

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 939 (Senator Kelley)
 Finance

Community-Based Services Waivers and State Disabilities Plan - Alterations
(Maryland Disabilities Act)

This bill establishes that a home and community-based services waiver operated by the Maryland Department of Health (MDH) must (1) include a requirement that at least half of the waiver participants live in community-based housing immediately before receiving waiver services and (2) require MDH to implement a waiting list for individuals eligible for a waiver that meets specified requirements. The bill also requires the State Disabilities Plan to be developed to provide coordination of support services for individuals with disabilities *of all ages*. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: Medicaid expenditures (50% general funds, 50% federal funds) increase by *at least* \$4.54 million in FY 2019, as discussed below. Federal fund revenues increase correspondingly. Future years reflect ongoing assessments and a potential increase in waiver expenditures.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
FF Revenue	\$2,268,300	-	-	-	-
GF Expenditure	\$2,268,300	-	-	-	-
FF Expenditure	\$2,268,300	-	-	-	-
Net Effect	(\$2,268,300)	(-)	(-)	(-)	(-)

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

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: “Community-based housing” means residential housing that is not in an institutional environment. “Community-based long-term services and supports” means long-term services and supports that serve individuals in the individuals’ homes and communities and not in institutions. “Long-term services and supports” means the broad range of assistance needed by older adults and individuals with disabilities.

Waiting List

The waiver must require MDH to implement a waiting list for individuals eligible for a waiver that (1) uses valid testing instruments to assess the need for services on an objective scale; (2) allocates services according to documented need; and (3) prioritizes services and supports for individuals with the greatest documented needs.

MDH must provide individuals on the waiting list a copy of the waiting list policies and must inform those individuals of:

- the individual’s status on the waiting list;
- how that status was determined;
- how quickly, within reasonable parameters, the individual may expect to receive community-based long-term services and supports; and
- what services and supports the individual is likely to receive.

MDH must send a copy of the waiting list policies to a member of the public on request.

Regulations

MDH must consult the Department of Disabilities when adopting regulations related to the home and community-based services waiver.

Required Survey

MDH, in consultation with specified entities, must conduct a survey to determine how many individuals in the State are eligible for a home and community-based services waiver and report the results to the Governor and the General Assembly by July 1, 2019.

Current Law/Background:

Community Options Waiver

MDH advises that the bill impacts the Community Options Waiver. The Medicaid Community Options Waiver serves Maryland residents ages 18 and older who need assistance with activities of daily living, such as bathing, grooming, dressing, and getting around. To be eligible for the waiver, an individual must require a nursing facility level of care based on a uniform medical assessment. An individual's income and assets are reviewed to determine financial eligibility for Medicaid. An individual's monthly income may not exceed 300% of Social Security Income benefits, and countable assets may not exceed \$2,000 or \$2,500, depending on the eligibility category. An individual can come into the waiver directly from a nursing facility (if *full* Medicaid eligibility has already been established and at least one full day in the nursing facility has been paid by Medicaid). Additionally, a certain portion of community residents are invited to apply based on the waiver registry. The waiver has a limited number of slots, and the program controls enrollment based on these application paths.

MDH advises that the Community Options Waiver consists of 3,776 participants. Approximately 1,764 of the current participants originally applied for the waiver from the community and not an institution. The remaining 2,012 participants originally entered the program from an institution.

Regulations

MDH, in consultation with representatives of the affected industry and advocates for waiver candidates and with the approval of the Maryland Department of Aging, must adopt regulations to implement the Medicaid waiver related to home and community-based services.

State Disabilities Plan

The State Disabilities Plan must provide for the coordination of support services that ensure compliance with specified federal and State requirements and are necessary for individuals with disabilities to achieve maximum participation in the community in the most integrated setting possible. The plan must also provide for the coordination of support services that address, on a statewide basis, the improvement of specified activities, services, and functions. The plan must also assess the provision of and resources for support services for individuals with disabilities.

The Secretary of Disabilities must request that the Interagency Disabilities Board revise the State Disabilities Plan at least once every four years and then must review and approve

or amend the State Disabilities Plan. The Secretary has to adopt regulations to implement the plan and submit, by October 1 of each year, an annual analysis of the State's progress in implementing the plan and related performance objectives to the Governor and General Assembly.

State Fiscal Effect: Medicaid expenditures (50% general funds, 50% federal funds) increase by at least \$4.54 million in fiscal 2019, which accounts for the bill's July 1, 2018 effective date. Federal fund matching revenues increase correspondingly. This estimate reflects the cost of conducting assessments of individuals waiting for waiver services as required by the bill, at a cost of \$422 per assessment. MDH advises that the bill would require each individual interested in receiving services to undergo an assessment in order to determine the services and supports the individual is likely to receive. MDH advises that the current registry includes 21,500 individuals waiting for services, and that it estimates approximately half would respond for an assessment.

Expenditures increase by an indeterminate amount in the out-years to continue assessing individuals. *For illustrative purposes only*, if assessments are conducted for 500 individuals, Medicaid expenditures increase by \$211,000 (50% general funds, 50% federal funds). Federal fund matching revenues increase accordingly.

The impact of equalizing the waiver population is indeterminate. This analysis assumes the requirement that at least half of the waiver participants live in community-based housing immediately before receiving waiver services is not met on the effective date of the bill. Instead, the ratio is assumed to be phased in through attrition of waiver services participants who came from an institution. MDH advises that, in 2017, 330 of the 543 new participants came from an institution. Accordingly, within the first year and as the required assessments are completed, the ratio should be able to be equalized without having to increase total participation if proportionally more participants are drawn from the community. Given the current population of 3,776 participants, if 124 who came from an institution are replaced by 124 who come from the community, MDH would meet the bill's requirement.

If the bill is interpreted as requiring MDH to meet the ratio requirement as of July 1, 2018 (the effective date of the bill), the total number of individuals receiving services under the waiver must increase by 248, all of whom must come from the community. Such an interpretation further increases Medicaid expenditures beginning in fiscal 2019 – by approximately \$10.62 million in the first year (approximately 50% general funds, 50% federal funds, with a portion of individuals eligible for a slightly enhanced federal match). Future year expenditures are subject to inflation.

This estimate does not reflect the cost of the required survey, beyond the cost of conducting the individual assessments. It is assumed that any alterations to the State Plan required

under the bill can be handled with existing resources. It is further assumed that MDH can provide individuals on the waiting list with the information required under the bill with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 1618 (Delegates Morales and West) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Maryland Department of Aging; Maryland Department of Disabilities; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2018
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