

Complete Home Care - SB600.pdf

Uploaded by: Alex Berezin

Position: FAV



Complete Home Care, LLC
90 Painters Mill Rd., Suite 215
Owings Mills, MD 21117

February 15, 2022

Re: Senate Finance Committee: Support SB600

Dear Members of the House Health and Government Operations Committee,

My name is Alex Berezin, and I serve as CEO of Complete Home Care, LLC. As a Residential Services Agency (RSA), our goal is to take care of the client with the most comprehensive services and the most compassionate care. But in order to take care of our clients, we need to take care of our staff. This means properly classifying them as W-2 employees – with benefits – rather than 1099 independent contractors who lack all benefits. It also means paying them as much as we can, given the Maryland Department of Health’s low reimbursement rates for Medicaid-funded care.

However, there is currently an extreme shortage of home care workers in Maryland. It is very difficult to hire and keep workers, and part of the reason for this is that so many RSAs are misclassifying their workers as 1099 independent contractors when they are really employees. When RSAs compete for workers solely on what “tax-free” wage rate they offer, what it really means is that they are misclassifying workers as independent contractors and not paying Social Security and Unemployment taxes. Further, when RSAs do this it leads to caregivers jumping from agency to agency. The turnover hurts the people who rely on care because they end up with a rotating group of workers caring for them, which can be traumatic.

Medicaid is a government-funded program, a privilege for business owners to work with. **Requiring that RSAs report, for Medicaid-funded work only, workers’ classifications and pay rates is not burdensome and would not put RSAs at any competitive disadvantage, but it would help encourage RSAs to do the right thing.** And, it would ensure that you all – as Maryland’s policymakers – know this very basic information about the Medicaid home care workforce in Maryland (which, after all, is funded with state money) and about how RSAs are treating these workers. I am confident that when you see how some RSAs treat their home care workforce, you will see that there is a greater need for action to ensure that workers receive more pay (including by increasing Medicaid reimbursement rates) and that RSAs properly classify workers as employees so they can receive benefits, not independent contractors.

For these reasons, I ask that you support SB600.

Sincerely,

Alex Berezin

SB600_Marylanders for Patient Rights_fav.pdf

Uploaded by: Anna Palmisano

Position: FAV

Marylanders for Patient Rights

MARYLANDERS FOR PATIENT RIGHTS REQUESTS A FAVORABLE REPORT ON SB600

Marylanders for Patient Rights is a leading advocacy group for patients in our state. We strongly believe that SB600 is vitally important to the health and well-being of patients and their caregivers, and we urge you to provide a favorable report.

The caregiver workforce continues to dwindle in number, leaving many vulnerable patients without the help they need. It is very difficult for patients to have a revolving group of caregivers while those workers, understandably, seek better employment situations. That is why it is critical to gather the necessary data to help us understand how to reduce turnover and attract more workers to the field. The reporting required by SB600 will allow the state to do an informed analysis of caregiver employment pay and benefits.

The data to be collected are basic and easy to provide by the Residential Service Agencies (RSAs): the personal care aide's hourly pay rate and employment classification; whether the personal care aide has health insurance and workman's compensation through the RSA; and whether the personal care aide has been provided with earned sick and safe leave under the Maryland Healthy Working Families Act.

The provision of these data by the RSA will only require a modest amount of time, yet it will yield vital information to the Maryland Department of Health for data-driven policy development. Confidentiality can be readily maintained by publication of aggregate (not individual) data on RSA's pay rates. SB600 will allow the Department of Health to do an annual report on reimbursement rates and issues related to maintaining the caregiver workforce.

Please provide a favorable report on SB600, and support Maryland caregivers.

Thank you,

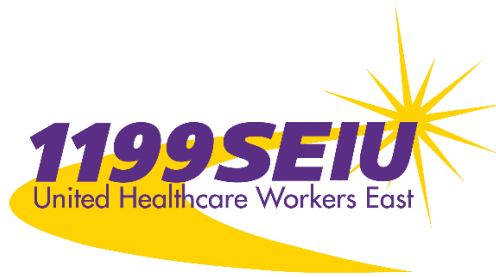
A C Palmisano

Anna C. Palmisano, Ph.D, Director, Marylanders for Patient Rights
palmscience@verizon.net

2022-Tetsimony-SB600-Residential Service Agencies

Uploaded by: Claudia Balog

Position: FAV



Official Testimony

SB 600

Bill Title - Health Facilities - Residential Service Agencies - Reporting Requirement

Position: **FAVORABLE**

Chair Kelley and Members of the Finance Committee,

My name is Ricarra Jones, I am the Political Director of 1199SEIU United Healthcare Workers East. We are the largest healthcare workers union in the nation and represent 10,000 healthcare workers in long-term care facilities, hospitals and clinics throughout Maryland and the District of Columbia. Our union supports SB 600 and urges the Committee to issue a favorable report.

