SB 934

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 934 (Senator Muse, *et al.*)
Finance

Nursing Homes - Staffing Requirements

This bill requires a nursing home to meet minimum staffing requirements. The Secretary of Health and Mental Hygiene must adopt certain regulations to carry out the bill.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: Medicaid expenditures increase by an estimated $15.1 million (50% general funds, 50% federal funds) to reflect reimbursements related to increased nursing home staffing beginning in FY 2012. Future year expenditures reflect inflation and staggered increases in minimum staffing levels required by the bill. It is also anticipated that the Office of Health Care Quality (OHCQ) within the Department of Health and Mental Hygiene (DHMH) will have to hire additional staff to implement the bill, although exact costs to OHCQ cannot be reliably estimated at this time and are, therefore, not reflected in this estimate (as discussed below). Revenues are not affected.

($ in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
FF Revenue	$7.6	$17.2	$23.6	$24.4	$25.2
GF Expenditure	$7.6	$17.2	$23.6	$24.4	$25.2
FF Expenditure	$7.6	$17.2	$23.6	$24.4	$25.2
Net Effect	($7.6)	($17.2)	($23.6)	($24.4)	($25.2)

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

Local Effect: None.

Small Business Effect: Potential meaningful for small nursing homes.

Analysis

Bill Summary: Under the bill, a nursing home must employ sufficient staff to meet specified minimum requirements for hours of direct care provided per resident per day. These requirements are as follows:

- by October 1, 2011, at least 3 hours of direct care per resident per day;
- by May 1, 2012, at least 3.28 hours of direct care per resident per day; and
- by May 1, 2013, at least 3.67 hours of direct care per resident per day.

The bill also establishes minimum staff ratios for nurses and nursing assistants to residents; these ratios increase, as specified by the bill, in accordance with the same timeline.

Under the bill, a nursing home is required to submit for review a proposed shift schedule to OHCQ within DHMH at least one week before the nursing home intends to implement the shift schedule. A nursing home may not implement a proposed shift schedule before the nursing home has received notification from OHCQ. The Secretary of Health and Mental Hygiene must determine whether a medicine aide may be counted toward the minimum staff ratios required under the bill.

The bill also specifies that, beginning July 1, 2013, a nursing home must employ a full-time director of nursing who must, within three months of being employed by a nursing home, complete a required training program (to be developed by the Secretary of Health and Mental Hygiene).

In addition, the bill requires a nursing home to display, in each common area and nursing station on each of its floors, a notice that (1) explains the current ratio of licensed personnel to residents and unlicensed personnel to residents; (2) lists the names of the geriatric nursing assistants, licensed practical nurses, registered nurses, and nursing supervisors who are providing direct care to the residents on the floor during a shift; and (3) lists the minimum shift ratios the nursing home is required to meet. The notice must be posted in a form that prevents the information from being erased.

The bill further requires a nursing home employee to wear at all times a name tag that prominently displays the employee's full name, title, and work assignment. If the employee was hired through a nursing staff agency, the employee must also wear at all times photo identification that identifies the nursing staff agency through which the employee was hired.

Current Law/Background: Federal law requires that all nursing homes in all states be regulated. In Maryland, about 230 nursing homes are licensed and regulated by OHCQ. Of these, 205 serve Medicaid enrollees.

A nursing home is required to have a written quality assurance plan that:

- includes procedures for concurrent review for all residents;
- is readily available to residents and their families or surrogate decisionmakers;
- includes methods to identify and correct problems; and
- provides criteria for routinely monitoring nursing care, including medication administration, prevention of decubitus ulcers, dehydration and malnutrition, nutritional status and weight loss or gain, accidents and injuries, unexpected deaths, changes in mental or psychological status, and any other data necessary to monitor quality of care.

Each nursing home must have a quality assurance committee to review and annually approve the nursing home's quality assurance plan. If DHMH determines that a nursing home is not implementing its quality assurance program effectively and that its quality assurance activities are inadequate, DHMH may impose appropriate sanctions – including mandated employment of specified quality assurance personnel – to improve quality assurance.

A nursing home must display on each of its floors a notice that explains the current ratio of licensed personnel to residents and unlicensed personnel to residents. The notice must be (1) posted in a location that is visible and accessible to residents and their families or guardians and any potential consumers; and (2) on a form provided by DHMH.

Each nursing home is required to designate a physician to serve as medical director. The medical director is responsible for monitoring physician services at the nursing home and must report monthly to the quality assurance committee on the quality of medical care at the nursing home.

State Expenditures: DHMH advises that, based on nursing wage surveys and nursing facility utilization data, nursing homes in the State currently have enough nurses on staff to meet the bill's requirements for nurse staffing (although some facilities may have to change their nurses' shift schedules). However, nursing homes do not currently employ enough staff to meet the bill's requirements with regard to nursing assistants. Specifically, DHMH advises that 93,800 additional nursing assistant shifts associated with Medicaid enrollees will have to be covered in fiscal 2012 under the bill and that, on average, Medicaid costs increase by $161 per eight-hour nursing assistant shift. Thus, Medicaid expenditures increase by an estimated $15.1 million in fiscal 2012 to reflect increased Medicaid reimbursements.

In addition, the bill will require OHCQ to draft regulations, develop a training program for nursing directors, and review proposed shift schedules. According to OHCQ, an estimated 11,800 shift schedules are produced monthly by nursing homes; OHCQ therefore advises that at least 24 additional staff members are needed to review these schedules and meet the bill's other requirements at a cost of $1 million to $2 million annually. However, Legislative Services notes that, while the bill requires that a nursing home submit for review a proposed shift schedule to OHCQ at least one week before the nursing home intends to implement the shift schedule, the bill does not specify (1) the level of detail a shift schedule must show; or (2) whether a schedule must be submitted weekly, monthly, or according to some other timeline. It is therefore uncertain how many schedules OHCQ will actually be tasked with reviewing. Thus, while Legislative Services expects OHCQ expenditures to increase beginning in fiscal 2012 to reflect the cost of hiring additional staff (assuming a one-month implementation delay following the bill's June 1, 2011 effective date), exact costs to OHCQ cannot be reliably estimated at this time. Federal participation toward OHCQ expenditures is anticipated to be 40%.

Future year estimates reflect inflation and staggered increases in minimum staffing levels.

Small Business Effect: Nursing home expenditures are expected to increase to meet the bill's staffing requirements. At least 38 nursing homes in the State are considered small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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mc/mwc

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