

Department of Planning and Budget 2019 Fiscal Impact Statement

1. **Bill Number:** SB 1352

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

2. **Patron:** McDougle

3. **Committee:** Finance

4. **Title:** Medicaid Fiscal Oversight and Accountability, Office of; created, report

5. **Summary:** The proposed legislation creates, as an independent state agency, the Office of Medicaid Fiscal Oversight and Accountability and charges the agency with the preparation of the Official Medicaid Forecast for the state, monthly oversight of Medicaid expenditures, review of the fiscal impact of policy changes, and other oversight and accountability responsibilities. The Director of the Office of Medicaid Fiscal Oversight and Accountability will be appointed by the Governor, subject to confirmation by the General Assembly.

6. **Budget Amendment Necessary:** Yes. Item 307 of the current Appropriation Act (Chapter 2, 2018 Acts of Assembly, Special Session I) and the introduced budget include language outlining Medicaid forecast responsibilities and program reporting requirements, most of which this bill intends to supersede. This language will need to be removed or modified for the intent of this bill to take effect.

While, the bill requires the Department of Planning and Budget to transfer funds from those appropriated to the Department of Medical Assistance Services (DMAS) for the fiscal year beginning July 1, 2019, that are sufficient and adequate to provide for the operation of the new office, it is expected that the costs to operate a new, separate office will exceed the resources that could be transferred from DMAS without impacting services that DMAS must continue. As a result, additional funds may be needed to support the new office or to back-fill DMAS.

7. **Fiscal Impact Estimates:** Preliminary

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	-	-	-
2020	\$1,023,500	6.0	Indeterminate (See Item 8)
2021	\$1,023,500	6.0	Indeterminate (See Item 8)
2022	\$1,023,500	6.0	Indeterminate (See Item 8)
2023	\$1,023,500	6.0	Indeterminate (See Item 8)
2024	\$1,023,500	6.0	Indeterminate (See Item 8)
2025	\$1,023,500	6.0	Indeterminate (See Item 8)

8. Fiscal Implications: The proposed bill would create an independent Office of Medicaid Fiscal Oversight and Accountability to perform the following duties:

- Prepare a monthly budget variance report on the Medicaid program;
- Prepare an annual forecast of Medicaid expenditures;
- Employ or contract actuaries to develop annual projections for growth in managed care rates that would be used in preparation of the Official Medicaid Forecast;
- Develop actuarially sound capitation rates for the Commonwealth's Medicaid managed care programs;
- Review and determine the fiscal impact of programmatic changes proposed by DMAS; and,
- Monitor and annually report on the fiscal impact of any policy changes implemented in the Medicaid program.

The new, independent office is expected to require between five and seven full-time positions to implement the provisions of this bill. However, an exact impact would be highly dependent upon the agency's ultimate organization and assumed level of day-to-day responsibilities. At a minimum, this new office likely would need to hire a director, economist, actuary, data information analyst, program analyst and at least one position to perform support activities (i.e. human resources, payroll, etc.). It is possible that additional specialized positions may be necessary depending on how the independent agency is structured.

Using the salaries of similar positions and assuming a higher than average beginning skillset, it is estimated that the minimum staffing, including benefits, would cost approximately \$903,500. In addition to staffing it is estimated that \$120,000 is needed to cover nonpersonal services costs such as supplies, information technology, rent, etc. This estimate is based on actual FY 2018 nonpersonal service expenditures of similar sized agencies.

DMAS currently spends approximately \$3.6 million annual to procure actuarial services for many purposes including, but not limited to, supporting the agency forecast and rate setting processes. It is assumed that the new agency would be able to utilize the current DMAS actuary through an interagency agreement without the need for a new and separate contract.

Costs related to the administration of the Medicaid program are generally eligible for federal matching dollars. Therefore, 50 percent of this new agency's expenses could potentially be supported with federal funds. Based on the preceding assumptions, the annual operating cost of the new agency is estimated at \$1,023,500 half of which may be covered with federal funds. The use of federal funding is uncertain as DMAS has expressed some concern over whether CMS would approve costs associated with the independent agency. Until such time as DMAS can provide further clarification the source of funding for this bill is indeterminate.

The bill's enactment clause requires DPB to transfer this funding from DMAS to the new agency on July 1, 2019. Any general fund amount transferred from the DMAS budget will result in the loss of an approximately equal amount of federal matching funds thus compounding the reduction to agency operations. Should the new agency be able to receive federal funds, then the general fund transfer from DMAS will be \$511,750; however, this will translate into a total

reduction of \$1,023,500 when the federal match is included. If the new agency is ineligible for federal reimbursement, and the full amount estimated at \$1,023,500 is transferred, then the DMAS budget would be reduced by \$2,047,000 total funds unless the \$1,023,500 general fund is back-filled thus restoring the transfer and the federal match.

The creation of this new agency is not expected to sufficiently reduce DMAS responsibilities to allow for the current budget to fully absorb those costs. DMAS maintains it will continue to need its current staff, who are comparable to those being employed by the new agency, to meet critical agency operations and federal responsibilities that they currently perform beyond their forecasting duties.

As the single state agency for Medicaid, DMAS must maintain the necessary expertise to perform many continuing activities, which include but are not limited to federal reporting, cost allocation and program integrity. Under this premise, it is assumed that the costs needed to operate the independent office will exceed the resources that could be transferred from DMAS. As a result, additional funds may be needed to support the new office or to back-fill DMAS.

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services
Department of Planning and Budget

10. Technical Amendment Necessary: None

11. Other Comments: Federal 42 U.S.C. 1396 a(a)(5) requires states participating in the Medicaid program to designate a “single state entity” to operate the Medicaid program. According to federal law, the “single state entity” may contract with entities to assist with certain functions of the Medicaid program; however, “single state entity” cannot delegate its authority to “issue policies, rules, and regulations on program matters.” As such, any interactions regarding the Medicaid program, including provider rate setting, with the Centers for Medicare and Medicaid Services (CMS) must continue to be the sole responsibility of DMAS. Implementation of this legislation would need to avoid any actions that may be interpreted as altering DMAS’s role as the single state agency for the provision of Medicaid services, including rate setting.