Maryland's healthcare industry is amid a staffing crisis that has been exacerbated by the COVID-19 pandemic. Unfortunately, the home care workers who provide care through Maryland's Medicaid Residential Service Agency (RSA) providers are no exception. A 2018 report from PHI, the leading national research authority on the direct care workforce, noted that from 2014 through 2024, Maryland will need nearly 40% more direct service workers to provide the long-term services and supports for our rapidly aging population.¹

SB 600 would require Residential Service Agencies to report to the Maryland Department of Health, with respect to personal care aides providing *Medicaid-funded care only*, the aides' hourly pay rate, classification as employee or independent contractor, and certain other basic information. This information is critically important because Maryland is facing a dire shortage of home care workers, and we believe low pay is a primary contributor to the problem.

For policymakers to address this problem, they will need to know how much workers are being paid and whether their jobs offer them any benefits (employees get benefits but independent contractors do not). Furthermore, we believe it will be crucial for Maryland to start collecting

this information to access enhanced federal dollars for Medicaid Home and Community Based Services. While there is some question as to the status of the entirety of the proposed Federal “Build Back Better” agenda, there is little doubt that enhanced federal funding for home and community services has wide support. At some point soon, the federal government is expected to pass a reconciliation bill with approximately \$150 billion for states to fund home care – but states will be unable to access those dollars without reporting standards in place that would provide the federal government with up-to-date data on workers’ wages and benefits. We are concerned that without these changes to our RSA reporting requirements, Maryland’s Medicaid consumers – who are already facing one of the longest waitlists for home care services in the country - could be left behind.

This bill would be a powerful tool for decision makers while positioning Maryland to access future federal money as soon as it becomes available.

We, therefore, urge this Committee to give SB 600 a favorable report.

Sincerely,

Ricarra Jones

Political Director

1199SEIU UHE

ricarra.jones@1199.org

PJC testimony - SB600 - fav.pdf

Uploaded by: David Rodwin

Position: FAV

**SB 600 - Health Facilities - Residential Service Agencies – Reporting Requirement
Senate Finance Committee, February 17, 2021**

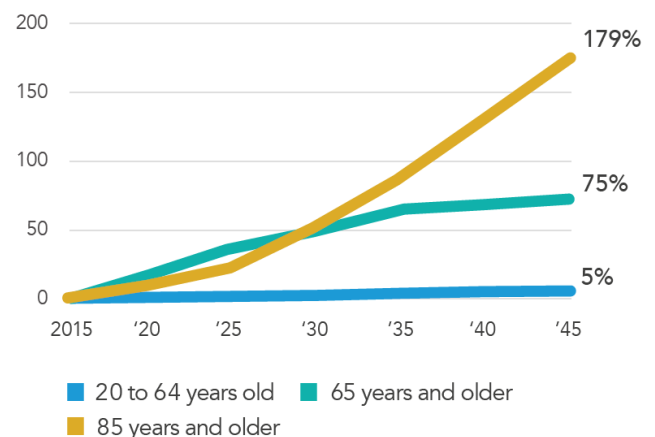
Position: SUPPORT

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project aims to ensure that our state’s low-wage workers receive fair and full payment for their labor, as well as other basic protections on the job. **The PJC supports SB 600 and urges a favorable report because the bill will (1) help inform policymakers responsible for ensuring Maryland has enough personal care aides and (2) ensure Maryland can access new federal funds available only to states that provide data on these workers’ wages and benefits.**

Problem 1: Maryland is facing an increasingly dire shortage of personal care aides (AKA home care workers), hurting older adults and people with disabilities. And even though most of these workers are paid with state Medicaid funds, the state currently has no information about these jobs.

- The past year saw a series of investigations into the home care workforce shortage. On October 7, 2021, Maryland Matters published *Home Care for Older Adults Increased During Covid, but Direct Care Workers Remain Hard to Find*.¹ This followed NPR’s September 28, 2021 investigation *There’s a Shortage of Home Health Aides For The Elderly, And It’s Getting Worse*.² And on July 24, 2021, the New York Times published *For Older Adults, Home Care Has Become Hard to Find*.³
- Demand for home care is increasing as Maryland becomes an older state and more people with disabilities fill Medicaid waiver slots and obtain care in their communities, rather than nursing homes.⁴ Home care can lead to better health outcomes than nursing facilities, where COVID death rates

Figure 2: Projected Population Growth by Age in MD, 2015-2045



¹ <https://www.marylandmatters.org/2021/10/07/home-care-for-older-adults-increased-during-covid-but-direct-care-workers-remain-hard-to-find/>

² <https://www.npr.org/2021/09/28/1031651663/shortage-home-health-aides-elderly>

³ <https://www.nytimes.com/2021/07/24/health/coronavirus-elderly-home-care.html>

⁴ <http://phinational.org/resource/the-direct-services-workforce-in-ltss-in-md-and-dc/>

were higher than anywhere else. A 2018 [study](#) found that Maryland will need nearly 40 percent more care workers over the next ten years.

