

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1235 (Delegate West)
 Health and Government Operations

Maryland Medical Assistance Program - Nursing Services - Skills Checklist

This bill requires the Secretary of Health and Mental Hygiene to specify in regulations the skills checklist used to determine the competency of nurses, certified nursing assistants (CNAs), and home health aides to provide nursing services through a residential service agency (RSA) or a home health agency (HHA) that participates in the Medicaid program.

Fiscal Summary

State Effect: Medicaid expenditures (75% federal funds, 25% general funds) increase by as much as \$4.1 million in FY 2017 to document compliance by RSAs and HHAs with any skills checklist specified in regulations. Federal matching fund revenues increase accordingly. Future years reflect annualization and inflation.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
FF Revenue	\$3,104,100	\$4,236,000	\$4,342,900	\$4,452,600	\$4,565,100
GF Expenditure	\$1,034,700	\$1,412,000	\$1,447,600	\$1,484,200	\$1,521,700
FF Expenditure	\$3,104,100	\$4,236,000	\$4,342,900	\$4,452,600	\$4,565,100
Net Effect	(\$1,034,700)	(\$1,412,000)	(\$1,447,600)	(\$1,484,200)	(\$1,521,700)

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

Local Effect: Local health department revenues and expenditures increase to assess compliance.

Small Business Effect: Potential meaningful for small business RSAs and HHAs that participate or seek to participate in the Medicaid program.

Analysis

Current Law/Background: The Maryland Nurse Practice Act (Title 8 of the Health Occupations Article) and associated regulations govern the scope of practice for nurses, CNAs, and home health aides, as well as the delegation of nursing tasks. All individuals who routinely perform nursing tasks delegated by a registered nurse (RN) or a licensed practical nurse (LPN) must be certified by the State Board of Nursing. A CNA is an individual who routinely performs nursing tasks delegated by an RN or LPN for compensation. A home health aide is a CNA that meets additional federal training requirements to work in licensed HHAs. HHAs provide verification that the individual meets the federal requirements. Each RSA and HHA is responsible for ensuring that their staff are appropriately trained based on the patients that they serve.

In order to offer private duty nursing services under the Medicaid program, a provider must be a licensed RSA or HHA and meet other requirements specified in regulation. A provider must ensure that each nurse, CNA, or home health aide rendering services to a Medicaid participant has completed a skills checklist and demonstration of competency on an annual basis that was observed, documented, and verified by the signature of an RN supervisor or an RN designated by the supervisor. When a Medicaid enrollee requires private duty nursing services, the Division of Nursing Services in the Department of Health and Mental Hygiene (DHMH) determines the level of care and number of hours required and approves a specific provider based on that provider's ability to meet the enrollee's specific level of care.

Nursing services are also provided through RSAs and HHAs to a wide range of other Medicaid recipients under the Community First Choice, Community Options, Traumatic Brain Injury, and Community Pathways waivers, and through community personal assistance and increased community services programs. However, these clients typically have less acute needs.

DHMH currently uses nurses in the local health departments (LHDs) to monitor RSAs and HHAs and evaluate the quality of services and compliance with regulatory requirements for several Medicaid programs. An estimated 8,300 Medicaid recipients receive some level of Medicaid nursing services through RSAs and HHAs monitored by LHDs. An additional 650 Medicaid participants receive nursing services through other programs monitored by DHMH.

State Fiscal Effect: Although the bill does not require DHMH to monitor compliance with the regulations, DHMH advises that any new checklist or skills criteria established in regulations must be monitored by Medicaid under federal requirements. Failure to monitor and document compliance would subject Medicaid to a loss of federal matching funds for those services.

Thus, Medicaid expenditures increase by as much as an estimated \$4,138,848 (75% federal funds, 25% general funds) in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost to document compliance by RSAs and HHAs with any skills checklist specified in regulations, including contractual services provided by LHDs, and hiring one grade 20 clinical nurse consultant. It includes contractual services, a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- LHDs monitor an estimated 8,300 Medicaid participants receiving Medicaid nursing services annually;
- LHDs perform quarterly visits to assess compliance by RSAs and HHAs;
- LHDs may require up to two additional hours per quarterly assessment per Medicaid participant to monitor compliance with any skills checklist specified in regulations;
- each Medicaid participant's services must be monitored as any skills checklist is unique to the needs of each patient;
- LHDs are reimbursed by DHMH for quarterly visits at a rate of \$81.36 per hour;
- contractual services will total \$5.4 million on an annual basis (\$4,051,728 in fiscal 2017 due to the bill's October 1, 2016 effective date);
- a 75% federal matching rate is provided for these services;
- an additional 650 Medicaid participants receive nursing services through other Medicaid programs monitored by DHMH rather than LHDs; and
- to increase monitoring for these individuals, one full-time grade 20 clinical nurse consultant is required.

Position	1.0
Contractual Expenses	\$4,051,728
Salary and Fringe Benefits	82,305
One-time Start-up Expenses	4,363
Ongoing Operating Expenses	<u>452</u>
Total FY 2017 State Expenditures	\$4,138,848

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Contractual expenses for LHDs increase by 2.5% annually.

Local Fiscal Effect: LHD revenues and expenditures increase to perform additional monitoring of RSA and HHAs providing nursing services to Medicaid enrollees.

Additional Information

Prior Introductions: None.

Cross File: SB 895 (Senators Klausmeier and Middleton) - Finance.

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

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kb/ljm

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