

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 604 (Senator Benson, *et al.*)
 Finance and Budget and Taxation

Maryland Medical Assistance Program – Provider Agencies and Personal Care
 Aides – Reimbursement and Wages

This bill requires the Maryland Department of Health (MDH), by July 1, 2024, to increase the hourly reimbursement rate for personal assistance services provided under specified Medicaid home and community-based services (HCBS) to a minimum of \$25 per hour. Beginning July 1, 2024, a “provider agency” must pay a personal care aide (PCA) a specified wage. A provider agency must provide written notice to each PCA about the wage increase. By September 1, 2024, and annually thereafter, a provider agency must submit a specified cost report to MDH. MDH must develop a process for a PCA to report a provider agency’s failure to comply with the wage increase. MDH may take appropriate enforcement action against a provider agency for specified actions.

Fiscal Summary

State Effect: No effect in FY 2024. Medicaid expenditures (50% general funds, 50% federal funds) increase by \$28.0 million in FY 2025 to increase reimbursement rates and establish a new wage oversight unit, as discussed below. Federal fund revenues increase accordingly. Future years reflect ongoing expenses and growth in utilization of waiver services. **This bill increases the cost of an entitlement program beginning in FY 2025.**

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
FF Revenue	\$0	\$14.0	\$14.5	\$15.0	\$15.4
GF/FF Exp.	\$0	\$28.0	\$29.0	\$30.0	\$30.8
Net Effect	\$0.0	(\$14.0)	(\$14.5)	(\$15.0)	(\$15.4)

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: “Provider agency” means an entity that pays a PCA to provide personal assistance services that are reimbursable by Medicaid under a Medicaid HCBS program. The bill’s wage increase specifically applies to personal assistance services provided under Community First Choice, Community Options, Community Personal Assistance Services, and any other community-based services administered by MDH. It does not apply to personal care services provided through the Developmental Disabilities Administration.

Provider Agency Requirements

Beginning July 1, 2024, a provider agency must pay a PCA a wage that is the greater of \$16 per hour or 64% of the hourly reimbursement rate. A provider agency must provide written notice to each PCA paid by the provider agency of the date on which the wage requirements will take effect and the rate that the PCA will be paid thereafter.

By September 1, 2024, and annually thereafter, each provider agency must submit to MDH a specified cost report. The cost report must be signed by an authorized representative of the provider agency under penalty of perjury.

Maryland Department of Health Requirements

By July 1, 2024, MDH must publish on its website the wage required to be paid by a provider agency. MDH must develop a process for a PCA to report a provider agency’s failure to comply with the required wage rate.

MDH may take appropriate enforcement action against a provider agency if the provider agency (1) fails to submit a cost report; (2) submits an inaccurate, incomplete, or invalid cost report; or (3) fails to pay a PCA the required wage. Appropriate enforcement may include recoupment of funding, imposition of a corrective plan, suspension or termination of Medicaid provider status, and termination of licensure.

Current Law: 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, HCBS, and services provided through the Community First Choice program.

The federal American Rescue Plan Act 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.

There are currently 758 residential service agencies (RSAs) enrolled in Medicaid that provide personal assistance services, primarily to individuals receiving community long-term services and supports as an alternative to nursing home placement. In fiscal 2021, MDH reimbursed RSAs \$402.1 million for personal assistance services provided to 14,562 Medicaid participants.

State Fiscal Effect:

Reimbursement Rate for Personal Care Services

MDH must increase the hourly reimbursement rate for personal assistance services provided under specified Medicaid HCBS programs to a minimum of \$25 per hour by July 1, 2024. The fiscal 2024 budget as introduced plans to expedite the 4.0% annual rate increases required under Chapters 10 and 11 for fiscal 2025 and 2026. If approved, Medicaid reimbursement rates for personal assistance service providers will increase by 12% effective July 1, 2023, to a rate of \$23.85 per hour.

To reach a reimbursement rate of \$25 per hour for fiscal 2025, MDH must increase the reimbursement rate for two personal assistance billing codes by \$0.2875 per 15-minute increment unit of service (or \$1.15 per hour). Based on estimated utilization of 94,932,685 units of personal assistance services (23,733,11 hours) in fiscal 2025, Medicaid expenditures increase by \$27.3 million (50% general funds, 50% federal funds) in fiscal 2025, to provide reimbursement for personal care services at a rate of at least \$25 per hour. Federal fund revenues increase accordingly.

Costs increase to \$28.3 million in fiscal 2026, \$29.2 million in fiscal 2027, and \$30.0 million in fiscal 2028, which reflects anticipated annual growth in waiver utilization of 3.68%, 3.20%, and 2.85%, respectively.

Oversight of Provider Agencies

Under the bill, in addition to increasing the reimbursement rate for personal care services, MDH must develop a process for a PCA to report a provider agency's failure to comply with the wage increase and receive and review annual cost reports from provider agencies. MDH may take appropriate enforcement action against a provider agency if the provider

agency (1) fails to submit a cost report; (2) submits an inaccurate, incomplete, or invalid cost report; or (3) fails to pay a PCA the required wage.

MDH advises that, while it sets reimbursement rates for RSAs, it does not employ PCAs nor determine the wages or benefits RSAs offer. The enforcement of wage requirements is the purview of the Maryland Department of Labor and not MDH.

To the extent that MDH is required to ensure that cost reports are accurate, complete, and valid and that provider agencies are paying PCAs the required wage, additional personnel resources are needed to oversee the wages paid by provider agencies to PCAs and provide program integrity and compliance services. MDH advises that this would require establishment of a new wage oversight unit. The Department of Legislative Services concurs.

Thus, MDH expenditures (50% general funds, 50% federal funds) increase by \$740,268 in fiscal 2025, which accounts for implementation of the wage requirement on July 1, 2024. This estimate reflects the cost of hiring one chief and seven health policy analysts advanced to ensure that cost reports are accurate, complete, and valid and that provider agencies are paying PCAs the required wage. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	8.0
Salaries and Fringe Benefits	\$678,791
Operating Expenses	<u>61,477</u>
Total FY 2025 State Personnel Expenditures	\$740,268

Future year expenditures reflect annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Small Business Effect: Small business RSAs receive additional Medicaid reimbursement under the bill but must pay a higher wage to PCAs and submit annual cost reports.

Additional Comments: MDH advises that the bill has the potential to negatively impact the RSA provider network, which in turn could cause access issues for Medicaid participants who require personal assistance services.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 863 and HB 981 of 2022.

Designated Cross File: HB 318 (Delegate Bagnall) - Health and Government Operations.

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

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