- But the supply of home care workers is not increasing. Residential Service Agencies (RSAs, the Health Code's term for home care agencies) report very high turnover. Workers are leaving home care for higher paying, less stressful jobs at Chipotle, Wal-Mart, or Royal Farms.
- Maryland's older adults and people with disabilities are already having extreme difficulty finding and keeping home care workers. If more comprehensive action is not taken soon, the shortage – and its consequences for Marylanders who rely on home care – will only worsen.
- Even though Medicaid funds nearly 60% of Maryland's home care, the state has no information about the most basic aspects of these jobs: pay and benefits. Policymakers set Maryland's Medicaid reimbursement rates and determine what conditions the state puts on businesses that receive this reimbursement. But it is very difficult to make informed policy decisions without basic workforce data.

Problem 2: To access likely new federal funding for Medicaid-funded home care, Maryland will be required to provide the federal government with information on home care workers' wages and benefits. But Maryland does not currently have this information.

- Although the federal Build Back Better Act has been delayed, that bill proposed giving states \$150 billion to improve Medicaid home care programs. Public reporting suggests that Senators Manchin and Sinema are in favor of this additional funding, and it is expected that the reconciliation bill that eventually passes will include it.
- However, this funding has strings attached to it. To access the money, states must provide the federal government with data on home care workers' wages and benefits, as well as turnover and vacancy rates. MDH has the data it needs to assess turnover and vacancy, but no Maryland agency has any data on these workers' wages and benefits. Without it, Maryland will lose out on this funding or, at a minimum, be delayed in its ability to access it. The result is that older adults and people with disabilities will continue to suffer from the effects of the home care workforce shortage.

SB 600's Solution: For *Medicaid-funded personal care only*, learn personal care aide job quality by requiring RSAs to report to MDH workers' wage rate and classification as employee or independent contractor.

- SB 600 will simultaneously (1) give state policymakers the information they need to make informed policy decisions to address the home care workforce crisis and (2) ensure that Maryland is positioned to immediately access more than \$1 billion in new federal money for our state's home care programs.
- Wages are the single most important indicator of job quality. While we know that starting pay at Amazon is \$15 per hour, we have no data on wage rates for this state-funded workforce. SB 600 will fix that.
- Further, workers' employment classification determines what benefits they receive. Employees get benefits while independent contractors do not. By asking RSAs to report workers' employment classification, policymakers can learn what benefits personal care aides are receiving.
- RSAs will do this reporting just once a year. And MDH will be responsible for creating the form (paper or electronic) to facilitate the reporting. This is not burdensome, and the benefits to the State of Maryland will be tremendous.
- The sponsor amendments make clear that RSAs do not need to worry about competitors or consumers gaining access to this information. MDH will not be permitted to publish individualized information – it must only publish a report based on aggregated data. RSAs do not have to worry about any proprietary business information being disclosed. This amendment addresses a concern raised by some in the business community.

SB 600 is consistent with state policy that businesses receiving state money should use it transparently.

- Maryland has long sought to ensure that businesses receiving state money use it transparently and create decent jobs, as shown by Maryland’s Prevailing Wage and Living Wage Laws. In the Prevailing and Living Wage contexts, businesses not only pay higher wages but submit biweekly payroll reports showing the precise dollar amount every worker was paid.
- The reporting requirements in the Prevailing Wage and Living Wages Laws is much, much more burdensome than that proposed by SB 600. There, the reporting is every two weeks, and it is not just wage rate and classification but workers’ hours’ worked and actual pay received. SB 600 would provide for reporting just once a year, and could be done simply by checking a box and entering a few numbers.

Job quality of personal care aides is both a *race equity* issue and a *gender equity* issue.

- Historically, care work was often not considered “real work” because it was performed by women, especially women of color. Personal care aides in Maryland are mostly Black women: about 90% are women and about 70% are Black.
- When personal care aides are wrongly classified as independent contractors, it makes it much harder to obtain workers’ compensation—and injury rates are extremely high due to the lifting the job entails. This can cause financial crisis and even homelessness.
- Misclassification also increases workers’ tax burden as they mistakenly file as “self-employed.” In the aggregate, misclassification increases instability for many Black families and deepens the racial wealth gap.
- Low wages have the similar effects: they hurt workers (adding financial stress to an already stressful job), their families (as children are often forced to grow up in poverty) and their communities (which lose out on the economic and social benefits of financially stable neighbors).
- Improving job quality for Maryland’s personal care aides is an issue of race equity and gender equity.

For these reasons, the Public Justice Center **SUPPORTS SB 600** and requests a **FAVORABLE** report.

SB 600_Residential Service Agencies.pdf

Uploaded by: Delores Kelley

Position: FAV

SENATOR DELORES G. KELLEY
Legislative District 10
Baltimore County

Chair
Finance Committee

Executive Nominations Committee
Rules Committee
Legislative Policy Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR DELORES G. KELLEY
REGARDING SENATE BILL 600
BEFORE THE SENATE FINANCE COMMITTEE
ON FEBRUARY 17, 2022

Colleagues:

Personal care aides, also called home care workers, provide care and support to older adults and people with disabilities so they can stay in their homes and thrive. Personal care aides help with things like bathing, toileting, and eating. I'm sure that some of the members of this committee have relied on personal care aides to help loved ones. These workers not only provide care to our loved ones – they often become like family to those they serve.

Ninety percent of them are women, and about 60% of them are Black women. Most of these workers are paid with state money through Medicaid programs.

