

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 231

(Chair, Finance Committee)(By Request - Departmental -
Disabilities)

Finance

Health and Government Operations

Individuals with Disabilities - Attendant Care Program

This departmental bill alters individual eligibility requirements for the Attendant Care Program in the Department of Disabilities (DOD). Specifically, the bill expands the definition of “eligible individual” to include qualified individuals who are now older than age 65 but were younger than age 65 when initial eligibility was determined. In addition, the bill specifies that an individual who does not meet specified employment requirements must – rather than be on a waiting list for a nursing facility or similar institution – be certified as being at risk of placement in such a facility or similar institution if attendant care services are not received in the community. The bill also specifies that the sliding payment scale established in regulation by DOD must be established with regard to each category of eligible individuals. Furthermore, the bill authorizes DOD (subject to the availability of funds) to waive a specified proportional requirement (if there is a waiting list of eligible individuals) and to adopt regulations to establish priorities and procedures for a waiting list. The bill prohibits the removal, for the purpose of achieving the proportional requirement, of an eligible individual receiving assistance from the program.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: The bill’s requirements can be handled with existing budgeted resources, but likely results in decreased reversions to the general fund beginning in FY 2013, as discussed below.

Local Effect: None.

Small Business Effect: DOD has determined that this bill has minimal or no impact on small businesses (attached). Legislative Services concurs with this assessment.

Analysis

Current Law/Background: The purpose of DOD's Attendant Care Program is to provide financial assistance to eligible individuals for attendant care services. An "eligible individual" is an individual who is between 18 and 65 years of age and has a severe chronic or permanent disability that precludes or significantly impairs the individual's independent performance of essential activities of daily living, self-care, or mobility. DOD must provide financial assistance in accordance with a sliding payment scale established by the department in regulation and is required to annually review the eligibility of each individual receiving financial assistance.

The program is also subject to (in addition to eligibility requirements) a proportional requirement. Specifically, DOD is required to ensure that, at any given time, at least 50% of eligible individuals receiving financial assistance under the program are either gainfully employed, actively seeking employment, or attending an institution of postsecondary or higher education. The remainder of eligible individuals receiving financial assistance under the program must be individuals who (1) reside in a nursing facility or similar institution licensed to provide chronic or intermediate care and will be deinstitutionalized as a result of the program; or (2) are on an approved waiting list for such a facility or institution.

Financial assistance provided under the program must not duplicate any other State or federal assistance for attendant care services that an eligible individual receives. In addition, DOD must limit program participation to the number of eligible individuals who can be served with the funds appropriated for the program in the State budget.

DOD advises that there are currently 87 individuals on the program's waiting list who fall in the category of individuals at risk of placement in a nursing facility or similar institution. DOD further advises that, in recent years, the department has not fully utilized all funds appropriated for the program – due, in part, to the requirement that 50% of program participants be in the employee/student category (for which DOD advises there is currently no waiting list). In addition, because individuals in the employee/student category have greater attendant care needs (and thus expend more funds for services), DOD advises that an adjustment of the sliding payment scale is needed to account for the respective needs of the two categories of eligible individuals.

State Fiscal Effect: DOD advises that the bill's modifications to individual eligibility are clarifying in nature; thus, they are not expected to have a material effect on

governmental finances or operations. DOD can use existing resources to amend its regulations.

The proposed fiscal 2013 budget includes \$1.3 million for the Attendant Care Program. Because the bill authorizes DOD to waive the proportional requirement and, thus, affords greater flexibility to DOD with regard to providing financial assistance to eligible individuals in the Attendant Care Program, the bill likely results in decreased reversions to the general fund beginning in fiscal 2013. DOD has not, in recent years, fully utilized all funds appropriated to the program – resulting in reversions to the general fund of \$94,757 in fiscal 2011 and \$145,082 in fiscal 2010. DOD advises that, given the amount of the fiscal 2011 reversion, an additional 10 to 12 individuals could have participated in the program in fiscal 2011 if DOD had been afforded greater flexibility to address the waiting list. DOD further advises that, assuming approximately 80% of the individuals currently on the waiting list would ultimately be determined to be eligible for the program, it would cost approximately \$546,000 to provide these individuals with the maximum level of funding (\$8,028 per individual) authorized under the program.

According to DOD, 92% of current program participants are eligible for the maximum authorized level of funding (which is provided through a reimbursement-based system). The fiscal impact of any changes to the maximum authorized level – including the potential establishment of two different levels for the two categories of program participants – would depend on the regulations ultimately adopted by DOD and cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 7, 2012
mm/mwc

Analysis by: Jennifer A. Ellick

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Individuals with Disabilities – Attendant Care Program

BILL NUMBER: SB 231

PREPARED BY: Department of Disabilities

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.