

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 821

### STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 15, 2022

#### SUMMARY

- Synopsis:** Requires certain health care facilities to offer lactation counseling and consultations to persons who have given birth.
- Type of Impact:** Annual local expenditure increase.
- Agencies Affected:** University Hospital, local governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>Local Cost Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that to the extent that New Jersey hospitals and licensed birthing centers hire additional lactation counselors and consultants to comply with provisions of the bill, and subsequently increase maternity care fees because of higher staffing costs, local governments that provide employee health benefits may face increased costs under the bill.
- The OLS notes that State costs are unlikely to increase under the bill since the NJ FamilyCare Program, the State Health Benefits Program (SHBP), and the School Employees' Health Benefits Program (SEHBP) already provide lactation counseling and consultation benefits that equal or exceed those established pursuant to the bill.
- To the extent that University Hospital, a non-profit legal entity that is an instrumentality of the State located in Newark, is required to hire additional lactation counselors and consultants in order to fulfill the requirements under the bill, the facility may face higher staffing costs, albeit of an indeterminate amount.

#### BILL DESCRIPTION

The bill requires every hospital that provides inpatient maternity services and every State-licensed birthing center to offer a person who has given birth at the facility: (1) at least one in-

person, one-on-one consultation with a lactation counselor or a lactation consultant prior to discharge; or (2) lactation counseling or consultation with a lactation counselor or consultant conducted remotely through live voice communication, if requested.

The bill provides a definition of “lactation consultant” and “lactation counselor,” and specifies that a hospital that assigns a lactation consultant to lactation support duties may not reassign the consultant to non-lactation related duties during the same hospital shift.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that, to the extent that New Jersey hospitals and licensed birthing centers are required to hire additional lactation counselors and consultants to comply with the bill’s requirement that such facilities provide all birthing persons with at least one in-person or remote consultation with a lactation counselor or consultant, these facilities may shift increased staffing costs to local governments that provide employee health benefits. Moreover, University Hospital could potentially face higher staffing costs if the facility lacks a sufficient number of lactation counselors or consultants to meet the requirements pursuant to the bill.

According to email communications from the United States Lactation Consultant Association, the organization does not currently track facility-specific lactation consultant or counselor staffing data, either nationwide or by state. The New Jersey Breastfeeding Coalition also does not track these data for hospitals and birthing centers located in the State. Additionally, the extent to which higher staffing costs for hospitals and birthing centers are ultimately shifted to local governments, in the form of higher capitation rates for employee health benefits, is unclear.

State costs, by comparison, are unlikely to increase under the bill. The NJ FamilyCare program currently covers in-person, one-on-one lactation consultation by a lactation consultant or counselor for beneficiaries who have given birth, pursuant to P.L.2019, c.343. The lactation consultation benefit also includes, upon the beneficiary’s request, telephonic lactation assistance in addition to, rather than as a substitute for, in-person, individual lactation consultation. The NJ FamilyCare program additionally covers lactation accessories, as recommended by a health care provider. Both the SHBP and the SEHBP cover two visits by a lactation consultant in either a hospital or a birthing center per birth.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).