Maryland is facing a home care workforce crisis. We simply do not have nearly enough personal care aides to meet our state's growing need, and our state is suffering needlessly as a result. SB600 would help Maryland solve our state's terrible shortage of home care workers in two ways. First, to solve the shortage, we need to know the two most basic things about these jobs: how much are workers being paid, and what benefits are they receiving. Right now, despite the fact that the Maryland Department of Health funds most home care in Maryland by paying residential service agencies for every hour of care a worker provides for a Medicaid recipient, the Department does nothing to learn how much these workers are paid, or whether they are classified as employees or independent contractors. We need to know how much workers are paid, and we need to know whether they're classified as employees or independent contractors. SB 600 will get this critical information to policymakers so we can learn more about the workforce and make sure state policies allow for residential service agencies to make a profit while also ensuring that these jobs are good jobs that workers want to do.

Second, as we all know, Congress has been talking about passing a reconciliation budget bill for much of the last year. There is one common thing in all the different versions of that bill: hundreds of billions of dollars for state Medicaid home care programs. But the bill language requires states to report to the federal government information on personal care aides' wages and benefits before states can get the money Maryland will not be able to access this money – more than \$1 billion for our state alone – unless we collect this information. SB600 will ensure that when the federal bill passes – and it is expected to pass within a few months – Maryland will be able to access the funds without delay. We can then use that money to increase payments for residential service agencies while also increasing pay for workers.

Last year, this Committee and the Senate unanimously voted for a favorable report of SB384, a Bill that included the same reporting provisions in this bill. However, the version of the bill passed by the House did not include the reporting provisions which the federal resolution requires.

My Sponsor amendment to SB600, addresses the concerns that some business owners raised last year by making clear that none of the information they report to the Department of Health will be made public. Rather, it will be used by the Department to create a report on Medicaid reimbursement rates and related issues so that we can make sure that residential service agencies receive enough money to make a profit, and workers make enough money to stay in the field so we can get started solving this terrible worker shortage we're facing. SB 600 is a simple Bill that doesn't ask a lot – just that residential service agencies report this basic information once a year on a form or electronic manner created by the Department of Health. It'll take 15 minutes to do, once a year, and will help our state solve the home care workforce crisis.

In light of all these considerations, I ask for a favorable report of SB 600 as amended.

SB600_SponsorAmendments

Uploaded by: Delores Kelley

Position: FAV



SB0600/353821/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

17 FEB 22
14:23:42

BY: Senator Kelley
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 600
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after “aides;” insert “requiring the Department to use the reported information to create an annual internal report;”; and in line 10, after “19–4A–11(c)” insert “and (d)”.

AMENDMENT NO. 2

On page 1, in line 22, after “RATE;” insert “AND”.

On page 2, strike beginning with the semicolon in line 1 down through “ACT” in line 8; and after line 8, insert:

“(D) (1) ON OR BEFORE JULY 1 EACH YEAR, THE DEPARTMENT SHALL USE THE INFORMATION REPORTED UNDER SUBSECTION (C) OF THIS SECTION TO CREATE AN INTERNAL REPORT CONCERNING:

(I) MEDICAID REIMBURSEMENT RATES;

(II) THE COST OF DELIVERING SERVICES; AND

(III) AGGREGATED WAGES AND EMPLOYMENT CLASSIFICATIONS OF INDIVIDUALS WHO PROVIDE PERSONAL CARE.

(2) DATA INCLUDED IN THE INTERNAL REPORT UNDER THIS SUBSECTION:

(Over)

(I) MAY ONLY BE IN AGGREGATE; AND

(II) MAY NOT IDENTIFY A SPECIFIC RESIDENTIAL SERVICE

AGENCY.”.

SB600_MD Center on Economic Policy_FAV.pdf

Uploaded by: Kali Schumitz

Position: FAV

Maryland Should Invest in Good Jobs; Clear Standards, Transparency Will Help

Position Statement in Support of Senate Bill 600

Given before the Senate Finance Committee

Maryland's budget is a moral document that has the power to move us toward broadly shared prosperity if invested wisely, and just as much power to move us in the wrong direction if not. Investing Marylanders' shared resources in decent jobs that pay a family-supporting wage is vital to support a healthy, equitable economy. Senate Bill 600 would advance these goals while strengthening our long-term care workforce. For these reasons, the Maryland Center on Economic Policy supports Senate Bill 600.

Long-term care workers provide essential services to aging Marylanders and Marylanders with disabilities, but the state struggles to meet the need for these workers. Demographic change is expected to worsen this shortfall in coming years and decades. Paltry wages and dangerous working conditions are an important contributor to this worker shortage, and disproportionately harm women of color, who constitute the bulk of this workforce.ⁱ

Long-term care provided in the community rather than in residential facilities enables seniors and people with disabilities to access needed supports while maintaining significant independence and can lead to lower Medicaid costs. However, the private agencies the state relies on to provide these services do not consistently follow labor law. For example, they may misclassify care workers as independent contractors rather than employees.ⁱⁱ This misclassification excludes workers from basic wage and hour protections and shifts tax responsibilities from the employer to the worker.

