



Senate Bill 604

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

In the Senate Budget and Taxation Committee

Hearing on March 7, 2023

Position: FAVORABLE

Maryland Legal Aid submits its written and oral testimony on SB 604 at the request of bill sponsor Senator Benson.

Maryland Legal Aid asks that the Committee report **favorably** on SB 604, which would recognize the important work of personal care aides for our ailing neighbors and family members with a well-deserved increase in their wages.

SB 604 establishes a minimum wage for personal care aides providing personal assistance services (PAS) under the Maryland Medical Assistance Program. The current rate is either \$16 per hour or 64% of the hourly reimbursement rate, whichever is higher. Under SB 604, the hourly reimbursement rate for PAS increases to \$25 per hour. The increase applies to all personal care aides providing care to individuals under Medicaid Home and Community-Based Service (HCBS) Programs, including Community First Choice (CFC), Home and Community-Based Options Waiver (HCBOW), and Community Personal Assistance Services (CPAS).¹

This bill will provide personal care aides a much-needed and much-deserved increase in wages, while allowing current and future Medical Assistance Program participants access to quality, reliable care in the community. This bill promotes the dignity of those providing PAS care under the above-listed Medical Assistance Programs and those receiving it.

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State’s low-income and vulnerable residents. Our twelve offices serve residents in each of Maryland’s 24 jurisdictions and handle a range of civil legal matters, including nursing home/assisted living facility cases, and access to health care, including long-term care. Many of our clients rely on PCAs and deserve those who are well-compensated, and therefore motivated to provide top notch care.

Benefit to Maryland Personal Care Aides

Personal care aides have a hard, often thankless job. Their work is physically demanding and mentally draining. They assist older adults and people with disabilities with the activities of daily living, such as bathing, toileting, grooming, eating, and ambulating. The aides allow older adults and people with disabilities the ability to “age in place” and receive the long-term care supports at home. The services provided by the personal care aides permit

¹ This increase does not apply to personal care services provided through the Developmental Disabilities Administration.

the disabled individuals to avoid moving into nursing homes.² Unfortunately, even though personal care aides provide an invaluable service to thousands of Marylanders, they are paid very low wages.³

The low wages are one of the major driving forces behind worker dissatisfaction and the high turnover rate in the HCBS industry. Moreover, because of the low wages, many full-time personal care aides live in poverty⁴ and even rely on public assistance, such as (SNAP) Supplemental Nutrition Assistance Program benefits.⁵ This is completely unacceptable—full-time workers providing a valuable, life-sustaining service should earn enough income to make ends meet. This is why many aides look for work in other industries. In recent years, personal care aides have left the industry to begin working at fast food or retail establishments.⁶ The establishment of a minimum wage ensures that personal care aides are paid a livable wage, and that proper value is placed on their contribution and commitment to care. This will in turn, aid in staff retention, attract future new aids, and combat the turnover that has been so detrimental to the HCBS industry, and the older adults and people with disabilities who rely on it. It is estimated that the industry has an annual turnover rate of around 40%.⁷ High turnover leads to a lower quality of care for participants.⁸

Benefit to Participants in Medical Assistance HCBS Programs

While SB 604 directly impacts personal care aides, the disabled persons they help will also benefit. Maryland has taken steps to remedy the shortage of personal care aides since the COVID-19 pandemic began, but it is not

² See generally, HUMAN RIGHTS WATCH, US: CONCERNS OF NEGLECT IN NURSING HOMES, PANDEMIC EXPOSES NEED FOR IMPROVEMENTS IN STAFFING, OVERSIGHT, ACCOUNTABILITY (2021) (available at https://www.hrw.org/sites/default/files/media_2022/02/drd_nursinghome0521_brochure_PRINT_0.pdf); Rachel Chason, *Maryland imposes \$70,000 fine on nursing home where nearly all residents contracted covid-19*, WASHINGTON POST (June 26, 2020), https://www.washingtonpost.com/local/maryland-imposes-70000-fine-on-nursing-home-where-nearly-all-residents-contricted-covid-19/2020/06/26/a0ece6ee-b7cb-11ea-a8da-693df3d7674a_story.html (reporting on a Mount Airy, MD that reported 28 deaths in a 104-bed facility in the first months of the COVID-19 pandemic).

