

# HOUSE BILL 318

J1, J3

3lr1337  
CF SB 604

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By: ~~Delegate Bagnall~~ Delegates Bagnall, Pena-Melnyk, Cullison, Alston, Bhandari, Chisholm, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, R. Lewis, Lopez, Martinez, M. Morgan, Rosenberg, Taveras, White, and Woods

Introduced and read first time: January 25, 2023

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Provider Agencies and Personal Care**  
3 **Aides – Reimbursement and ~~Wages~~ Wage Reports**

4 FOR the purpose of ~~requiring the Maryland Department of Health to increase the hourly~~  
5 ~~reimbursement rate for certain personal assistance services under the Maryland~~  
6 ~~Medical Assistance Program; requiring provider agencies to pay a certain wage to~~  
7 ~~personal care aides and to provide a certain notice regarding the wage to personal~~  
8 ~~care aides; requiring provider agencies to submit certain ~~cost~~ reports to the Maryland~~  
9 ~~Department of Labor regarding wage rates for personal care aides; requiring the~~  
10 ~~Maryland Department of Health to work with stakeholders to update a certain report~~  
11 ~~regarding reimbursement rates and develop a certain plan regarding gaps in certain~~  
12 ~~reimbursement rates; and generally relating to personal care services reimbursed by~~  
13 the Maryland Medical Assistance Program.

14 BY adding to

15 Article – Health – General

16 Section 15–151

17 Annotated Code of Maryland

18 (2019 Replacement Volume and 2022 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

20 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## Article – Health – General

15-151.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "PERSONAL CARE AIDE" MEANS AN INDIVIDUAL WHO PROVIDES PERSONAL ASSISTANCE SERVICES.

(3) "PROVIDER AGENCY" MEANS AN ENTITY THAT PAYS A PERSONAL CARE AIDE TO PROVIDE PERSONAL ASSISTANCE SERVICES THAT ARE REIMBURSABLE BY THE PROGRAM UNDER A MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES ONLY TO PERSONAL ASSISTANCE SERVICES PROVIDED UNDER COMMUNITY FIRST CHOICE, COMMUNITY OPTIONS, COMMUNITY PERSONAL ASSISTANCE SERVICES, AND ANY OTHER HOME AND COMMUNITY-BASED SERVICES ADMINISTERED BY THE DEPARTMENT.

(2) THIS SECTION DOES NOT APPLY TO PERSONAL CARE SERVICES PROVIDED THROUGH THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

~~(C) ON OR BEFORE JULY 1, 2024, THE DEPARTMENT SHALL INCREASE THE HOURLY REIMBURSEMENT RATE FOR PERSONAL ASSISTANCE SERVICES TO A MINIMUM OF \$25 PER HOUR.~~

~~(D) (1) BEGINNING JULY 1, 2024, A PROVIDER AGENCY SHALL PAY A PERSONAL CARE AIDE A WAGE THAT IS THE GREATER OF:~~

~~(I) \$16 PER HOUR; OR~~

~~(II) 64% OF THE HOURLY REIMBURSEMENT RATE.~~

~~(2) ON OR BEFORE JULY 1, 2024, THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE THE WAGE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) A PROVIDER AGENCY SHALL PROVIDE WRITTEN NOTICE TO EACH PERSONAL CARE AIDE EMPLOYED AND PAID BY THE PROVIDER AGENCY OF THE DATE ON WHICH THE WAGE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS~~

1 ~~SUBSECTION WILL TAKE EFFECT AND THE RATE THAT THE PERSONAL CARE AIDE~~  
2 ~~WILL BE PAID FOLLOWING THE WAGE INCREASE.~~

3 ~~(4) THE DEPARTMENT SHALL DEVELOP A PROCESS FOR A PERSONAL~~  
4 ~~CARE AIDE TO REPORT A PROVIDER AGENCY'S FAILURE TO COMPLY WITH THE WAGE~~  
5 ~~RATE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

6 ~~(E)~~ (1) ON OR BEFORE SEPTEMBER 1 EACH YEAR, BEGINNING IN 2024,  
7 EACH PROVIDER AGENCY SHALL SUBMIT TO THE MARYLAND DEPARTMENT OF  
8 LABOR A ~~COST~~ REPORT IN THE FORM AND MANNER REQUIRED BY THE MARYLAND  
9 DEPARTMENT OF LABOR.