Strengthening protections to ensure workers are properly classified and paid appropriate wages would directly benefit workers and would also reduce barriers to maintaining a sufficient home care workforce to provide essential supports to aging Marylanders and Marylanders with disabilities.

Senate Bill 600 would build on the progress legislators made by passing House Bill 652 of 2021, which requires the state to provide a concise, plain-English explanation of relevant labor laws to home care agencies. Senate Bill 600 would make this communication reciprocal by requiring agencies to annually report the following information to the state for each personal care aide who provides care through the agency:

- Hourly wage
- Classification as employee or independent contractor
- Access to employer-provided health insurance
- Access to workers' compensation coverage
- Access to earned sick and safe leave

These reporting requirements are in line with reporting requirements across a wide range of state services. Maryland lawmakers have taken a number of smart steps to ensure that state investments are made transparently, such as by requiring employers subject to prevailing wage laws to report wages and by requiring online publication of state procurement contracts. Senate Bill 600 creates a simple reporting process to ensure the Maryland Department of Health understands the status of the direct care workforce and the quality of direct care jobs.

The requirements are designed to be easy for agencies to satisfy:

- Agencies already possess all required information
- The process does not make any information publicly available or available to competitors
- The information is generally submitted only annually

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Finance Committee make a favorable report on Senate Bill 600.

Equity Impact Analysis: Senate Bill 600

Bill summary

Senate Bill 600 would require Medicaid-funded home care agencies to report the following information annually for each personal care aide who provides care through the agency:

- Hourly wage
- Classification as employee or independent contractor
- Access to employer-provided health insurance
- Access to workers' compensation coverage
- Access to earned sick and safe leave

Background

Researchers have documented a trend of private home care agencies classifying home care workers as independent contractors in spite of working conditions consistent with employment, such as significant managerial control.ⁱⁱⁱ This misclassification violates federal and state labor law, strips workers of wage and hour protections, and shifts tax responsibilities from employers to workers.

Equity Implications

Senate Bill 600 would strengthen protections for home care workers who face dangerous working conditions, often take home low wages, and are disproportionately women of color.^{iv} It would also benefit Marylanders with disabilities by increasing the long-term supply of workers available to provide necessary supports.

- 88 percent of home care workers in Maryland are women.
- 61 percent of home care workers in Maryland are Black, and 72 percent are workers of color.
- 40 percent of home care workers in Maryland were born outside the United States.
- Home health and personal care aides in Maryland typically took home only \$13.51 per hour in 2020.^v

Impact

Senate Bill 600 would likely **improve racial, gender, disability, and economic equity** in Maryland.

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- i “The Direct Services Workforce in Long-Term Services and Supports in Maryland and the District of Columbia,” PHI, 2018, <https://phinational.org/wp-content/uploads/2018/09/DSWorkers-Maryland-2018-PHI.pdf>
- ii Caitlin Connolly, “Independent Contractor Classification in Home Care,” National Employment Law Project, 2015, <https://www.nelp.org/publication/independent-contractor-classification-in-home-care/>
- iii Connolly, 2015
- iv “The Direct Services Workforce,” 2018
- v Bureau of Labor Statistics, May 2020 Occupational Employment and Wage Statistics for .Maryland

02.15.2022 New America Letter in Support of Maryla

Uploaded by: Lul Tesfai

Position: FAV

February 15, 2022

Dear Senator Kelley and Members of the Senate Finance Committee,

Thank you for the opportunity to comment on Maryland Senate Bill 600, which would require residential service agencies receiving Medicaid reimbursement for home care services to report on the wages, employment classification, and benefits of personal care aides annually to the Maryland Department of Health.

The Center on Education and Labor at New America (CELNA) is a research and policy development program focused on the policy domains of education, labor, and workforce development. CELNA is dedicated to restoring the link between education and economic mobility by advancing policies that strengthen the key social institutions necessary to connect them. Since 2018, the Center has been researching and recommending policy strategies to support the economic advancement of health care professionals, particularly through apprenticeships. CELNA, in collaboration with other programs at New America, has also conducted research on effective strategies for securing improved benefits, as well as training and career advancement opportunities for home care workers.

We support Maryland Senate Bill 600 because it would lead to better data on the home care workforce and their compensation and position the state to take advantage of federal resources for home and community based services (HCBS).

Given Maryland's rapidly aging population, home health and personal care aides are among the fastest-growing occupations, with the number of jobs projected to grow by 41.5 percent by 2028.¹ Despite the critical role of and high demand for home care workers, their pay is low. According to the Maryland Department of Labor, the estimated median hourly wage for home health and personal care aides is \$13.51.² For context, the living wage for an adult with no dependents in Maryland is \$17.25 an hour.³ Insufficient data on the earnings of personal care aides will make it challenging to ensure a strong, stable care workforce in Maryland.

