30:4D-7qq & 30:4D-7rr; Notes to 30:4D-4 & 45:11-24
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2023 **CHAPTER:** 90

NJSA: 30:4D-7qq & 30:4D-7rr; Notes to 30:4D-4 & 45:11-24 Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to certain Medicaid enrollees.

BILL NO: S1307 (Substituted for A3585 (2R))

SPONSOR(S) Beach, James and others

DATE INTRODUCED: 2/3/2022

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Health, Human Services & Senior Citizens
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 03/30/2023

SENATE: 05/22/2023

DATE OF APPROVAL: 7/3/2023

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (S1307 ScaScaAca (3R) enacted) Yes

S1307

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes Appropriations

SENATE: Yes Health, Human Services & Senior Citizens
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 11/21/2022
02/02/2023
03/31/2023

A3585 (2R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes Health
Appropriations

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	12/12/2022 03/31/2023

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

C/JA

SENATE, No. 1307

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 3, 2022

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

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.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning certified nursing assistants and home care services and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. No later than nine months after the effective date of this act and receipt of federal approval for the program, the Division of Medical Assistance and Health Services in the Department of Human Services shall establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare, or a third-party individual approved by the parent or guardian of an enrollee in Medicaid or NJ FamilyCare, may be certified as certified nursing assistant and, under the direction of a registered nurse, provide certified nursing assistant services to the enrollee through a private duty nursing agency under the reimbursement rates established pursuant to subsection d. of this section, provided that the enrollee is under 21 years of age and qualifies for private duty nursing services under Medicaid or NJ FamilyCare. The division shall develop an assessment tool that will allow the division to readily identify enrollees who meet these eligibility criteria.

b. The program established pursuant to this section shall require the family member or approved third-party individual to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as a certified nursing assistant. The private duty nursing services agency that will employ the family member or approved third-party individual to provide private duty nursing services to the enrollee shall pay all costs for the family member or approved third-party individual to become certified as a certified nursing assistant. In no case shall a family member or approved third-party individual who becomes a certified nursing assistant under the provisions of this section be required to repay or reimburse the private duty nursing services agency for the costs of the family member or approved third-party individual becoming certified as a certified nursing assistant under the program.

c. The tasks delegated by a registered nurse to a family member who becomes certified as a certified nursing assistant pursuant to this section shall be consistent with the tasks that may be generally delegated to certified nursing assistants pursuant to the rules of the New Jersey Board of Nursing.

d. Certified nursing assistant services provided by a family member of a Medicaid or NJ FamilyCare enrollee or an approved third-party individual who becomes certified as a certified nursing assistant under the program established pursuant to this section shall be reimbursed to a private duty nursing agency at a rate of no less than $30 per hour for such time as the enrollee is under 21 years of age.

e. The Director of the Division of Medical Assistance and Health Services in the Department of Human Services shall, no later than three years after the date the program is established pursuant to this section, prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, concerning the viability of the program and the director's recommendations concerning the program.

2. The Assistant Commissioner of the Division of Medical Assistance and Health Services in the Department of Human Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement the provisions of this act.

3. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

4. This act shall take effect immediately.

STATEMENT

This bill requires the Division of Medical Assistance and Health Services (DMAHS) in the Department of Human Services (DHS) to establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare or a third-party individual approved by the enrollee's parent or guardian may be certified as certified nursing assistant (CNA) and, under the direction of a registered nurse, provide CNA services to the enrollee through a private duty nursing agency, which services will be subject to an enhanced reimbursement rate. The program established under the bill will apply to enrollees who are under 21 years of age and qualify for private duty nursing services under Medicaid or NJ FamilyCare. The DMAHS will be required to develop an assessment tool that will allow the DMAHS to readily identify enrollees who meet these eligibility criteria.

Under the program, the family member or approved third-party individual will be required to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as a CNA. The private duty nursing services agency that will employ the family member or approved third-party individual will be required to pay all costs for the family member or approved third-party individual to become certified as a CNA. In no case will the family member or approved third-party individual

be required to repay or reimburse the agency for the costs of becoming a CNA.

The tasks delegated by a registered nurse to a family member or approved third-party individual who becomes certified as a CNA under the bill are to be consistent with the tasks that may be generally delegated to CNAs pursuant to the rules of the New Jersey Board of Nursing.

Certified nursing assistant services provided by a family member of a Medicaid or NJ FamilyCare enrollee or an approved third-party individual who becomes certified as a CNA under the program will be reimbursed to a private duty nursing agency at a rate of no less than $30 per hour for such time as the enrollee is under 21 years of age.