10 (2) THE ANNUAL ~~COST~~ REPORT REQUIRED UNDER PARAGRAPH (1) OF  
11 THIS SUBSECTION SHALL INCLUDE:

12 (I) DOCUMENTATION OF THE PROVIDER AGENCY'S  
13 ~~COMPLIANCE WITH THE AVERAGE WAGE REQUIREMENTS UNDER SUBSECTION (D)(1)~~  
14 ~~OF THIS SECTION; RATE FOR PERSONAL CARE AIDES; AND~~

15 ~~(II) DOCUMENTATION OF THE PROVIDER AGENCY'S~~  
16 ~~COMPLIANCE WITH THE NOTICE REQUIREMENT UNDER SUBSECTION (D)(3) OF THIS~~  
17 ~~SECTION FOR EACH PERSONAL CARE AIDE EMPLOYED BY THE PROVIDER AGENCY;~~  
18 ~~AND~~

19 ~~(HH)~~ (II) ANY OTHER INFORMATION THAT THE MARYLAND  
20 DEPARTMENT OF LABOR DETERMINES APPROPRIATE.

21 (3) THE ANNUAL ~~COST~~ REPORT REQUIRED UNDER PARAGRAPH (1) OF  
22 THIS SUBSECTION SHALL BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE  
23 PROVIDER AGENCY ~~UNDER PENALTY OF PERJURY.~~

24 ~~(F)~~ (1) ~~THE DEPARTMENT MAY TAKE APPROPRIATE ENFORCEMENT~~  
25 ~~ACTION AGAINST A PROVIDER AGENCY IF THE PROVIDER AGENCY:~~

26 ~~(I) FAILS TO SUBMIT A COST REPORT AS REQUIRED;~~

27 ~~(II) SUBMITS AN INACCURATE, INCOMPLETE, OR INVALID COST~~  
28 ~~REPORT; OR~~

29 ~~(III) FAILS TO PAY A PERSONAL CARE AIDE THE AMOUNT~~  
30 ~~REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION.~~

31 (2) ~~APPROPRIATE ENFORCEMENT MAY INCLUDE:~~

~~(I) RECOUPMENT BY THE DEPARTMENT OF FUNDING  
RESULTING FROM THE REIMBURSEMENT RATE INCREASE UNDER SUBSECTION (C)  
OF THIS SECTION;~~

~~(II) IMPOSITION OF A CORRECTIVE PLAN;~~

~~(III) SUSPENSION OR TERMINATION FROM THE PROGRAM; AND~~

~~(IV) TERMINATION OF LICENSURE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Department of Health shall work with affected stakeholders to:

(1) update the report submitted by the Department under Section 2 of Chapter 798 of the Acts of the General Assembly of 2018 comparing the rate of reimbursement versus the actual cost to provide personal assistance services to individuals under the Community First Choice, Community Options, Community Personal Assistance Services, and any other home and community-based services administered by the Department;

(2) develop a plan to close any identified differential gap in reimbursement rates; and

(3) while developing the plan under item (2) of this subsection, determine the amount of any adjustment needed in reimbursement rates to increase wages and benefits to personal care aides.

(b) In developing the plan under subsection (a)(2) of this section, the Maryland Department of Health shall consider the wages and benefits paid to personal care aides or similar workers in other states or in other health care settings.

(c) On or before September 30, 2024, the Maryland Department of Health shall submit its findings and recommendations, including any proposed legislative or regulatory changes, to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2023.