

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB 2301

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Bell

3. Committee: Health, Welfare and Institutions

4. Title: Therapeutic day treatment; DMAS to develop a plan regarding authorization, etc

5. Summary: The proposed legislation requires that the Department of Medical Assistance Services (DMAS) implement a plan to guide Medicaid managed care organizations (MCO) in authorizing school-based therapeutic day treatment (TDT) for children and adolescents. This plan must:

- State the criteria used by DMAS for determining whether TDT services are appropriate and include the appropriate number of units of such treatment;
- Include a process for ensuring that any decision of a MCO to deny or reduce coverage of TDT is consistent with DMAS criteria;
- Provide for the collection and review of data and information including:
 - The number of children and adolescents receiving therapeutic day treatment prior to July 1, 2019, for whom therapeutic day treatment has been denied after July 1, 2019;
 - Changes in the average unit authorization for therapeutic day treatment per client per day, beginning July 1, 2019;
 - Description of programs and services provided to children and adolescents for whom therapeutic day treatment has been denied after July 1, 2019, that are intended to serve as an alternative to therapeutic day treatment and the number of cases in which such services have been provided; and
 - Changes in the number and rates of psychiatric hospitalizations, emergency room visits, use of services funded through the Children's Services Act, use of crisis services, arrest and incarceration, and morbidity for clients denied therapeutic day treatment or for whom access to therapeutic day treatments is or was reduced, beginning July 1, 2019.

DMAS must annually evaluate the criteria used for determining whether TDT services are appropriate for a child or adolescent and, in cases in which therapeutic day treatment services are determined to be appropriate, the appropriate number of units of such treatment for the child or adolescent to determine the continued appropriateness of such criteria. In addition, DMAS must report quarterly beginning October 1, 2021, regarding the plan and process developed and the data and information collected pursuant to the bill.

The bill also requires DMAS to (i) implement an appeals process for reviewing any decision of a MCO to deny coverage of therapeutic day treatment or to reduce the number of units of therapeutic day treatment authorized for a child or adolescent and (ii) include in any contract entered into between DMAS and a MCO on or after January 1, 2022, a requirement that the MCO comply with such DMAS decisions.

6. **Budget Amendment Necessary:** Yes, Item 317.

7. **Fiscal Impact Estimates:** Preliminary

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	-	-	-
2022	\$543,622	3.5	General Fund
2022	\$1,103,622	3.5	Nongeneral Funds
2023	\$473,622	3.5	General Fund
2023	\$473,622	3.5	Nongeneral Funds
2024	\$473,622	3.5	General Fund
2024	\$473,622	3.5	Nongeneral Funds
2025	\$473,622	3.5	General Fund
2025	\$473,622	3.5	Nongeneral Funds
2026	\$473,622	3.5	General Fund
2026	\$473,622	3.5	Nongeneral Funds
2027	\$473,622	3.5	General Fund
2027	\$473,622	3.5	Nongeneral Funds

8. **Fiscal Implications:** The Department of Medical Assistance Services (DMAS) reports that this bill will have a fiscal impact related to the administrative costs for the agency to perform a clinical review on any Managed Care Organization (MCO) denial or reduction in units for therapeutic day treatment (TDT) to ensure the MCO appropriately applies the clinical criteria. The bill would require DMAS to report data elements that are not currently available and would require significant resources to generate. This includes a report on any service where a child or youth had TDT denied or reduced and provide a report of the alternative treatment and number of member's impacted. DMAS maintains that it would need to set up an ongoing operational data exchange with standardized systems, the ability to import additional elements into the data warehouse, match data between agencies, and develop guides for appropriately analyzing additional data fields. For example, this bill requires a data match with the Office of Children's Services (OCS) to determine services that were not Medicaid funded but covered through OCS and that were determined to be unavailable or inappropriate for meeting the needs of the child. The bill also requires DMAS to report quarterly on these findings to the Chairmen of the House and Senate Committee on Finance and Appropriations.

DMAS estimates that the proposals requirements would necessitate additional staffing support equivalent to seven positions. There were 1,781 TDT denials (part or whole) in the quarter prior to the pandemic and approximately 7,124 for fiscal year 2020. DMAS assumes 594 per month and with an average of 21 working days per month, that would be 28 per day. Each reviewer should be able to process an average of seven per day while also being available for subsequent appeals. DMAS would need four reviewers with behavioral health, nursing, or licensed clinical social work background. This unit would also require a supervisor with the same background. To facilitate the reporting requirements, DMAS would need a data analyst to pull reports from the many, varied sources including the Office of Children's Services and the Department of Juvenile Justice, the Medicaid cost settlement

process, and DMAS appeals, as well as to conduct analysis on ongoing basis. Additionally, DMAS would need a program analyst to coordinate reporting with the cost settlement contractor, conduct reporting and programmatic reviews of medically necessary criteria, make comprehensive interpretations within context of the service and overall Behavioral Health program, write report narratives with evolving recommendations around programmatic changes and work to implement recommended changes. This results in a need for seven new positions at a total cost of \$947,245 (\$473,622 general fund) based on average salary, benefits, and indirect costs.

Additionally, DMAS would require one-time systems changes to set up data exchanges with the Office of Children's Services and the Department of Juvenile Justice (DJJ) at an estimated cost of \$350,000 (\$35,000 general fund) each for a total of \$700,000 (\$70,000 general fund). It is assumed that DMAS will cover the entire cost of the data exchange without any fiscal impact on OCS or DJJ. These one-time system changes are eligible for the enhanced federal financial participation of 90 percent as these are qualifying implementation costs in support of the Medicaid Enterprise Systems.

DMAS estimates total administrative cost of \$1,647,245 (\$543,622 general fund) in fiscal year 2022 and \$947,245 (\$473,622 general fund) for all years thereafter.

Any potential impact on the Medicaid service expenditures is indeterminate. There is insufficient data to determine if the guidance plan and appeals process, as required by this legislation, will have any significant impact on the cost of TDT services.

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services
Office of Children's Services
Department of Juvenile Justice

10. Technical Amendment Necessary: No.

11. Other Comments: None