

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB 909

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

2. Patron: Shin

3. Committee: Health and Human Services

4. Title: 1915(c) Home and Community Based Services Medicaid Waivers; state plan amendments, modifications

5. Summary: The proposed legislation directs the Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services to seek to modify the program rules for certain 1915(c) Home and Community Based Services (HCBS) Medicaid Waivers to:

- (i) Modify the 40-hour-per-week work limit to allow legally responsible individuals (LRI) with more than one waiver-receiving child to receive reimbursement for 40 hours of work per week per child receiving a waiver;
- (ii) Eliminate the requirement that, in order for a legally responsible individual to receive reimbursement for personal care services, no one else be available to provide services to the member;
- (iii) Modify the program rules to allow for respite services when the legally responsible individual is the paid caregiver; and
- (iv) Allow a legally responsible individual or stepparent to be the employer of record when a member under the age of 18 receives personal care through consumer direction.

6. Budget Amendment Necessary: Yes, Item 288.

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

Expenditure Impact: The following only reflects the cost of allowing respite care, no cost assumptions are included for the indeterminate impact of modifying the current 40-hour-per-week-limit.

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2025	\$15,342,793	General Fund
2025	\$17,989,300	Non-General Funds
2026	\$17,519,680	General Fund
2026	\$20,509,207	Non-General Funds
2027	\$18,395,665	General Fund
2027	\$21,534,668	Non-General Funds
2028	\$19,315,448	General Fund
2028	\$22,611,401	Non-General Funds

2029	\$20,281,220	General Fund
2029	\$23,741,971	Non-General Funds
2030	\$21,295,281	General Fund
2030	\$24,929,070	Non-General Funds

- 8. Fiscal Implications:** Two of the bill’s provisions, to eliminate the no service availability requirement for LRI reimbursement and allowing LRIs to be the employer of record, are not expected to have a fiscal impact. The reason no costs are assumed is that neither change is expected to impact authorized hours or service rates. However, the provisions to 1) allow LRIs to exceed the 40 hour per week limit when being reimbursed for multiple children and 2) allowing respite services when LRIs are the unpaid caregiver are both expected to increase costs.

DMAS reports that in FY 2023, approximately 46,000 individuals received personal care services through three HCBS Medicaid Waivers: Community Living Waiver, the Family and Individual Support Waiver, and the Commonwealth Coordinated Care Plus Waiver. Of those, 38,000 were deemed high utilizers as receiving care with yearly reimbursements over \$10,000. DMAS reports that of high personal care users, 83 percent also receive respite services. For those members, the average DMAS expenditures for respite is \$5,750 a year, or \$479.16 for 26.1 hours of care each month. This includes both consumer-directed respite care and agency-directed respite care. In FY 2023, DMAS reports there were approximately 1,700 LRIs providing personal care services through the waivers.

Currently, if an individual who receives services through the HCBS waivers has a primary care giver, then that individual is not allowed to receive respite services. DMAS assumes the majority of those that do not utilize respite care, do not use it because of the restriction. If the restriction is removed, DMAS estimates that 95 percent or 6,324 would newly use respite services. This includes 95 percent of those LRIs (1,615) providing paid personal care. Assuming one month of payment lag the first year and five percent growth thereafter, the fiscal impact of this provision of the bill is estimated at \$33.3 million total funds (\$15.3 million general fund) in fiscal year 2025 and \$38.0 million (\$17.5 million general fund) in fiscal year 2026.

LRIs will be permitted to work up to 40 hours per week. This 40-hour-per-week limit includes reimbursement when caring for multiple children. However, this limitation does not prevent a member from being authorized for more than 40 hours of care since personal care hours are authorized based on the member's documented needs. This limit is only for the number of hours a LRI may be reimbursed weekly. By allowing LRIs to receive reimbursement for 40 hours of work per week per child receiving a waiver, DMAS assumes that currently unbilled hours would be eligible for payment.

It is unknown how many individuals are LRIs to multiple children on waivers. DMAS found that in FY 2017, when attendant data was available, 1,524 attendants provided services to multiple waiver children. However, it is unknown how many hours of care are currently being unused, already being paid for and if allowed the LRI will replace current care. As such, a specific cost estimate for this proposal cannot be determined. To the extent members are utilizing all authorized hours, this bill would not have a fiscal impact. However, should

this provision allow for the utilization of currently unused hours then additional costs would occur. For the illustrative purposes, should 10 percent of LRIs (170) be paid for an additional 40-hours per week of care throughout the year, the bill could cost approximately \$5.6 million annually (\$2.4 million general fund).

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services

10. Technical Amendment Necessary: No

11. Other Comments: None