

## Department of Planning and Budget 2009 Fiscal Impact Statement

**1. Bill Number:** SB 1501

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

**2. Patron:** Barker

**3. Committee:** Passed Both Houses

**4. Title:** Elimination of the Mental Retardation and Development Disability waiver waiting lists

**5. Summary:** The bill expresses the intent of the General Assembly to eliminate the waiting lists for the Medicaid Mental Retardation (MR) and Individual and Family Developmental Disability Services (DD) waivers. Beginning in FY 2011, the bill requires the Department of Medical Assistance Services (DMAS) to add, each year, at least 400 slots for the MR waiver and at least 67 slots for DD waiver until the waiting lists are eliminated.

The bill also directs the Governor to develop a plan to eliminate the waiting lists by the 2018-2020 biennium. The plan shall include provisions to reduce the total number of individuals on the MR waiting list by 10 percent in the 2008-2010 biennium. The plan must be submitted to the Joint Commission on Health Care and the chairmen of the House Appropriations and Senate Finance Committees by October 1, 2009.

Furthermore, DMAS shall work with the Department of Planning and Budget to include the costs of adding the waiver slots into the Medicaid expenditure forecast that is developed each year and used in the Commonwealth's budgeting process.

**6. Fiscal Impact Estimates:** Final.

**6a. Medicaid Expenditure Impact:** (Item 309, Service Area 45610)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2010	\$0	N/A	GF
2010	\$0	N/A	NGF
2011	\$11,946,900	N/A	GF
2011	\$14,657,932	N/A	NGF
2012	\$26,648,395	N/A	GF
2012	\$26,648,395	N/A	NGF
2013	\$40,040,639	N/A	GF
2013	\$40,040,639	N/A	NGF
2014	\$53,480,114	N/A	GF
2014	\$53,480,114	N/A	NGF
2015	\$66,969,558	N/A	GF
2015	\$66,696,558	N/A	NGF

**Administrative Expenditure Impact:** (Item 311, Service Area 49901)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2010	\$0	0.0	GF
2010	\$0	0.0	NGF
2011	\$187,898	2.0	GF
2011	\$187,898	2.0	NGF
2012	\$416,605	4.5	GF
2012	\$416,605	4.5	NGF
2013	\$645,313	7.0	GF
2013	\$645,313	7.0	NGF
2014	\$792,400	8.5	GF
2014	\$792,400	8.5	NGF
2015	\$1,286,373	11.0	GF
2015	\$1,286,373	11.0	NGF

- 7. Budget Amendment Necessary:** No, the fiscal impact begins in FY 2011, which is outside the current 2008-2010 biennial budget.
- 8. Fiscal Implications:** The Department of Medical Assistance Services (DMAS) would add 400 MR waiver slots FY 2011, and every year thereafter until the MR waiting list is eliminated. DMAS estimates the cost of additional waiver slots to be added each year by using an average FY 2009 cost per MR recipient of \$61,961 (total funds) and projecting costs per MR recipient forward. The inflation rate was calculated each year based on constant rates for long term care services and a three percent annual increase in acute care costs.

According to the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS), the MR waiver waiting list increases by an additional 580 individuals per year. The following table shows the estimated number of individuals on the MR waiting list through FY 2015 and the additional total costs associated with adding the MR waiver slots as prescribed by this legislation.

<b>MR Waiver</b>					
	Total Waiting List	Urgent Waiting List	Cumulative Additional MR Slots	Cost Per MR Recipient	Annual Cost
December 2008	4,335				
July 2009 (e)	4,625	2,337	-	\$61,961	\$ 0
2010	5,205	2,517	-	\$62,050	\$ 0
2011	5,385	2,697	400	\$62,141	\$ 24,856,400
2012	5,565	2,877	800	\$62,235	\$ 49,788,000
2013	5,745	3,057	1,200	\$62,333	\$ 74,799,600
2014	5,925	3,237	1,600	\$62,433	\$ 99,892,800
2015	6,105	3,417	2,000	\$62,536	\$ 125,072,000

Similarly, 67 DD waiver slots are to be added in FY 2011, and every year thereafter until the DD waiting list is eliminated. DMAS estimates the cost of additional waiver slots to be added each year by using an average FY 2009 cost per DD recipient of \$25,926 (total funds) and projecting costs per DD recipient forward. The inflation rate was calculated each year based on constant rates for long term care services and a three percent annual increase in acute care costs.