³ See CASSANDRA ROBERTSON ET AL., ALL STATES MUST SET HIGHER WAGE BENCHMARKS FOR HOME HEALTH CARE WORKERS 17 (June 2, 2022) (See Appendix Table 2) (available at <https://files.epi.org/uploads/247820.pdf>); See also PHI, THE DIRECT SERVICES WORKFORCE IN LONG-TERM SERVICES AND SUPPORTS IN MARYLAND AND THE DISTRICT OF COLUMBIA 12 (2018) (available at <https://www.phinational.org/wp-content/uploads/2018/09/DSWorkers-Maryland-2018-PHI.pdf>).

⁴ See PHI *supra* note 3, at 14.

⁵ *Id.*

⁶ Christopher Rowland, *Seniors are stuck home alone as health aides flee for high-paying jobs*, Christopher Rowland, WASHINGTON POST (Sept. 25, 2022), <https://www.washingtonpost.com/business/2022/09/25/seniors-home-health-care/>.

⁷ MACPAC, STATE EFFORTS TO ADDRESS MEDICAID HOME AND COMMUNITY-BASED SERVICES WORKFORCE Shortages 3 (March 2022) (available at <https://www.macpac.gov/wp-content/uploads/2022/03/MACPAC-brief-on-HCBS-workforce.pdf>).

⁸ See ROBERTSON, *supra* note 3 at 5–6.

enough.⁹ There is still a workforce shortage. Many individuals who are active participants in HCBS programs must wait for an aide to become available to receive services. This is dangerous as these participants all living with severe physical disabilities or memory-related conditions such as Alzheimer’s. Waiting for services is dangerous—even life threatening—for these participants.

The minimum wage SB 604 seeks to establish will also work to attract more workers to the personal care industry, which is vital to adequately serve our aging population. A 2018 report estimated that Maryland would need 40% more personal care workers from 2014 to 2024 to meet the growing need of individuals who require long-term care services.¹⁰ This need will only increase—by 2040, up to 500,000 older Marylanders will require the assistance provided under HCBS Programs.¹¹ A minimum wage for personal care aides ensures that Marylanders will be able to access Medical Assistance HCBS programs for years to come, allowing them the ability to “age in place,” avoiding institutionalization.¹²

Maryland Legal Aid strongly urges the Committee to issue a FAVORABLE report on Senate Bill 604. If you have any questions, please contact Alle Andresen, (410) 951-7765, aandresen@mdlab.org.

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⁹ MOLLY O’MALLEY WATTS, ONGOING IMPACTS OF THE PANDEMIC ON MEDICAID HOME & COMMUNITY-BASED SERVICES (HCBS) PROGRAMS: FINDINGS FROM A 50-STATE SURVEY, KAISER FAMILY FOUNDATION, Table 2 (Nov. 28, 2022) (available at <https://www.kff.org/report-section/ongoing-impacts-of-the-pandemic-on-medicaid-home-community-based-services-hcbs-programs-findings-from-a-50-state-survey-appendix/>). As of 2022, Maryland reported a HCBS workforce shortage and increased provider payment rates to combat the shortage.

¹⁰ See PHI *supra* note 3, at 3.

¹¹ Tanya Chotrani, *How to address Maryland’s shortage of home health care workers* | READER COMMENTARY, BALTIMORE SUN (May 14, 2022), <https://www.baltimoresun.com/opinion/readers-respond/bs-ed-rr-maryland-health-care-letter-20220514-5ftvspz4svhcredd5evzhy5e3i-story.html>.

¹² See *supra* note 2.