The DMAHS will be required to establish the program within nine months after the effective date of the bill and after receipt of federal approval for the program. The DHS will be required to apply for State plan amendments and waivers as are necessary to implement the provisions of the bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

No later than three years after the program is established, the DMAHS will be required to prepare and submit a report to the Governor and the Legislature concerning the viability of the program and its recommendations related to the program.

§§1,3
C.30:4D-7qq
and 30:4D-7rr
§2
Note to
C.30:4D-4
and C.45:11-24

P.L. 2023, CHAPTER 90, ***approved July 3, 2023***
Senate, No. 1307 ***(Third Reprint)***

AN ACT concerning [1]**[**certified nursing assistants**]** homemaker-home health aides[1] and home care services and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. [2]As used in this section, "family member" means a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood, and any other individual with a close association that is the equivalent of a family relationship.

b.[2] No later than nine months after the effective date of this act and receipt of federal approval for the program, the Division of Medical Assistance and Health Services in the Department of Human Services shall establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare [2]**[**, or a third-party individual approved by the parent or guardian of an enrollee in Medicaid or NJ FamilyCare,**]**[2] may [2]seek to[2] be certified [2]by the New Jersey Board of Nursing[2] as [1]**[**certified nursing assistant**]** a homemaker-home health aide[1] and, [2]after receiving that certification, may,[2] under the direction of a registered nurse, provide [1]**[**certified nursing assistant**]** homemaker-home health aide[1] services to the enrollee through a [3]**[**private duty nursing**]** home care services[3] agency [2]**[**under the reimbursement rates established pursuant to subsection d. of this section**]** [3]**[**, home health agency, or health care service firm[2]**]**[3] , provided that the enrollee is under 21 years of age and [2]otherwise[2] qualifies [2]**[**for private duty nursing**]** to receive those[2] services under Medicaid or NJ FamilyCare. The division shall develop an assessment tool that will allow the division to readily identify enrollees who meet these eligibility criteria.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SHH committee amendments adopted October 31, 2022.
[2]Senate SBA committee amendments adopted January 19, 2023.
[3]Assembly AAP committee amendments adopted March 23, 2023.

[2][b.] c.[2] The program established pursuant to this section shall require the family member [2][or approved third-party individual][2] to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as a [1][certified nursing assistant] homemaker-home health aide[1] . The [3][private duty nursing] home care[3] services agency [3][2], home health agency, or health care service firm[2]][3] that will employ the family member [2][or approved third-party individual][2] to provide [2][private duty nursing] homemaker-home health aide[2] services to the enrollee shall pay all costs for the family member [2][or approved third-party individual][2] to become certified as a [1][certified nursing assistant] homemaker-home health aide[1] [2], and to receive certification as a homemaker-home health aide from the New Jersey Board of Nursing, before providing services under the program established pursuant to this section[2] . In no case shall a family member [2][or approved third-party individual][2] who becomes a certified [1][nursing assistant] homemaker-home health aide[1] under the [2][provisions of] program established pursuant to[2] this section be required to repay or reimburse the [3][private duty nursing] home care[3] services agency [3][2], home health agency, or health care service firm employing the family member[2]][3] for the costs of the family member [2][or approved third-party individual][2] becoming certified as a [1][certified nursing assistant] homemaker-home health aide[1] under the program.

[2][c. The tasks delegated by a registered nurse to a family member who becomes certified as a [1][certified nursing assistant] homemaker-home health aide[1] pursuant to this section shall be consistent with the tasks that may be generally delegated to [1][certified nursing assistants] homemaker-home health aides[1] pursuant to the rules of the New Jersey Board of Nursing.

d. [1][Certified nursing assistant] Homemaker-home health aide[1] services provided by a family member of a Medicaid or NJ FamilyCare enrollee or an approved third-party individual who becomes certified as a [1][certified nursing assistant] homemaker-home health aide[1] under the program established pursuant to this section shall be reimbursed to a private duty nursing agency at a rate of no less than $30 per hour for such time as the enrollee is under 21 years of age.

e.] d.[2] The Director of the Division of Medical Assistance and Health Services in the Department of Human Services shall, no later than three years after the date the program is established pursuant to this section, prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, concerning the viability of the program and the director’s recommendations concerning the program.

2. The Assistant Commissioner of the Division of Medical Assistance and Health Services in the Department of Human Services [2]and the New Jersey Board of Nursing[2] shall [2]each[2] adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement the provisions of this act.

3. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

4. This act shall take effect immediately.

Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to certain Medicaid enrollees.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 1307

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1307 (2R).

