

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 318

(Delegate Bagnall, *et al.*)

Health and Government Operations

Finance and Budget and Taxation

**Maryland Medical Assistance Program - Provider Agencies and Personal Care Aides - Reimbursement and Wage Reports**

This bill requires each “provider agency,” by September 1, 2024, and annually thereafter, to submit a report to the Maryland Department of Labor (MDL) documenting the provider agency’s average wage rate for personal care aides (PCAs). The Maryland Department of Health (MDH) must update a specified report, develop a plan with specified considerations, determine the amount of any adjustment needed in reimbursement rates for PCAs, and submit a report to specified committees of the General Assembly by September 30, 2024. **The bill takes effect July 1, 2023.**

**Fiscal Summary**

**State Effect:** MDH expenditures increase by an estimated \$500,000 (50% general funds, 50% federal funds) in FY 2024 only for contractual expenses to update the report, develop the plan, and determine any wage adjustment needed. Federal fund revenues increase accordingly. MDL can receive provider agency reports using existing budgeted resources.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
FF Revenue	\$250,000	\$0	\$0	\$0	\$0
GF/FF Exp.	\$500,000	\$0	\$0	\$0	\$0
Net Effect	(\$250,000)	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** “Provider agency” means an entity that pays a PCA to provide personal assistance services that are reimbursable by Medicaid under a Medicaid home and community-based services (HCBS) program. The reporting requirement applies to personal assistance services provided under Community First Choice, Community Options, Community Personal Assistance Services, and any other HCBS administered by MDH. It does not apply to personal care services provided through the Developmental Disabilities Administration.

### *Provider Agency Requirements*

By September 1, 2024, and annually thereafter, each provider agency must submit to MDL a report that includes documentation of the provider agency’s average wage rate for PCAs and any other information that MDL determines appropriate. The report must be signed by an authorized representative of the provider agency.

### *Maryland Department of Health Requirements*

MDH must work with affected stakeholders to (1) update the report submitted under Chapter 798 of 2018 comparing the rate of reimbursement versus the actual cost to provide personal assistance services to individuals under the Community First Choice, Community Options, Community Personal Assistance Services, and any other HCBS services administered by MDH; (2) develop a plan to close any identified differential gap in reimbursement rates; and (3) while developing the plan, determine the amount of any adjustment needed in reimbursement rates to increase wages and benefits to PCAs. In developing the plan, MDH must consider the wages and benefits paid to PCAs or similar workers in other states or in other health care settings. MDH must submit its findings and recommendations, including any proposed legislative or regulatory changes, to the Senate Finance Committee and the House Health and Government Operations Committee, by September 30, 2024.

**Current Law:** Chapters 10 and 11 of 2019, among other actions, require the Governor’s proposed budget to include specified rate increases for several types of health care providers over the funding provided in the prior year’s legislative appropriation. For fiscal 2021 through 2026, the Governor’s proposed budget must include a 4.0% rate increase over the funding provided in the prior year’s legislative appropriation for provider reimbursement in Medicaid and the Maryland Children’s Health Program for nursing home services, medical day care services, private-duty nursing services, personal care services, HCBS, and services provided through the Community First Choice program.

The federal American Rescue Plan Act authorizes a 10-percentage point increase to the federal matching rate on certain qualifying HCBS expenses. Funds must be reinvested to enhance, expand, or strengthen Medicaid HCBS. Chapter 357 of 2021 (the fiscal 2022 budget bill) required that at least 75% of the funding be used on a one-time provider rate increase. Thus, Medicaid HCBS providers, including those providing personal care services, received a 5.2% rate increase effective November 1, 2021.

There are currently 758 residential service agencies (RSAs) enrolled in Medicaid that provide personal assistance services, primarily to individuals receiving community long-term services and supports as an alternative to nursing home placement. In fiscal 2021, MDH reimbursed RSAs \$402.1 million for personal assistance services provided to 14,562 Medicaid participants.

Chapter 798, among other actions, required MDH, for HCBS provided under specified programs to:

- compare the rate of reimbursement with the actual cost to providers, to the extent information is publicly available, for (1) providing care to individuals approved for direct care services; (2) coordinating care services; and (3) providing any other services;
- review (1) specific services required to be provided; (2) any licensure requirements imposed on specified providers; (3) any requirements imposed by a health occupations board that are specific to individuals providing HCBS; and (4) any other State or local requirements associated with the cost of providing the services in the State; and
- determine, to the extent information is publicly available, the costs associated with providing service and care under other HCBS programs.

MDH was required to submit its findings and recommendation to the General Assembly by November 30, 2018. MDH submitted a [Rate Methodology Study](#), conducted by The Hilltop Institute, on January 1, 2019.

**State Fiscal Effect:** MDH expenditures increase by an estimated \$500,000 (50% general funds, 50% federal funds) likely in fiscal 2024 only for contractual expenses to (1) update the report submitted under Chapter 798 comparing the rate of reimbursement versus the actual cost to provide personal assistance services to individuals under Medicaid HCBS services; (2) develop a plan to close any identified differential gap in reimbursement rates; (3) determine the amount of any adjustment needed in reimbursement rates to increase wages and benefits to PCAs; and (4) consider the wages and benefits paid to PCAs or similar workers in other states or in other health care settings. As MDH's report is due September 30, 2024, some expenditures may occur in fiscal 2025.

**Small Business Effect:** Small business RSAs must submit annual wage reports to MDL, which may be required to include any other information that MDL determines to be appropriate.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 604 (Senator Benson, *et al.*) - Finance and Budget and Taxation.

**Information Source(s):** Maryland Department of Health; Maryland Department of Labor; Department of Legislative Services

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