

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2758

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 31, 2020

SUMMARY

- Synopsis:** Establishes minimum wage requirements for certain long-term care facility staff; establishes direct care ratio requirements for nursing homes; requires nursing home care rate study.
- Type of Impact:** Annual increase in State and local expenditures.
- Agencies Affected:** Department of Human Services; Department of Military and Veterans Affairs; certain county governments.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Cost Increase	Indeterminate
Local Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill will increase annual costs for nursing homes, by an indeterminate amount, that are operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments due to the implementation of a minimum wage for direct care staff in long-term care facilities that is \$3 higher than the prevailing State minimum wage, as outlined under the bill. From 2025 on, per the statutory structure of the exiting prevailing minimum wage, the provisions of the bill will be limited to cost-of-living increases.
- This estimate does not include any cost increases resulting from Legislative action to increase the Medicaid reimbursement rate due to the minimum wage provisions of this bill. Under the bill, the Commissioner of Human Services is directed to make recommendations regarding a rate increase; however, such an increase would need to be implemented via separate legislation. The OLS notes, however, that the bill's impact on the nursing home industry will put upward pressure on the Medicaid per diem rate set by the State.
- The OLS also estimates that: 1) nursing homes operated by the DMAVA and certain county governments may incur expenses due to the direct care ratio reporting requirements established

under the bill; and 2) the DHS may incur expenses to implement and administer certain provisions of the bill.

BILL DESCRIPTION

This bill provides that the minimum wage for direct care staff in long-term care facilities is to be \$3 higher than the prevailing State minimum wage and annually adjusted based on cost-of-living increases. The Commissioner of Human Services will be required to submit recommendations to the Legislature for legislative approval of any reimbursement rate increases as may be needed to comply with minimum wage requirements for long-term care facility direct care staff.

No later than 90 days after the effective date of the bill, the Commissioner of Human Services will be required to conduct a review of the department's Medicaid value-based payment strategy and determine whether incentives are an effective means of driving improvements in quality of care and resident and staff safety in nursing homes.

The Commissioner of Human Services will be required to establish a direct care ratio reporting and rebate requirement that will take effect no later than July 1, 2021. Under the direct care ratio reporting and rebate requirement, nursing homes will be required to report total revenues collected, along with the portion of revenues that are expended on direct patient care and various facility costs. The direct care ratio will require 90 percent, or a higher percentage established by commissioner by regulation, of a facility's aggregate revenue in a fiscal year to be expended on the direct care of residents. The commissioner will determine, and may adjust, which components of the reporting requirements are to be attributed to direct patient care, administrative costs, and profits.

The commissioner or a designated entity will be authorized to conduct an audit of the financial information reported by nursing homes to ensure the accuracy of the information reported and compliance with the requirements of the bill, as well as to identify and recover any payments that exceed the allowed ratio for administrative costs and profits. In each case where the direct care loss ratio fails to substantially comply with the ratio requirement, the nursing home will be required to issue a pro rata dividend or credit to the State and to all individuals and entities making payments to the nursing home for resident services.

No later than 60 days after the effective date of the bill, the Commissioner of Human Services or an entity designated by the commissioner will be required to initiate a study of the costs and payments associated with nursing home care. The commissioner will prepare and submit an interim report concerning the status of the study no later than one year after the effective date of the bill, and will prepare and submit a final report of the findings and recommendations of the study to the Governor and to the Legislature by January 1, 2022.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will increase costs for nursing homes, by an indeterminate amount, operated by the DMAVA and certain county governments due to the implementation of a

minimum wage for direct care staff in long-term care facilities that is \$3 higher than the prevailing State minimum wage, as outlined under the bill. Such nursing homes may also incur expenses to comply with the direct care ratio reporting requirements established under the bill. The DMAVA operates three facilities, while there are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County.

Currently, the prevailing State minimum wage is \$11.00 per hour, with \$1.00 increases to this rate scheduled on January 1 of each year from 2021 to 2024 until the rate is \$15.00 per hour. According to the report published by Manatt Health regarding the State's coronavirus disease 2019 response targeted toward the long-term care system, certified nurse assistants in New Jersey currently earn an average of \$15.00 per hour, while other nursing home staff earn close to minimum wage. The OLS does not have access to specific salary data for direct care staff employed at nursing homes operated by the DMAVA and certain county governments to quantify how this provision of the bill will impact State and local costs.

However, for illustrative purposes, if a facility has 25 direct care staff members currently earning a minimum wage and working 20 hours per week, this bill would cost the nursing home approximately \$78,000 to increase those staff members' wages by \$3.00 per hour in the first year of the bill's implementation. This analysis does not include: 1) those staff members who earn more than the prevailing minimum wage but less than the targeted minimum wage for direct care staff in long-term care facilities under the bill; and 2) the effects of wage compression on the industry, which may require nursing home facilities to increase wages outside of the provisions of this bill to provide that higher earning direct care staff maintain their wage differential compared to lower earning direct care staff. Including such components would increase the cost under this scenario. From 2025 on, the provisions of the bill will be limited to cost-of-living increases, which will cap annual wage increases for nursing homes.

This estimate does not include any cost increases resulting from Legislative action to increase the Medicaid reimbursement rate due to the minimum wage provisions of this bill. Under the bill, the Commissioner of Human Services is directed to make recommendations regarding a rate increase; however, such an increase would need to be implemented via separate legislation. The OLS notes, however, that the bill's impact on the nursing home industry will put upward pressure on the Medicaid per diem rate set by the State.

The OLS also estimates that the DHS may incur expenses to implement and administer certain provisions of the bill. These expenses include: one-time costs to review the department's Medicaid value-based payment strategy and establish a direct care ratio reporting and rebate requirement; time-limited costs to complete an analysis of the costs and payments associated with nursing home care; and annual costs to audit and enforce the nursing home industry's compliance with the direct care ratio and to adjust the direct care ratio as needed. To the extent that these responsibilities overlap with the DHS's current work and can be absorbed by the department's existing budget, these costs will be minimized.

Section: Human Services
Analyst: Sarah Schmidt
Senior Research Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

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.).