Medicaid is the primary source of long-term home care funding for the elderly and individuals with disabilities. Yet Maryland does not currently have a mechanism for determining how many Medicaid dollars go directly toward paying home care worker wages. This lack of information presents a barrier to directly improving the compensation of this essential workforce. In response to the American Rescue

¹ <https://www.dlir.state.md.us/lmi/iandoproj/maryland.shtml>

² <https://www.dlir.state.md.us/lmi/wages/page0023.htm>

³ <https://livingwage.mit.edu/states/24>



Plan (ARP) Act, which authorized a one-year, 10 percent increase in the federal share of Medicaid payments (federal medical assistance percentage or FMAP) for home and community based services (HCBS), Maryland elected to increase provider rates.⁴ Inadequate Medicaid reimbursement rates for HCBS make it harder for providers to offer home care workers competitive wages, however, requirements around the percentage of Medicaid reimbursement rates for wages are critical for ensuring that workers benefit from public investments in care. The Build Back Better (BBB) Act, which passed the U.S. House of Representatives and is under consideration by the Senate, would permanently increase the FMAP for states that ensure "sufficient" payment rates for home and community services and improve the compensation and benefits of direct care workers. Senate Bill 600 would ensure the Maryland Department of Health has adequate data on the compensation of home care workers to take advantage of this increase in federal funding for HCBS.

Additionally, if passed, Maryland Senate Bill 600 would shed light on the share of home care workers who are employees and independent contractors. Some home care agencies and private home care registries incorrectly classify workers as independent contractors, however, personal care and home care services are rarely performed by individual independent businesses. Classifying workers as independent contractors is a strategy that may be used to reduce costs by shifting risks and responsibilities to workers and/or consumers. The U.S. Department of Labor has recently increased its monitoring of worker misclassifications and enforcement of federal labor laws to ensure that care providers are not deprived of legally earned wages and other protections.⁵ This bill would make it easier for the state to proactively identify vulnerable care workers.

Thank you once again for the opportunity to submit comments in favor of Maryland Senate Bill 600.

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<https://health.maryland.gov/newsroom/Pages/Maryland-Department-of-Health-announces-new-Medicaid-rate-increases.aspx>

⁵ <https://www.dol.gov/newsroom/releases/whd/whd20211123>



NDWA Comments SB600 Maryland.pdf

Uploaded by: Mariana Viturro

Position: FAV

NATIONAL DOMESTIC WORKERS ALLIANCE

Weds, February 16, 2022

Submitted via: <https://mgaleg.maryland.gov/mgawebsite/MyMGATracking/WitnessSignup>

Comments in support of HB544: Residential Service Agencies (RSAs) Reporting Requirement

The **National Domestic Workers Alliance (“NDWA”)** submits this testimony in support of SB600, Residential Service Agencies Reporting Requirement.

The National Domestic Workers Alliance (NDWA)¹ is the nation’s leading voice for dignity and fairness for the millions of domestic workers in the United States. ² Founded in 2007, the National Domestic Workers Alliance represents 2.2 million domestic workers who work as nannies, home care workers, and house cleaners in private homes, providing essential care and supportive services to our children, aging parents, and loved ones with disabilities every day. NDWA reaches and engages over 250,000 domestic workers on a regular basis through our 63 affiliate organizations in 36 cities and 17 states, including NDWA’s DMV Chapter, which organizes and engages domestic workers in Maryland. Domestic workers are overwhelmingly women, well over half are women of color, and more than a third are immigrants.³ As of 2019, domestic workers are more likely than other workers to have been born outside the United States; one in five domestic workers is a foreign-born noncitizen.⁴

Domestic and care workers comprise a growing workforce that has been historically excluded from basic workplace protections, such as minimum wage, overtime, anti-discrimination protections, health and safety, and the right to organize. NDWA has led the movement both at the federal level and in several states to pass legislation to eliminate the exclusions. Unfortunately, the rampant misclassification in the domestic and home care industry undermines these efforts and enables employers to evade minimum wage, overtime, and other labor laws that domestic and home care workers have fought to secure.

¹ To learn more about NDWA, please visit domesticworkers.org.

² Linda Burnham & Nik Theodore, Home Economics: The Invisible and Unregulated World of Domestic Work, pp. 26-28, (2012), available at <https://www.domesticworkers.org/wp-content/uploads/2021/06/HomeEconomicsReport.pdf>.

³ Wolfe, J., Kandra, J, & Shierholz, H. (May 2020). *Domestic Workers Chartbook*. Economic Policy Institute. <https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>.

⁴ Id.

National Domestic Workers Alliance (NDWA)
Oakland, CA, New York City, NY, Washington D.C. and Atlanta, GA

In the home care workforce context alone, the workforce has more than doubled in size over the past 10 years from nearly 840,000 in 2007 to over two million in 2017.⁵ As the baby-boom population ages and the elderly population grows, the demand for the services of health aides and personal care aides will continue to increase.⁶ Yet the work is still not valued, receiving extremely low pay, no benefits and limited protections, and rampant misclassification only degrades the quality of the job further.

