

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3847

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JANUARY 13, 2022

SUMMARY

- Synopsis:** Establishes program for certain individuals to become certified nursing assistants and provide private duty nursing services to certain Medicaid enrollees under increased reimbursement rates.
- Type of Impact:** Annual State cost and revenue impacts.
- Agencies Affected:** Department of Human Services; Department of Health.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the certified nursing assistant (CNA) program established under the bill would have an indeterminate impact on annual State expenditures from the General Fund and on State revenues. The fiscal impact will be determined, in part, by the participation in the program by eligible Medicaid and NJ FamilyCare beneficiaries and their families.
- If family or third-party CNA hours replace existing private duty nursing hours provided by either a registered nurse (RN) or a licensed practical nurse (LPN), the State will see a cost savings. Conversely, if CNA hours provided by a family member or third party supplement existing private duty nursing hours, the State would incur higher expenditures, depending on the number of additional hours reimbursed by each party. The net impact of these possible outcomes on annual State expenditures and revenues cannot be determined.
- To the extent that additional eligible State Medicaid expenditures are matched by federal Medicaid funds, any additional costs incurred by the State pursuant to the bill would correspond to an increase in State revenues. Lower overall eligible Medicaid-reimbursable costs will result in lower State matching revenues.

BILL DESCRIPTION

This bill requires the Department of Human Services (DHS) to establish a program under which a family member or an approved third party of a Medicaid or NJ FamilyCare enrollee, who is under the age of 21, may be certified as a certified nursing assistant and provide related services to the enrollee through a private duty nursing agency under the direction of a registered nurse. The CNA services provided by the individual are subject to a reimbursement rate of \$30 per hour, which fee is reimbursable to the private duty nursing agency. The bill also specifies that the DHS may not establish the CNA program prior to receiving federal approval of the State's Medicaid waiver application for this initiative. The DHS will be required to develop an assessment tool that will allow for the identification of NJ FamilyCare enrollees who meet the eligibility criteria. Additionally, the DHS will be required, within three years of the start of the CNA program, to submit a report assessing the viability of the program and the department's recommendations concerning this initiative, to the Governor and the Legislature.

The private duty nursing services agency employing the individual will be required to pay all costs for the individual to become certified as a CNA.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will have an indeterminate impact on State expenditures due to unknown variables regarding: 1) the interaction of private duty nursing hours and CNA hours; and 2) the participation of eligible individuals in the CNA program established under the bill. To the extent that State Medicaid expenditures are matched by federal Medicaid funds, any additional eligible costs incurred by the State under the bill would correspond to an increase in State revenues. On the other hand, there is the potential for lower overall eligible State Medicaid-reimbursable costs, which will result in lower State matching revenues.

The bill requires the DHS to reimburse a private duty nursing services agency \$30 for each hour a family member of a NJ FamilyCare beneficiary, or an approved third-party individual, provides CNA services to a beneficiary. Currently, agencies are reimbursed \$60 an hour for private duty nursing services provided by an RN and \$48 an hour for private duty nursing services provided by an LPN. To the extent that family or third-party CNA hours replace existing private nursing duty hours, the State will see a cost savings of between 37.5 percent to 50 percent per hour, depending on the credentials of the provider of the existing services.

In order for CNA hours to replace private duty nursing hours, however, the DHS assessment of a beneficiary's needs would need to determine a level of care that could be fulfilled by a CNA's scope of practice, as they cannot perform the same care duties as an LPN or RN. For example, CNAs, LPNs, and RNs can all support the daily care needs of patients, such as bathing, dressing, feeding, taking temperatures, and bed-making. LPNs and RNs, however, can provide a higher level of care than a CNA, which can involve taking and reporting a patient's vital signs, giving injections, administering medications, and monitoring catheters. Both CNAs and LPNs work under the supervision of an RN.

Furthermore, according to State regulation, the DHS is required to take into account the ability of a beneficiary's primary caretaker to provide care when determining the total number of private duty nursing hours approved for the beneficiary. As such, it is possible the DHS may approve fewer private duty nursing hours for those beneficiaries who have family members or third party individuals available to provide CNA hours at the appropriate level of care, which would effectively decrease certain State expenditures, as less costly CNA hours could replace more expensive private duty nursing hours.

Conversely, to the extent that family or third-party CNA hours supplement existing private duty nursing hours, the State would incur higher Medicaid expenditures, depending on the number of additional hours reimbursed under the \$30 rate established under the bill. Currently, there is no minimum number of private duty nursing hours that the DHS can approve for beneficiaries under the age of 21. Further, the bill does not establish a cap on the number of CNA hours that a family member or other approved third party may provide a beneficiary, leaving open ended the potential number of maximum supplemental CNA hours that can be provided.

The OLS notes that a similar Medicaid waiver program implemented in Colorado is designed to supplement a Medicaid beneficiary's private duty nursing care with CNA services provided by a family member or other family approved individual. Essentially, the Colorado program aims to provide income to family caregivers who would be providing support absent the program.

In addition to variables regarding private duty nursing and CNA hours, the fiscal impact of this bill cannot be determined because the OLS cannot predict the rate of participation in this program among eligible beneficiaries. For context, there were 1,806 recipients of private duty nursing services under the age of 21 in the managed care system in FY 2018. Comparable data for the fee-for-service delivery system are unavailable; however, considering that approximately 97 percent of all NJ FamilyCare beneficiaries receive care through the managed care system, the fee for service population would be considerably smaller. The OLS estimates that the affected fee for service population under this bill, based on FY2018 data, is less than 100 beneficiaries.

It is possible that the certification requirement established under the bill may pose a barrier for some families engaging in the program. Furthermore, current regulations authorize family members of beneficiaries who receive private services, and who are licensed as an RN or an LPN, to provide reimbursable private duty services to a beneficiary for as many as eight hours per day, with a limit of 40 hours of care per week. It is possible that such families would not pursue CNA certification.

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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.).