HB 981

Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 981 (Delegate Henson)
Health and Government Operations

Maryland Medical Assistance Program - Personal Care Aides - Reimbursement and Required Wage

This bill requires the Maryland Department of Health (MDH), by July 1, 2023, to increase the reimbursement rate for personal care services provided under Medicaid long-term services and supports by 15%. By July 1, 2023, a "provider agency" must pay a "personal care aide" who provides long-term services and supports a wage of at least $16 per hour. A provider agency must provide notice to each personal care aide about the wage increase. MDH must develop a process for a personal care aide to report a provider agency's failure to comply with the required wage rate. By September 1, 2023, and annually thereafter, a provider agency must submit a specified cost report to MDH. MDH may take appropriate enforcement action, as specified, against a provider agency for failure to comply.

Fiscal Summary

State Effect: No effect in FY 2023. Medicaid expenditures increase by $65.9 million (50% general funds, 50% federal funds) beginning in FY 2024 to increase reimbursement rates for personal care aides. Federal fund revenues increase accordingly. **This bill increases the cost of an entitlement program beginning in FY 2024.**

($ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
FF Revenue	$0	$33.0	$34.3	$35.7	$35.7
GF Expenditure	$0	$33.0	$34.3	$35.7	$35.7
FF Expenditure	$0	$33.0	$34.3	$35.7	$35.7
Net Effect	$0.0	($33.0)	($34.3)	($35.7)	($35.7)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: "Personal care aide" means an individual who provides a service that an individual normally would perform personally, but for which the individual needs help from another because of advanced age, infirmity, or physical or mental limitation, and includes help in walking, getting in and out of bed, bathing, dressing, feeding, and general supervision and help in daily living. "Provider agency" means an entity that pays personal care aides to provide long-term services and supports that are reimbursable by Medicaid.

A provider agency cost report must include documentation of the provider agency's compliance with the wage rate and notice requirement and the signature of an authorized representative of the provider agency, signed under penalty of perjury.

MDH may take appropriate enforcement action against a provider agency if the provider agency fails to submit a cost report; submits an inaccurate, incomplete, or invalid cost report; or fails to pay a personal care aide the amount required under the bill. Appropriate enforcement action may include recoupment of funding resulting from the reimbursement rate increase under the bill, imposition of a corrective action plan, suspension or termination from Medicaid, and termination of licensure.

Current Law: Chapter 798 of 2018 required MDH to compare the rate of reimbursement with the actual cost to providers for (1) providing care to individuals approved for direct care services; (2) coordinating care services; and (3) providing any other services. It also required MDH to determine, to the extent information was publicly available, the costs associated with providing service and care under other home- and community-based services (HCBS) programs. The final report submitted by MDH can be found here.

Chapters 10 and 11 of 2019, among other actions, require the Governor's proposed budget to include specified rate increases for several types of health care providers over the funding provided in the prior year's legislative appropriation. For fiscal 2021 through 2026, the Governor's proposed budget must include a 4.0% rate increase over the funding provided in the prior year's legislative appropriation for provider reimbursement in Medicaid and the Maryland Children's Health Program for nursing home services, medical day care services, private duty nursing services, personal care services, home and community-based services, and services provided through the Community First Choice program.

The federal American Rescue Plan Act (ARPA) authorizes a 10-percentage point increase to the federal matching rate on certain qualifying HCBS expenses. Funds must be reinvested to enhance, expand, or strengthen Medicaid HCBS. Chapter 357 of 2021 (the fiscal 2022 budget bill) required that at least 75% of the funding be used on a one-time

provider rate increase. Thus, Medicaid HCBS providers, including those providing personal care services, received a 5.2% rate increase effective November 1, 2021.

State Fiscal Effect: MDH identified four personal assistance billing codes that would be eligible for a 15% rate increase under the bill. In fiscal 2021, Medicaid expenditures on these personal assistance services totaled $401.8 million (50% general funds, 50% federal funds) and served 14,555 Medicaid enrollees.

In fiscal 2022, these services received a 4.0% rate increase per Chapters 10 and 11 of 2019 (this rate increase was provided six months early, effective January 1, 2021). Effective November 1, 2021, these services also received a 5.2% rate increase under ARPA. In fiscal 2023 through 2026, these services will receive an additional 4.0% annual rate increase per Chapters 10 and 11 of 2019.

Thus, Medicaid expenditures increase by an estimated $65.9 million (50% general funds, 50% federal funds) in fiscal 2024 to provide a 15% rate increase beginning July 1, 2023. This reflects a rate increase in addition to the ARPA and annual 4.0% rate increases. Medicaid expenditures increase by an estimated $68.6 million in fiscal 2025, and $71.3 million in fiscal 2026 and annually thereafter, as the 15% rate increase becomes part of the base payment rate and is subject to additional annual 4% rate increases under Chapters 10 and 11 of 2019. Fiscal 2026 is the last year of the mandated 4% rate increase under Chapters 10 and 11 of 2019.

Under the bill, MDH must develop a process for a personal care aide to report a provider agency's failure to comply with the required wage rate. MDH is authorized to take appropriate enforcement action against a provider agency for failure to comply with provisions of the bill. MDH advises that, while the department sets reimbursement rates for the services rendered by providers, it does not have any role in setting wages or benefits paid to their employees. As such, oversight regarding provider compliance with the requirements of the bill will fall outside the scope of MDH's authority.

Small Business Effect: Small business provider agencies that employ personal care aides receive significantly greater Medicaid reimbursement under the bill and must pay a higher wage to personal care aides.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 863 (Senator McCray) - Finance.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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