

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 1149

(Delegate Pena-Melnyk, *et al.*)

Health and Government Operations

Budget and Taxation

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Medicaid Waiver Programs - Waitlist and Registry Reduction (End the Wait Act)

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This bill authorizes funding provided in the fiscal 2023 budget for Autism Waiver expansions to instead be used more broadly for *Medicaid* waiver expansions. A specified portion of funds *must* be used to provide community services to individuals waiting for services through the Community Pathways Waiver, the Community Supports Waiver, the Family Supports Waiver, the Brain Injury Waiver, the Home- and Community-Based Options Waiver, the Medical Day Care Services Waiver, and the Model Waiver for Medically Fragile Children. A portion of these funds *may* be used to expand provider capacity in these waivers and the Autism Waiver, including hiring and retaining staff and providers, increasing provider rates, and addressing other issues that limit provider capacity. The bill also authorizes funding included in the annual budget bill beginning in fiscal 2024 to reduce the waitlists for these waiver programs to be used to hire and retain providers. **The bill takes effect June 1, 2023.**

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Fiscal Summary

**State Effect:** As the bill does not require any new funding but authorizes or requires funds already included in the FY 2023 budget (or required to be included in the budget beginning in FY 2024) to be used for a specific purpose, there is no net impact on State revenues or expenditures. Specifically, up to \$20.0 million in the FY 2023 budget *must* be used to provide community services to individuals waiting for specified waiver services and a portion of that \$20.0 million *may* be used to expand provider capacity. The FY 2024 budget as introduced does not include funding to reduce the waitlists for these waiver programs.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Current Law:** Chapter 464 of 2022 requires the Maryland Department of Health (MDH) to develop plans to reduce the waitlists for seven specified waiver programs (the Community Pathways Waiver, the Community Supports Waiver, the Family Supports Waiver, the Brain Injury Waiver, the Home- and Community-Based Options Waiver, the Medical Day Care Services Waiver, and the Model Waiver for Medically Fragile Children) by 50%, beginning in fiscal 2024. MDH must also develop a plan to reduce the registry for the Autism Waiver that includes conducting eligibility determinations of individuals on the registry and, beginning in fiscal 2024, providing services to at least 50% of individuals determined eligible. By January 1, 2023, MDH must submit the plans to the Governor and specified committees of the General Assembly. Beginning in fiscal 2024, the Governor must include in the annual budget bill sufficient funds to carry out the Act.

The plans must include (1) an assessment of whether each waiver program needs to recruit and retain new providers; (2) measures to recruit and retain providers to expand the capacity of the programs; (3) any changes in reimbursement rates needed to ensure provider capacity to provide services under the waiver programs; (4) the expected timeframe for conducting eligibility determinations for the Autism Waiver; (5) the expected timeframe for reducing the waitlist or registry for each waiver program by 50%; and (6) the projected cost of the measures to be implemented under the plans.

The fiscal 2023 budget includes \$30.0 million from the Dedicated Purpose Account to support Autism Waiver expansions. At least \$10.0 million of the appropriation must be transferred by budget amendment in fiscal 2023 to the Maryland State Department of Education for students with disabilities with the intent to expand the current Autism Waiver by 1,350 slots. In August 2022, \$10.0 million was transferred via budget amendment for this purpose.

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. 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, including for home- and community-based services providers. 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.

**Small Business Effect:** Up to \$20.0 million included in the fiscal 2023 budget must be used to provide community services to individuals waiting for services through specified Medicaid waivers; a portion of that funding may be used to expand provider capacity. Many providers that serve the waivers are small businesses. To the extent funds are

included in the fiscal 2024 budget and subsequent budgets, providers may additionally benefit.

**Additional Comments:** Pursuant to Chapter 464, MDH submitted a [report](#) in February 2023 on its plans and the funding required to reduce the waitlists or registries for the majority of the identified waivers by 50% by fiscal 2028. Per this report, current provider networks may not have the capacity to deliver services to the additional participants for each waiver program as there is a shortage of direct support professionals. To improve provider capacity and retain providers, MDH will need to implement provider recruitment strategies. MDH is currently assessing the impact of implementing Chapter 464 subject to a one-year delay given that recruiting needed staff will require several months. The fiscal 2024 budget as introduced does not include funding to implement Chapter 464.

MDH estimates that the overall cost to implement Chapter 464, including service costs, new personnel to support increased waiver participants, and other administrative costs, as well as the impact of expediting the 4.0% annual rate increases required under Chapters 10 and 11 for fiscal 2025 and 2026 (included in the fiscal 2024 budget as introduced) totals just over \$1.0 billion for fiscal 2023 through 2028, inclusive. On an annual basis, total costs (which are eligible for a 50% federal matching rate) are anticipated to be \$17.7 million in fiscal 2023, \$172.0 million in fiscal 2024, \$187.5 million in fiscal 2025, \$205.5 million in fiscal 2026, \$222.4 million in fiscal 2027, and \$238.9 million in fiscal 2028.

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### Additional Information

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 622 (Senator Zucker, *et al.*) - Budget and Taxation.

**Information Source(s):** Maryland State Treasurer's Office; Department of Budget and Management; Maryland Department of Health; Maryland State Department of Education; Department of Legislative Services

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