

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: HB 2251

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

2. Patron: Preston, Joseph E.

3. Committee: Courts of Justice

4. Title: Appeals of adverse initial determinations of overpayment; attorney fees

5. Summary: The proposed legislation provides that in cases in which the Department of Medical Assistance Services (DMAS) makes an initial determination that an overpayment has been made to a provider and the provider substantially prevails on the merits of an appeal of that decision, the provider shall be entitled to attorney fees. Currently, the law requires that the provider substantially prevail on the merits of the appeal and demonstrate that the Department's position was not substantially justified. The bill also provides that a provider will be deemed to have substantially prevailed and shall be eligible to recover attorney fees if the amount the provider is reimbursed following the appeal is equal to at least 80 percent of the original payment received.

6. Budget Amendment Necessary: Yes

7. Fiscal Impact Estimates: Preliminary

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2015	\$88,000	General
	\$88,000	Nongeneral
2016	\$88,000	General
	\$88,000	Nongeneral
2017	\$88,000	General
	\$88,000	Nongeneral
2018	\$88,000	General
	\$88,000	Nongeneral
2019	\$88,000	General
	\$88,000	Nongeneral
2020	\$88,000	General
	\$88,000	Nongeneral
2021	\$88,000	General
	\$88,000	Nongeneral

8. Fiscal Implications: The removal of the limitation on DMAS' obligation to pay legal fees when the agency is substantially justified in their actions is estimated to increase legal fee

awards by 80 percent or approximately \$176,000 annually. In FY 2014, DMAS paid out a total of \$220,000 in attorney fees and costs at the administrative level for several agency decisions. This figure does not include fee awards in court cases, settlements or additional cases that denied the provider's request for attorney fees and costs specifically because the department showed that its actions were substantially justified, regardless of the outcome. Eliminating this limitation would have added another \$141,000, which is roughly a 65 percent. It would also be anticipated that removing the "substantially justified" language would increase the number of fee requests, which would likely result in more fees being paid. Therefore, the agency estimates an increase in total costs by at least 80 percent or \$176,000 per year.

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

10. Technical Amendment Necessary: No

11. Other Comments: None

Date: 1/23/15