

DEPARTMENT OF TAXATION

2015 Fiscal Impact Statement

1. **Patron** Christopher T. Head

3. **Committee** House Finance

4. **Title** Income Tax Credit for Providers of Medicaid
Waiver Services

2. **Bill Number** HB 1555

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create an individual and corporate income tax credit for health insurance premiums paid by a business providing Medicaid waiver services. The credit would be based on the percentage of such business and the amount of health insurance premiums paid by the business. Unused credits may be carried forward for five years.

The provisions of the bill would be effective for taxable years beginning on or after January 1, 2016, and would expire on January 1, 2021.

6. **Budget amendment necessary:** Yes.

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7. **Fiscal Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

The Department of Medical Assistance Services indicates that it can provide any reports needed by the Department of Taxation without additional funding.

Revenue Impact

The proposed income tax credit would result in an unknown General Fund revenue loss. The amount of the loss depends on the number of qualifying employees who elect the health insurance coverage offered by their employers, the cost of the health insurance premiums, the portion of the premiums paid by the employers and the profitability of the employers. Since this is a new requirement imposed by the Affordable Care Act (“ACA”) there is no existing data available for use in determining the fiscal impact.

However, the credit is limited to the tax liability of the business. It is expected that the portion of the health insurance premiums paid by the business will exceed its tax liability. According to the Department of Medical Assistance Services “DMAS”) ,during Fiscal Year 2014 \$986.5 million was paid to 1,359 businesses for Medicaid waiver services. According to the Virginia Association for Home Care and Hospice, the average profitability of businesses providing Medicaid waiver services is 5%. This suggests that the Virginia tax liability of these businesses is approximately \$3.0 million (\$986.5M x 5% x 6%), and this is representative of the potential revenue loss attributable to the credit. The actual amount would be affected by other factors. For example, if a business is an S corporation or limited liability company, the owners may have other income that could absorb additional credit amounts. However, the actual loss is likely to be much less because the 5% average profitability does not include the additional expenses for health insurance mandated by the ACA.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Medical Assistance Services
Department of Behavioral Health and Developmental Services

10. Technical amendment necessary: No.

11. Other comments:

The Medicaid home and community based waivers (“Medicaid waivers”) are programs offered to eligible individuals who require assistance with activities of daily living or supportive services, or both, and who would prefer to live in their own home or the community rather than in a facility setting. Most of these programs are administered by the DMAS or the Department of Behavioral Health and Developmental Services.

An individual granted a Medicaid waiver may be provided services that are agency directed or consumer directed. For agency-directed services, the agency would contract with a business to provide the services. For consumer-directed services, the individual receiving the services, or a family member if the individual is not competent, would hire an attendant to provide the approved services. The businesses that provide the Medicaid waiver services under agency-directed programs have more than the minimum number of employees to be subject to the ACA employer mandate to offer health insurance to their employees.

According to DMAS, the following amounts were expended on agency-directed Medicaid waiver programs during Fiscal Year 2014:

	DMAS Expenditures SFY14	Providers Paid in SFY 2014*	Members for whom payments were made FY14
Attendant Care- Agency Directed	\$346,931,817	799	19,069
Habilitation	\$585,045,829	486	9,522
Skilled Nursing	\$44,320,653	105	684
Adult Day Care	\$7,547,938	58	852
Environmental Mods/Assistive Tech	\$2,612,115	117	3,858
Total	\$986,458,351	1,359	29,601

* Includes public agencies (for example 37 of the Habilitation Providers are Community Service Boards)

Proposal

This bill would create a new credit for individual and corporate businesses that provide services under a Medicaid waiver. In order to qualify for the credit, the business must provide health insurance for all of its full-time employees who directly care for patients. To calculate the amount of the credit, one would first identify the full-time employees who directly care for individuals under a Medicaid waiver. Then, the amount paid by the employer for health insurance for these employees would be compared to the amount paid for similar employees in 2014 (i.e., before the effective date of the ACA employer mandate). The difference would be prorated by the percentage of the business's gross earned revenue that is attributable to services provided under a Medicaid waiver.

The credit could not exceed the tax liability of the business. Any unused credit amount could be carried forward for up to five years.

The provisions of the bill would be effective for taxable years beginning on or after January 1, 2016, and would expire on January 1, 2021.

cc : Secretary of Finance

Date: 1/22/2015 JPJ
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