

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB 315

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

2. **Patron:** Simon

3. **Committee:** Appropriations

4. **Title:** Medical Assistance Services, Department of; lien for claim of personal injuries

5. **Summary:** The proposed legislation creates a process by which a lien in favor of the Department of Medical Assistance Services (DMAS) on a claim for personal injuries may be satisfied upon the request of the injured person who received medical care or services to treat such personal injury. The bill provides that the department is required within 30 days of receipt of the request of the injured person to provide such injured person or his personal representative with an itemized statement detailing all health care expenses paid for by a program of the Department and a sum specific demand for payment in full and final resolution of the Department’s lien. The bill provides that if the department fails to respond to such request, the injured party or his personal representative may submit to the Department an offer of payment for a sum certain in satisfaction of the lien, including an explanation of the reasons for such offer, and the Department may then, within 30 days, accept or reject such offer. The bill also clarifies that such process is not the exclusive means by which an injured person or his personal representative may request such itemized statement of health care expenses.

6. **Budget Amendment Necessary:** Yes, Item 291.

7. **Fiscal Impact Estimates:** Preliminary, See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	-	-	-
2025	\$5,967,832	33.5	General
	\$5,736,094	33.5	Non-General
2026	\$4,438,132	33.5	General
	\$4,265,794	33.5	Non-General
2027	\$4,438,132	33.5	General
	\$4,265,794	33.5	Non-General
2028	\$4,438,132	33.5	General
	\$4,265,794	33.5	Non-General
2029	\$4,438,132	33.5	General
	\$4,265,794	33.5	Non-General
2030	\$4,438,132	33.5	General
	\$4,265,794	33.5	Non-General

- 8. Fiscal Implications:** The bill requires DMAS to provide a lien itemization to an injured person or his personal representative within 30 days of a request. However, federal regulation 42 CFR 433.139(d)(2) requires that a state Medicaid plan, after a claim is paid, “must seek recovery ... within 60 days after the end of the month” that the state learns of the existence of a liable third party or benefits become available. As such, DMAS currently has at least 60 days after a claim is paid and a liable third party is known to seek recovery of such amounts. Providers have up to one year to provide DMAS with a claim for payment. Therefore, it could take up to 13 months to fully resolve a third-party liability (TPL) case.

State law cannot override the federal requirement that the federal share of all claims with TPL be repaid to the federal government. This fiscal impact statement reports the resources identified by DMAS that would allow the agency to provide injured members with the required itemized statement and sum specific demand within 60 days (the initial 30 days plus another 30 days after the subsequent offer from the injured individual is provided). However, if a subsequent TPL claim is received after this timeframe (i.e., the case has been settled), that claim would still have to be repaid to the federal government, even if there is no mechanism to recoup it from the injured individual. Failure to reimburse the federal government would put the state at risk of federal penalties and the loss of federal Medicaid matching funds. The following information only reflects the DMAS estimated staffing impact of this bill. However, there is an indeterminate impact associated with potential federal repayments and penalties.

The proposal would require DMAS to introduce a new process for liens that would significantly increase workload and shorten existing timeframes. In order to comply with this legislation, DMAS maintains that additional administrative resources would be needed, particularly in the agency’s TPL unit. There are currently 14 positions in the agency’s TPL unit. On average, the division clears approximately 67 cases each week, or about 4.8 cases per position. DMAS maintains that the TPL unit receives approximately 400 TPL cases each week, or approximately 20,800 annually. Under current requirements, each case’s workload is spread over a 13-month time frame. However, DMAS assumes that, under the provisions of this bill, each of these cases will have to be less than two months from the date of a request for itemization to provide a complete itemized statement and sum specific demand for payment. Disregarding any current backlog and assuming an itemized statement was necessary for all incoming cases, then DMAS would need to produce approximately 20,800 statements and demands each year. Assuming current staff productivity, the agency would require approximately 84 positions to handle the expected workload. Assuming the current staff of 14 will be augmented by three positions added in the introduced budget, the agency would require approximately 67 additional TPL positions. The estimated cost of these positions is \$8.2 million (\$4.0 million general fund). In lieu of positions, DMAS may need to utilize contractors to cover the expected workload. Under this circumstance, similar costs are assumed, however, no additional positions would be necessary. In addition, DMAS reports that \$3.5 million (\$1.7 million general fund) the first year and \$0.5 million (\$0.2 million general fund) each year thereafter would be needed to cover information technology and systems costs. A federal match of 50.99 percent is assumed after October 1, 2024.

This initial estimate will be further refined as additional information becomes available. Again, this estimate does not include potential federal impacts.

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services

10. Technical Amendment Necessary: No

11. Other Comments: None