According to DMHMRSAS, the DD waiver waiting list increases by an additional 137 individuals per year. The following table shows the estimated number of individuals on the DD waiting list through FY 2015 and the additional total costs associated with adding the DD Waiver slots as prescribed by this legislation.

<b>DD Waiver</b>				
	DD Waiver Waiting List	Additional DD Waiver Slots	Cost Per DD Recipient	Annual Cost (Total Funds)
December 2008	635	-	-	-
July 2009 (e)	704	-	\$ 25,926	-
2010	841	-	\$ 26,010	\$ -
2011	911	67	\$ 26,094	\$ 1,748,432
2012	981	134	\$ 26,178	\$ 3,508,790
2013	1,051	201	\$ 26,263	\$ 5,281,677
2014	1,121	268	\$ 26,348	\$ 7,067,428
2015	1,191	335	\$ 26,433	\$ 8,867,115

The first medical costs associated with this bill will not be incurred until FY 2011 and DMAS estimates that those will be \$26.6 million total funds (\$11.9 million GF). Costs are estimated to reach \$400.9 million total funds (\$199 million GF) by FY 2015. The estimate reflects an enhanced federal match for FY 2010 and FY 2011 per the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

The bill does call for the Governor to develop a plan, which must include a provision to eliminate 10 percent of the MR waiting list in the 2008-2010 biennium. However, as it is only a plan, it does not obligate the Commonwealth to fund the additional slots.

#### Administrative Expenditures

The Centers for Medicare and Medicaid Services (CMS) approves all requests for home-and-community-based waivers. The Medicaid MR waiver and the DD waiver are two of the seven home-and-community-based waivers offered in the Commonwealth. As a part of the approval and routine renewal of these waivers CMS holds DMAS accountable for a series of eighteen assurances including the “continuous monitoring of the health and welfare of waiver participants and remediation actions when appropriate.”

DMAS staff is responsible to conduct random, unannounced quality management reviews of waiver providers and recipients as a way to meet the CMS assurance. The addition of new slots in the MR and DD waiver will require additional staff each year. The MR Waiver requires full-time equivalent quality management review analysts with 1:320 caseloads to fulfill the responsibility to CMS to adequately assure that all recipients are safe in their homes and communities. The DD Waiver requires full-time equivalent analysts with 1:118 caseloads to conduct both quality management reviews and annual level of care reviews. Staff monitor providers of services, recipients of services and provide technical assistance and training as required.

Also, the addition of new slots each year for both the MR and DD Waiver will increase the number of waiver-related client appeal cases in proportion to the increase in waiver slots. State regulations require that appeals be resolved within strict timeframes, or the appeal is automatically resolved in favor of the appellant. Therefore, the agency would need additional staff in the Appeals Division to ensure the ability to process the additional appeals. The caseload for each hearing officer is approximately 181 cases per year.

DMAS estimates administrative costs of \$375,795 (\$187,898 GF) in FY 2011 and an increase in its position level by four full-time staff.

	<b>FY 2010</b>	<b>FY 2011</b>
MR Waiver	0	1
DD Waiver	0	1
Appeals	0	2
Total FTEs	0	4

**9. Specific Agency or Political Subdivisions Affected:** Department of Medical Assistance Services.

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

**11. Other Comments:** None.

**Date:** 3/12/2009 mst

**Document:** G:\GA Sessions\2009 Session\FIS\SB1501ER.Doc

cc: Secretary of Health and Human Resources