

**Department of Planning and Budget**  
**2021 Special Session 1 Fiscal Impact Statement**

**1. Bill Number:** HB2137

**House of Origin**     Introduced         Substitute         Engrossed  
**Second House**     In Committee     Substitute         Enrolled

**2. Patron:**        Guzman

**3. Committee:** Passed the Senate

**4. Title:**         Paid sick leave.

**5. Summary:** Requires employers to provide certain home health workers paid sick leave. An employee is eligible for paid sick leave under the bill if the employee is a home health worker who works on average at least 20 hours per week or 90 hours per month. The bill provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. An employee shall not accrue or use more than 40 hours of earned paid sick leave in a year, unless the employer selects a higher limit.

The bill provides that earned paid sick leave may be used for (i) an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care or (ii) care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care. The bill prohibits employers from taking certain retaliatory actions against employees related to leave.

**6. Budget Amendment Necessary:** See item 8.

**7. Fiscal Impact Estimates:** Preliminary. See item 8.

**8. Fiscal Implications:** This bill requires that employers provide certain employees paid sick leave. An employee is eligible for paid sick leave under the bill if the employee is a home health worker and works on average at least 20 hours per week or 90 hours per month. The bill provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. "Home health worker" is defined as an individual who provides personal care, respite, or companion services to an individual who receives consumer-directed services under the state plan for medical assistance. The bill states that any employer with a paid leave policy, such as a paid time off policy, that provides an employee an amount of paid leave sufficient to meet requirements and that may be used for the same purposes and under the same conditions as paid sick leave under this article is not required to provide additional paid sick leave to any employee who is eligible for paid leave under the policy.

According to the Department of Human Resource Management (DHRM), this bill does not apply to state agency employees based on the definition of employer contained in the bill.

The Department of Labor and Industry (DOLI) anticipates that any expenditure impact this bill may have on the agency can be carried out with existing resources.

According to the Department of Medical Assistance Services (DMAS), this bill would impact Medicaid expenditures directly through consumer-directed attendant care and indirectly through other service areas. In the consumer-directed model of care, the Medicaid members select their personal care, respite or companion care attendants and the Medicaid program pays for the wages of the attendant plus appropriate employer taxes and benefits. The bill would require DMAS to provide paid sick leave to providers (attendants) of consumer-directed care who meet the criteria stated in the bill.

To estimate the amount of paid time off (PTO) that would be necessary under this proposal, DMAS identified all of the attendants that fit the stated requirements (either a weekly average of 20 hours or a monthly average of 90 hours) for the time period from July 2019 to December 2020. DMAS determined the hours of PTO these members would have earned if the proposal had been in place during this time using the provisions in the bill (i.e. one hour of PTO for every 30 hours worked with a maximum of 40 hours per year). Based on these assumptions, DMAS estimates that there would have been 933,569 hours of PTO earned in fiscal year 2020 and assumes 50 percent of those hours would be used. At an average cost of \$11.61 (the average hourly cost for personal care services), the total yearly cost would be \$5,419,365 which equates to an increase to billable rates of approximately one percent.

Assuming an annual five percent rate of growth, from FY 2020 to FY 2022, DMAS estimates that a one percent increase to billable rates in FY 2022 would cost \$5,816,730 from the general fund. Out years reflect a continued five percent annual rate of inflation. The fiscal employer agent and managed care organizations would need funding to update their systems to accept, review, process payments, track and report all sick leave hours. DMAS estimates that such efforts would increase general fund costs by \$1,071,000 in FY 2022 and \$630,000 thereafter to maintain the system changes. Currently, it is not allowable to use federal Medicaid matching funds for this benefit, therefore it is assumed that all of the identified costs would need to be entirely supported with general fund dollars. Should this federal policy change or be waived, then matching dollars would become available to support approximately 50 percent of the identified costs.

Many other providers such as personal care agencies, hospitals, nursing homes, intermediate care facilities, intellectual and developmental disabled waiver providers, group homes, day support, community service boards and private clinics also would be impacted by this proposal. While the bill does not explicitly authorize rate increases to cover these increased costs, it is expected that such costs would eventually impact future rates. DMAS is currently examining data associated with this issue and this statement will be revised should additional estimates become available.

The Conference Report for HB1800 includes an amendment for \$3,443,865 from the general fund and \$3,443,365 in federal Medicaid funds to support the provisions of this bill and language directing DMAS to seek federal authority through a waiver and State Plan amendments under Title XIX of the Social Security Act to provide sick leave to providers of consumer-directed personal, respite or companion care. The funding provided in the conference report is consistent with the Medicaid costs estimates included in this statement. However, the amendment assumes that all costs would be eligible for federal matching dollars.

To the extent that any state-supported local government employees are classified under the home health worker category, any fiscal impact to employees supported through agencies such as the departments of Social Services, Behavioral Health, or Health is unknown at this time.

**9. Specific Agency or Political Subdivisions Affected:** Department of Human Resource Management, Department of Labor and Industry; Department of Medical Assistance Services

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.