federal income taxes and that the work is not covered employment for unemployment insurance purposes.

**Current Law:** Home health care or personal care providers are considered covered employees for unemployment insurance purposes. Covered employment is defined as work performed by an individual for an employing unit.

A multitude of exemptions to covered employment exist under current law. Other services performed solely for commission which are exempt include yacht salespersons, insurance brokers, and messenger service drivers. To the extent that work is exempt under federal law, a real estate broker or real estate salesperson working for a licensed real estate broker for commission is also not covered employment.

**Background:** When an individual performs service for a business in return for compensation in the form of wages, the individual is likely covered for unemployment insurance purposes. The employer reports the wages to the Division of Unemployment Insurance and pays unemployment insurance taxes on those wages. If a person is not in covered employment, the person's wages are not reported and the employer does not pay unemployment insurance taxes for those services.

Most exemptions from covered employment under Maryland law mirror Federal Unemployment Tax Act (FUTA) exemptions. However, Maryland does have two exemptions not included in FUTA: yacht salespersons and messenger service drivers.

## **Unemployment Insurance Trust Fund:**

### *Trust Fund Revenue*

It is estimated that taxable wages for health care employment referral agencies currently reported to the Division of Unemployment Insurance are \$79.7 million annually. Assuming that 90% of these wages relate to home health care or personal care providers who would be exempt under the bill, approximately \$2.0 million in current unemployment taxes would no longer be collected.

Because the bill is to be applied retroactively beginning in calendar 2000, fiscal 2006 UITF expenditures would include repayments of prior taxes collected relative to home health care or personal care providers. That amount is estimated to be approximately \$12.1 million.

Currently, there are 216 home health care services companies and 261 employment placement agencies reporting for unemployment insurance purposes. The classifications of companies are established by the North American Industry Classification System. Estimates are based on the following facts/assumptions:

- For the home health care services companies:
  - taxable wages from 7/1/02 through 6/30/05 totaled \$188,177,301;
  - unemployment benefit charges during same period totaled \$2,261,893;
  - industry average unemployment tax rate is 2.1%;
  - 90% of employees in health care; and
  - 90% of health care employees exempt under bill.
  
- For the employment placement agencies:
  - taxable wages from 7/1/02 through 6/30/05 totaled \$279,052,537;
  - unemployment benefit charges during same period totaled \$9,037,266;
  - industry average unemployment tax rate is 4.5%;
  - 25% of employees in health care; and
  - 90% of health care employees exempt under bill.

### *Unemployment Benefit Payments*

Payment of unemployment benefits would decrease as certain home health care or personal care providers would no longer be covered for unemployment insurance. It is estimated that benefit payments would decrease by approximately \$966,300 in fiscal 2008 and \$1.3 million annually beginning in fiscal 2009. There is no effect in fiscal 2007

and a reduced effect in fiscal 2008 because claimants use wages reported during the previous year for eligibility and the bill provides that wages earned through September 2006 may be used in determining monetary eligibility.

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### **Additional Information**

**Prior Introductions:** SB 670 of 2005, a similar bill, received an unfavorable report from the Senate Finance Committee.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2006  
mam/jr

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Analysis by: Karen S. Benton

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510