Many of our home care members across the country – including in Maryland – experience misclassification by the home care agencies that hire and dispatch them to do caregiving for people with disabilities or the elderly. Now, as the pandemic continues to rage and as some of the worst COVID death rates occurred in nursing homes and other congregate care facilities, it has become clearer that home care work is truly essential work. Home care workers are risking their lives every single day – their safety and health, and that of their families – to provide essential care. Despite being on the frontlines of the pandemic, home care workers misclassified as independent contractors have been left without benefits or a safety net. And most home care workers in Maryland who provide care funded and paid through Maryland’s Medicaid waiver programs receive shamefully low pay. In NDWA’s experience, these workers nearly always earn less than \$15 an hour, and often earn less than \$13 an hour.

Misclassification and shamefully low wages inflict the most damage on workers of color and women, such as home care workers, who predominate in the low-paying jobs where independent contractor misclassification is common. All workers who are misclassified suffer from a lack of workplace protections, but women, people of color, and immigrants face unique barriers to economic security and disproportionately must accept low-wage, unsafe, and insecure working conditions.

HB544 takes an important step in the right direction. It will discourage RSAs who accept Medicaid funds from misclassifying the home care workers who work for them as independent contractors. Just as importantly, HB544 will get basic job quality information to policymakers – the most basic possible information, wage rate and employment classification – so that you can make good, informed policy decisions.

Medicaid-funded work is government-funded work. Why is that when the workforce is 90% women and mostly women of color – as it is in Maryland – we ignore job quality, ignore low pay, and ignore misclassification that cuts workers outside the social safety net and denies them benefits like workers’ compensation and health insurance? We should be paying *extra* attention to this workforce, not keeping blinders on with respect to how they are being treated by home care agencies that pay them with the state’s money. ***Maryland will never solve the home care workforce crisis – a growing shortage of these essential workers – until it lifts the blinders and sees the reality that these workers face.***

Work should provide people with economic stability, safety, and the opportunity to contribute to their

⁵ Stephen Campbell, U.S. Home Care Workers: Key Facts (2018), available at <https://phinational.org/resource/u-s-home-care-workers-key-facts-2018/>

⁶ U.S. Bureau of Labor Statistics (BLS), Division of Occupational Employment Statistics (OES). 2018. May 2007 to May 2017 National Industry-Specific Occupational Employment and Wage Estimates. <https://www.bls.gov/oes/current/oessrci.htm>.

communities. It should be a place where workers are treated fairly and with respect. Home care workers deserve good jobs that enable them to provide for themselves and their families.

For these reasons, we wholeheartedly support HB544. The pandemic has laid bare that home care workers are essential, taking care of our families. It is time for us to start thinking about their needs and this bill is an important way to care for them.

For more information pertaining to our comments, I can be reached at: mariana@domesticworkers.org.

Sincerely,

Mariana Viturro
National Domestic Workers Alliance
Deputy Director

SB 600 Residential Service Agencies Reporting Requ

Uploaded by: Tammy Bresnahan

Position: FAV



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**SB 600 Health Facilities - Residential Service Agencies – Reporting Requirements
Favorable
Senate Finance Committee
February 17, 2022**

Good Afternoon Chair Kelley and members of the Senate Finance Committee. I am Tammy Bresnahan. I am the Director of Advocacy for AARP MD. AARP Maryland is one of the largest membership-based organizations in the Free State, encompassing almost 870,000 members. **AARP MD overwhelmingly supports SB 600 Health Facilities - Residential Service Agencies – Reporting Requirements.** We thank Senator Kelley for championing this issue.

AARP is a nonpartisan, nonprofit, nationwide organization that fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

SB 600 requires residential service agencies receiving Medicaid reimbursement for providing home health care or similar services by personal care aides to report by October 1 each year to the Maryland Department of Health the hourly pay rate, how the aides are classified as an employee or independent contractor, and whether the aides have health insurance and are covered by worker's compensation through the agency, and whether the aides have earned sick and safe leave provided by the agency.

Personal care workers who work for Maryland residential service agencies provide the bulk of paid long-term care. These paraprofessional workers hold a variety of job titles, including personal care assistants, home care aides, home health aides, and certified nursing assistants (CNAs). They work in diverse settings, including private homes, adult day centers, assisted living residences and other residential care settings, and nursing homes. More than a million direct care workers in the U.S. work at jobs that may include:

- assisting with personal care activities, such as bathing, dressing, toileting, transferring, and eating;
- providing comfort and companionship;
- observing and reporting changes in a client's condition;
- preparing meals and housekeeping;
- providing oversight for people with cognitive and mental impairments; and
- Administering medications and measuring vital signs.

Although the majority of personal care workers find their jobs intrinsically rewarding, they are often low paid with limited or no benefits, high workloads, unsafe working conditions, inadequate training, a lack of respect from supervisors, lack of control over their jobs, and few opportunities for advancement, all of which contribute to high turnover.

To a large extent, the challenges facing the personal care workforce in Long Term Services and Supports in Maryland reflect nationwide realities. The workforce is comprised almost entirely of historically marginalized workers—including women, people of color, and/or immigrants—who face significant obstacles in education and employment. Despite the demands of the job and the unequivocal importance of their contributions, these workers still struggle to make a livable wage and achieve economic stability.

