

Department of Planning and Budget

2021 Fiscal Impact Statement

1. **Bill Number:** SB 1102

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:** Locke

3. **Committee:** Education and Health

4. **Title:** DMAS; personal care aides; orientation program

5. **Summary:** The substitute bill requires the Department of Medical Assistance Services (DMAS) to establish an orientation program for all personal care aides who provide self-directed services through the Medicaid program. The program shall have the following requirements:

- Attendance shall be limited to personal care aides, consumers who utilize the services of personal care aides, home care workers' employers of record, and worker advocacy organizations that represent personal care aides;
- Orientations must be held in-person or online at least quarterly, and personal care aides be invited and encouraged to attend at least one such orientation per calendar year; and
- The orientation curriculum must include content addressing operational procedures and recordkeeping, including pay and benefits; available assistance and resources; roles and responsibilities in self-direction; diversity and equity training; transparency and fraud; and worker rights and responsibilities.

The Department of Medical Assistance Services may, in its discretion, contract with another state agency to provide the orientation described in this section.

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

7. **Fiscal Impact Estimates:** Preliminary

Expenditure Impact: The potential fiscal impact of this legislation is ultimately indeterminate as there is insufficient information to determine whether the oversight requirements outlined in this bill would constitute DMAS being considered an employer of record for consumer directed attendants. Such a designation may impact the agency's ability to comply with provisions of state and federal law, such as the Fair Labor Standards Act. While being an employer of record is expected to have a significant fiscal impact on Medicaid costs, the substitute bill's removal of mandatory orientation may serve to lessen the likelihood of being an employer of record.

In addition to the potential costs associated with employer of record status, the bill provides DMAS with the option of providing either virtual or in-person programs. Since the cost of such options can vary, the following provides a cost estimate for a range of options. The low end of the range reflects entirely virtual orientation programs with no in-person sessions. The higher end assumes that orientations are completely in-person with most attendants participating. It is assumed that DMAS would ultimately tailor any program to available funding.

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	-	-	-
2022	\$53,247 - \$338,432 \$103,361 - \$656,956	0 – 1.0	General Nongeneral
2023	\$21,466 - \$338,432 \$41,669 - \$656,956	0 – 1.0	General Nongeneral
2024	\$21,466 - \$338,432 \$41,669 - \$656,956	0 – 1.0	General Nongeneral
2025	\$21,466 - \$338,432 \$41,669 - \$656,956	0 – 1.0	General Nongeneral
2026	\$21,466 - \$338,432 \$41,669 - \$656,956	0 – 1.0	General Nongeneral
2027	\$21,466 - \$338,432 \$41,669 - \$656,956	0 – 1.0	General Nongeneral

8. Fiscal Implications: This bill would require creation of an orientation program that would be optional for all consumer-directed personal care services employees. DMAS estimated a fiscal impact for versions of the training ranging from a completely virtual format to entirely in-person format. The administrative cost estimates to develop, advertise, and maintain weekly trainings for 38,000 unique consumer directed attendants via the two previously-stated options are provided below.

An entirely virtual training would represent the least costly option and require the development of online training materials. DMAS estimates a one-time cost of \$141,028 (\$47,950 general fund) to develop the virtual training and then an annual maintenance cost of \$47,555 (\$16,169 general fund) for fiscal year 2023 and thereafter. Lastly, based on previous similar initiatives, DMAS estimates annual outreach cost of \$15,580 (\$5,297 general fund) to include printing and mailing for 38,000 attendants. In total, DMAS estimates the virtual training option would cost approximately \$156,608 (\$53,247 general fund) for the first year and \$63,135 (\$21,466 general funds) each fiscal year thereafter. All estimates were allocated at 32 percent to Medicaid Expansion based on the January 2021 enrollment report.

The upper end of the above range reflects an entirely in-person training program that assumes most attendants participate. For this effort, DMAS assumes two trainings a week for 52 weeks for an average of 365 attendants per training in order to reach 38,000 attendants per year. The administrative cost of conducting weekly trainings would require DMAS to hire two full-time employees to serve as training facilitators (per average agency salary, benefits, and indirect costs for a total of \$272,134 (\$92,526 from general fund). DMAS estimates weekly travel costs for four employees (two Training Facilitators and two Training Coordinators) to include average meals and lodging per diem for a total of \$74,639 (\$25,377 general fund). Additionally, DMAS estimates the costs of fueling and leasing two agency cars for an annual cost of \$9,035 (\$3,072 general fund). The cost of renting facilities to hold up to a 365-person trainings would likely differ throughout the state, using Richmond as a general baseline DMAS estimates \$624,000 (\$212,160 general fund). In total, DMAS estimates that full in-person training would cost approximately \$995,388 (\$338,432 general fund) annually. All estimates were allocated at 32 percent to Medicaid Expansion based on the January 2021 enrollment report.

Again, DMAS has indicated that this legislation has the potential to define the agency as a joint employer of record. The cost of this potential development is indeterminate as written.

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services

10. Technical Amendment Necessary: No

11. Other Comments: None