

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: SB 488

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

2. Patron: Aird

3. Committee: Passed Both Houses

4. Title: 1915(c) Home and Community Based Services Medicaid Waivers; state plan amendments, modifications

5. Summary: The enrolled bill directs the Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services to seek to modify the program rules for certain 1915(c) Home and Community Based Services (HCBS) Medicaid Waivers to:

- (i) Modify the 40-hour-per-week work limit to allow legally responsible individuals (LRI) with more than one waiver-receiving child to receive reimbursement for 40 hours of work per week per child receiving a waiver;
- (ii) Eliminate the requirement that, in order for a legally responsible individual to receive reimbursement for personal care services, no one else be available to provide services to the member; and
- (iii) Allow a legally responsible individual or stepparent to be the employer of record when a member under the age of 18 receives personal care through consumer direction.

In addition, DMAS must analyze the possibility of allowing for respite services under the Community Living Waiver, Family and Individual Support Waiver, and Commonwealth Coordinated Care Plus Waiver when the legally responsible individual is an unpaid caregiver all or part of the time and when there are multiple adult caregivers providing any portion of unpaid care for the waiver-receiving child. DMAS is required to develop recommendations on allowing for respite services under such circumstances and must estimate the cost of providing such respite services. DMAS must report and make recommendations to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2024.

6. Budget Amendment Necessary: Yes, Item 288.

7. Fiscal Impact Estimates: Final, See Item 8.

8. Fiscal Implications: The bill's provisions, to eliminate the no service availability requirement for LRI reimbursement and allowing LRIs to be the employer of record, are not expected to have a fiscal impact. The reason no costs are assumed is that neither change is

expected to impact authorized hours or service rates. However, the provisions to allow LRIs to exceed the 40 hour per week limit is expected to increase costs.

DMAS reports that in FY 2023, approximately 46,000 individuals received personal care services through three HCBS Medicaid Waivers: Community Living Waiver, the Family and Individual Support Waiver, and the Commonwealth Coordinated Care Plus Waiver. LRIs will be permitted to work up to 40 hours per week. This 40-hour-per-week limit includes reimbursement when caring for multiple children. However, this limitation does not prevent a member from being authorized for more than 40 hours of care since personal care hours are authorized based on the member's documented needs. This limit is only for the number of hours a LRI may be reimbursed weekly. By allowing LRIs to receive reimbursement for 40 hours of work per week per child receiving a waiver, DMAS assumes that currently unbilled hours would be eligible for payment.

It is unknown how many individuals are LRIs to multiple children on waivers. DMAS found that in FY 2017, when attendant data was available, 1,524 attendants provided services to multiple waiver children. However, it is unknown how many hours of care are currently being unused, already being paid for and if allowed the LRI will replace current care. As such, a specific cost estimate for this proposal cannot be determined. To the extent members are utilizing all authorized hours, this bill would not have a fiscal impact. However, should this provision allow for the utilization of currently unused hours then additional costs would occur. For the illustrative purposes, should 10 percent of LRIs (170) be paid for an additional 40-hours per week of care throughout the year, the bill could cost approximately \$5.6 million annually (\$2.4 million general fund).

9. Specific Agency or Political Subdivisions Affected:

Department of Medical Assistance Services

10. Technical Amendment Necessary: No

11. Other Comments: None