SB 600 will give us vital information about our frontline workforce who are caring for Maryland's most vulnerable. Reporting this information will help the state learn more about how state money is being spent and what benefits these vital/front line workers are receiving. For these reasons we respectfully ask the Committee for a favorable report. For questions, please contact Tammy Bresnahan tbresnahan@arp.org or by calling 410-302-8451.

SB600_FWA_AlzheimersAssociationMD.pdf

Uploaded by: Eric Colchamiro

Position: FWA

Testimony of the Alzheimer's Association Greater Maryland and National Capital Area Chapters
SB 600 - Health Facilities - Residential Service Agencies - Reporting Requirement
Position: Favorable with Amendment

Chair Kelley and Vice-Chair Feldman,

Thank you for the opportunity to submit testimony on Senate Bill 600, legislation which requires residential service agencies (RSAs) receiving Medicaid reimbursement for the provision of home care, or similar services by personal care aides, to report by October 1 each year to the Maryland Department of Health (MDH) information as to the personal care aides' hourly pay rate, whether the aides are classified as employees or independent contractors, whether the aides have health insurance and are covered by worker's compensation through the agency, and whether the aides have earned sick and safe leave provided by the agency.

The Alzheimer's Association strongly supports this legislation and protections for Maryland's home care workforce, so that we can maintain build a more high-quality workforce for those treating Marylanders with Alzheimer's and other forms of dementia. According to the Public Justice Center, Maryland's 30,000 personal care aides are often misclassified as independent contractors, denying them access to the social safety net and reducing job quality when Maryland faces a shortage of these essential workers.

- A 2018 study found that Maryland will need nearly 40 percent more care workers over the next ten years due to our aging population. But poor job quality is causing a shortage. The shortage is worsening during the pandemic, as many care recipients seek to leave nursing facilities.
- Misclassification occurs when employers wrongly call personal care aides "independent contractors" (meaning they are self-employed and have their own businesses) instead of employees.
- Misclassification cuts workers out of social safety net protections like workers' compensation and unemployment insurance that are available to employees but not independent contractors.
- Some employers misclassify their workers because they rely on "word of mouth" in the industry rather than legal advice. Correcting misclassification will improve job quality and attract more personal care aides to the field at a time when our state needs them more than ever.

In 2021, this Committee passed legislation which requires the Office of the Attorney General, in consultation with the MDH and the Maryland Department of Labor (MDL), to produce a guidance document concerning the application of employee protection laws to the use of "personal care aides" by residential service agencies (RSAs). The guidance document must be annually provided to each RSA.

Our organization is thrilled that this document, according to stakeholders involved in the process, has been completed and is being promulgated to RSAs. As we move forward however, into the next legislative session, it is crucial to take more substantive steps. Senate Bill 600 lays out those steps, moving beyond solely providing information to RSAs, and now requiring them to act and proactively report to MDH.

REQUESTED AMENDMENT

That said, part of the accountability needed to sustain the quality of RSAs is not just ensuring this workforce is classified correctly, but also that it is trained properly. **As such, following the language on page 2 and line 8 of SB 600, we ask for an insertion which reads, "Whether the residential service agency, under Chapter 488 of 2021, has ensured that mandated direct care and supervisory staff receive three hours of initial online or in-person training on dementia, and two hours of online or in-person continuing education training regarding Alzheimer's disease and dementia each calendar year."**

Thank you again for the opportunity to submit testimony. We ask for a favorable report, with this amendment included to the existing text of Senate Bill 600. We believe it an important necessary addition to strengthen the RSA workforce, and improve the adherence to Chapter 488 of 2021, which this Committee passed last year.

SB0600_UNF_MNCHA_Health Facilities - Residential S

Uploaded by: Danna Kauffman

Position: UNF



Maryland-National Capital Homecare Association

Senate Bill 600: *Health Facilities – Residential Service Agencies – Reporting Requirement*

Senate Finance Committee

February 17, 2022

Position: Oppose

On behalf of the Maryland-National Capital Homecare Association (MNCHA), whose members include Medicare-certified home health agencies, private duty companies and durable medical equipment suppliers across the State, we respectfully oppose Senate Bill 600. During the 2021 Session, the Senate Finance Committee considered and passed Senate Bill 384. The bill requires the Office of the Attorney General, in consultation with the Maryland Department of Labor and the Maryland Department of Health (MDH) to create a guidance document for residential service agencies regarding the State’s labor and employment laws, including employee classification. As part of this guidance document, the residential service agency is required to attest to being compliant with the State’s employment and labor laws.

In addition, as introduced, the bill would have also required residential service agencies that participate in the Medicaid program to indicate whether a personal care aide of the agency is an independent contractor or an employee and the personal care aide’s hourly pay rate. However, due to the concerns raised by MNCHA, the Committee amended the bill to remove this provision and instead require MDH to create a form with a checkbox indicating whether the residential service agency uses independent contractors.

At this time, it is our understanding that the guidance document and the checkbox form are being finalized and will be rolled out within the next few weeks. Given the good faith negotiations that occurred last Session, we believe that it is only prudent to allow the bill from the 2021 Session to be implemented. Therefore, we respectfully request that the Committee give Senate Bill 600 an unfavorable vote.

For More Information:

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