

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 725 (Delegate Henson)
 Health and Government Operations

**Maryland Medical Assistance Program, Maryland Children's Health Program,
 and Community First Choice Program - Reimbursement of Service Providers**

This bill increases the rate increase for specified providers in the Medicaid and Maryland Children’s Health Program (MCHP) required to be included in the Governor’s proposed fiscal 2024 budget from 4% to 10%. Ninety percent of the funding increase must be used to fund wage increases for specified workers, and nursing home providers who receive the rate increase must document the disbursement of the funds. By September 1, 2024, and annually thereafter, each nursing home must submit to the Maryland Department of Health (MDH) a specified cost report. MDH may take appropriate enforcement action against a nursing home for specified violations. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: No effect in FY 2023 and likely no effect in FY 2024, as discussed below. Medicaid expenditures increase by at least \$689,000 (50% general funds, 50% federal funds) in FY 2025 for personnel to review nursing home cost reports. Federal fund revenues increase accordingly. Out-years reflect ongoing costs.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
FF Revenue	\$0	\$344,500	\$338,200	\$348,900	\$362,200
GF/FF Exp.	\$0	\$689,000	\$676,400	\$697,800	\$724,400
Net Effect	\$0	(\$344,500)	(\$338,200)	(\$348,900)	(\$362,200)

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:

Fiscal 2024 Rate Increase

Uncodified language requires that 90% of the funding increase for fiscal 2024 be used to fund wage increases for (1) health care workers; (2) staff working in a nursing home who provide direct care to residents; and (3) support staff in a nursing home who provide direct care to residents, including housekeeping, laundry, nutritional, and activities services. Administrative staff and workers who do not provide direct care to residents are not eligible to take part in the wage increase.

Nursing Home Cost Reports

Each cost report must include documentation of wage disbursement and any other information MDH determines is appropriate, and it must be signed by an authorized representative of the nursing home under penalty of perjury.

MDH may take appropriate enforcement action against a nursing home if the nursing home: (1) fails to submit a cost report; (2) submits an inaccurate, incomplete, or invalid cost report; or (3) fails to pay the wages in the amount required.

MDH may take enforcement action that includes recoupment of funding resulting from the reimbursement rate increase, imposition of a corrective plan, suspension or termination from the Medicaid program, or 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 MCHP 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.

State Fiscal Effect: 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. The budget includes a \$218.2 million general fund appropriation (and a \$195.2 million federal fund appropriation), contingent on enactment of legislation accelerating the implementation of Maryland's minimum wage law. This equates to a 12% rate increase. Thus, to the extent the contingency is met and the rate increase is provided, the bill's

provision increasing the fiscal 2024 rate increase from 4% to 10% has no net impact on MDH. Moreover, any further increase in the mandated rate increase for fiscal 2024 as proposed in this bill is discretionary.

Under the bill, in addition to increasing the reimbursement rate, MDH must receive and review annual cost reports from nursing homes. MDH may take appropriate enforcement action against a nursing home if the nursing home (1) fails to submit a cost report; (2) submits an inaccurate, incomplete, or invalid cost report; or (3) fails to pay the required wages. MDH may take enforcement action that includes recoupment of funding resulting from the reimbursement rate increase, imposition of a corrective plan, suspension or termination from the Medicaid program, or termination of licensure.

MDH advises that, while it sets reimbursement rates for nursing homes, it does not determine the wages or benefits nursing homes 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 from the estimated 200 nursing homes certified to participate in Medicaid are accurate, complete, and valid and that nursing homes are paying the required wage, additional personnel resources are needed.

Thus, MDH expenditures (50% general funds, 50% federal funds) increase by at least \$689,029 in fiscal 2025. Federal fund revenues increase accordingly. This estimate reflects the cost of hiring five health policy analysts advanced to ensure that cost reports are accurate, complete, and valid, and that nursing homes are paying the required wages, as well as annual contractual expenses for MDH's independent auditor to review the cost reports. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. This analysis assumes these positions begin July 1, 2024, in anticipation of the receipt of cost reports by September 1, 2024.

Positions	5.0
Salaries and Fringe Benefits	\$455,606
Contractual Auditor Expenses	195,000
Operating Expenses	<u>38,423</u>
Total FY 2025 State Personnel Expenditures	\$689,029

Future year expenditures reflect annual increases and employee turnover as well as annual increases in ongoing operating expenses. Federal fund revenues increase accordingly.

Small Business Effect: Small business providers serving Medicaid must ensure that the fiscal 2024 rate increase is used to provide wage increases for health care workers. Small business nursing homes must ensure that the fiscal 2024 rate increase is used to provide wage increases for staff who provide direct care to residents, document the disbursement of the funds, and submit annual cost reports beginning September 1, 2024. This applies

regardless of whether the additional increase intended in the bill is realized as, under current law, there is an increase in fiscal 2024. Small business nursing homes may also be subject to enforcement actions related to cost reports.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 761 and HB 1350 of 2022.

Designated Cross File: SB 468 (Senator Rosapepe) - Budget and Taxation..

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

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