

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 1307 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: MARCH 31, 2023

### SUMMARY

- Synopsis:** Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to certain Medicaid enrollees.
- Type of Impact:** Annual State cost and revenue impacts.
- Agencies Affected:** Department of Human Services; Department of Law and Public Safety.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Cost Impact</b>	Indeterminate
<b>State Revenue Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that the certified homemaker-home health aide (CHHA) program established under the bill would have an indeterminate impact on annual State expenditures from the General Fund and on State revenues. The fiscal impact will be determined, in part, by the participation in the program by eligible NJ FamilyCare beneficiaries and their families.
- If CHHA hours provided by a family member replace existing private duty nursing hours provided by either a registered nurse (RN) or a licensed practical nurse (LPN), the State will see a cost savings. Conversely, if CHHA hours provided by a family member supplement existing private duty nursing hours, the State would incur higher expenditures, depending on the number of additional hours reimbursed by each party. The net impact of these possible outcomes on annual State expenditures and revenues cannot be determined.
- To the extent that additional eligible State Medicaid expenditures are matched by federal Medicaid funds, any additional costs incurred by the State pursuant to the bill would correspond to an increase in State revenues. Lower overall eligible Medicaid-reimbursable costs will result in lower State matching revenues from federal reimbursements.

## **BILL DESCRIPTION**

This bill requires the Department of Human Services to establish a program under which a family member of a Medicaid or NJ FamilyCare enrollee, who is under the age of 21, may seek certification as a homemaker-home health aide and, once certified, provide related services to the beneficiary through a home care services agency under the direction of a registered nurse. The bill defines the term “family member” broadly to include individuals with a close association that is equivalent to a family relationship. The bill also specifies that the department may not establish the CHHA program prior to receiving federal approval of the State’s Medicaid waiver application for this initiative. The department, moreover, will be required to develop an assessment tool that will allow for the identification of NJ FamilyCare beneficiaries who meet the eligibility criteria for this program. Additionally, the department will be required, within three years of the start of the CHHA program, to submit a report assessing the viability of the program and the department’s recommendations concerning this initiative, to the Governor and the Legislature.

The home care services agency employing the individual will be required to pay all costs for the individual to become certified as a CHHA.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill will have an indeterminate impact on State expenditures due to unknown variables regarding: 1) the interaction of private duty nursing hours and CHHA hours; and 2) the participation of eligible individuals in the CHHA program established under the bill. To the extent that State Medicaid expenditures are matched by federal Medicaid funds, any additional eligible costs incurred by the State under the bill would correspond to an increase in State revenues from federal reimbursements. On the other hand, there is the potential for lower overall eligible State Medicaid-reimbursable costs, which will result in lower State matching revenues.

During FY 2023, the Medicaid program reimburses home care services agencies \$61 per hour for private duty nursing services provided by a RN and \$49 an hour for private duty nursing services provided by a licensed practical nurse LPN. The Governor’s proposed FY 2024 Budget recommends increasing these reimbursement rates to \$62 per hour for private duty nursing services rendered by an RN and \$50 per hour for such services when provided by an LPN. By comparison, the Statewide average Medicaid reimbursement rate for services provided by a CHHA is \$11.96 per hour in 2023. To the extent that family CHHA hours replace any existing private nursing duty hours, the State will see a cost savings of between 75.6 percent to 80.4 percent per hour in FY 2023, depending on the credentials of the provider of the existing services.

In order for CHHA hours to replace private duty nursing hours, however, the Department of Human Services’ assessment of a beneficiary’s needs would need to determine a level of care that could be fulfilled by a CHHA’s scope of practice, as they cannot perform the same care duties as an LPN or RN. For example, CHHAs, LPNs, and RNs can all support the daily care needs of patients, such as bathing, dressing, feeding, taking temperatures, and bed-making. CHHAs, additionally, may be authorized to assist a beneficiary with select household duties, such as

shopping or meal planning and preparation, when furnished in combination with personal care and other health services, as specified in the beneficiary's plan of care. LPNs and RNs, however, can provide a higher level of care than a CHHA, which may involve taking and reporting a patient's vital signs, giving injections, administering medications, and monitoring catheters. Both CHHAs and LPNs work under the supervision of an RN.

Furthermore, according to State regulation, the department is required to take into account the ability of a beneficiary's primary caretaker to provide care when determining the total number of private duty nursing hours approved for the beneficiary. As such, it is possible the department may approve fewer private duty nursing hours for those beneficiaries who have family members that are credentialed and available to provide CHHA hours at the appropriate level of care, which would effectively decrease certain State expenditures, as less costly CHHA hours could replace more expensive private duty nursing hours.

Conversely, to the extent that family CHHA hours supplement existing private duty nursing hours, the State would incur higher Medicaid expenditures, depending on the number of additional hours reimbursed under the bill.

Currently, there is no minimum number of private duty nursing hours that the department can approve for beneficiaries under the age of 21. Further, this bill does not establish a cap on the number of CHHA hours that a family member may provide a beneficiary, leaving open ended the potential number of maximum supplemental CHHA hours that can be provided.

The OLS notes that a similar Medicaid waiver program implemented in Colorado is designed to supplement a Medicaid beneficiary's private duty nursing care with certified nursing assistant services provided by a family member or other family approved individual. Essentially, the Colorado program aims to provide income to family caregivers who would be providing support absent the program.

In addition to variables regarding private duty nursing and CHHA hours, the fiscal impact of this bill cannot be determined because the OLS cannot predict the rate of participation in this program among eligible beneficiaries. For context, there were 1,806 recipients of private duty nursing services under the age of 21 in the managed care system in FY 2018. Comparable data for the fee-for-service delivery system are unavailable; however, considering that approximately 97 percent of all NJ FamilyCare beneficiaries receive care through the managed care system, the fee for service population would be considerably smaller. The OLS estimates that the affected fee for service population under this bill, based on FY2018 data, is less than 100 beneficiaries.

It is possible that the certification requirement established under the bill may pose a barrier for some families engaging in the program. Furthermore, current regulations authorize family members of beneficiaries who receive private services, and who are licensed as an RN or an LPN, to provide reimbursable private duty services to a beneficiary for as many as eight hours per day, with a limit of 40 hours of care per week. It is possible that such families would not pursue CHHA certification.

The Department also would incur marginal additional costs to assess and report to the Governor and the Legislature concerning the CHHA program's viability and to issue recommendations concerning the program. Finally, the New Jersey Board of Nursing within the Division of Consumer Affairs in the Department of Law and Public Safety would incur higher costs in order to certify family members who apply for CHHA credentials under the bill.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).