As amended by the committee, this bill requires the Division of Medical Assistance and Health Services (DMAHS) in the Department of Human Services (DHS) to establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare may be certified by the New Jersey Board of Nursing as a homemaker-home health aide (HHA) and, under the direction of a registered nurse, provide HHA services to the enrollee through a home care services agency. The program will apply to enrollees who are under 21 years of age and qualify for HHA services under Medicaid or NJ FamilyCare. The DMAHS will be required to develop an assessment tool to allow the DMAHS to readily identify eligible enrollees.

The bill defines "family member" to mean a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood, and any other individual with a close association that is the equivalent of a family relationship.

Under the program, the family member will be required to meet the requirements for certification as an HHA and be certified as an HHA before providing services under the program. The home care services agency that will employ the family member will be required to pay the costs for the family member to become certified as an HHA. In no case will the family member be required to repay or reimburse the agency employing the HHA for the costs of becoming certified.

The DMAHS will be required to establish the program within nine months after the effective date of the bill and after receipt of federal approval for the program. The DHS is to apply for State plan amendments and waivers as are necessary to implement the provisions of the bill and secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

No later than three years after the program is established, the DMAHS will be required to prepare and submit a report to the

Governor and the Legislature concerning the viability of the program and its recommendations related to the program.

As reported by the committee with amendments, Senate Bill No. 1307 (2R) is identical to Assembly Bill No. 3585 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to clarify that an HHA certified under the program is to be employed by a home care services firm, rather than by a private duty nursing agency, home health agency, or health care service firm.

FISCAL IMPACT

The Office of Legislative Services concludes that the certified homemaker-home health aide (CHHA) 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 NJ FamilyCare beneficiaries and their families. If family CHHA hours replace existing private duty nursing hours provided by either a registered nurse or a licensed practical nurse, the State will see a cost savings. Conversely, if CHHA hours provided by a family member supplement existing private duty nursing hours, the State would incur higher expenditures, depending on the number of additional hours reimbursed. 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 from federal reimbursement.

SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1307

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 31, 2022

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 1307 with committee amendments.

As amended by the committee, this bill requires the Division of Medical Assistance and Health Services (DMAHS) in the Department of Human Services (DHS) to establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare or a third-party individual approved by the enrollee's parent or guardian may be certified as a homemaker-home health aide (HHA) and, under the direction of a registered nurse, provide HHA services to the enrollee through a private duty nursing agency, which services will be subject to an enhanced reimbursement rate. The program established under the bill will apply to enrollees who are under 21 years of age and qualify for private duty nursing services under Medicaid or NJ FamilyCare. The DMAHS will be required to develop an assessment tool that will allow the DMAHS to readily identify enrollees who meet these eligibility criteria.

Under the program, the family member or approved third-party individual will be required to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as an HHA. The private duty nursing services agency that will employ the family member or approved third-party individual will be required to pay all costs for the family member or approved third-party individual to become certified as an HHA. In no case will the family member or approved third-party individual be required to repay or reimburse the agency for the costs of becoming an HHA.

The tasks delegated by a registered nurse to a family member or approved third-party individual who becomes certified as an HHA under the bill are to be consistent with the tasks that may be generally delegated to HHAs pursuant to the rules of the New Jersey Board of Nursing.

Homemaker-home health aide services provided by a family member of a Medicaid or NJ FamilyCare enrollee or an approved third-party individual who becomes certified as an HHA under the

program will be reimbursed to a private duty nursing agency at a rate of no less than $30 per hour for such time as the enrollee is under 21 years of age.

The DMAHS will be required to establish the program within nine months after the effective date of the bill and after receipt of federal approval for the program. The DHS will be required to apply for State plan amendments and waivers as are necessary to implement the provisions of the bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

No later than three years after the program is established, the DMAHS will be required to prepare and submit a report to the Governor and the Legislature concerning the viability of the program and its recommendations related to the program.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to authorize family members and approved third-party individuals to become certified as homemaker-home health aides (HHAs) and provide HHA services to certain Medicaid and NJ FamilyCare enrollees under 21 years of age. As introduced, the bill established a program for the certification of certified nursing assistants (CNAs). The amendments revise the title and synopsis of the bill to reflect this change.

[Second Reprint]

SENATE, No. 1307

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 3, 2022

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

SYNOPSIS

Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to certain Medicaid enrollees.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on January 19, 2023, with amendments.

AN ACT concerning [1]**[**certified nursing assistants**]** homemaker-home health aides[1] and home care services and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. [2]As used in this section, "family member" means a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood, and any other individual with a close association that is the equivalent of a family relationship.

b.[2] No later than nine months after the effective date of this act and receipt of federal approval for the program, the Division of Medical Assistance and Health Services in the Department of Human Services shall establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare [2]**[**, or a third-party individual approved by the parent or guardian of an enrollee in Medicaid or NJ FamilyCare,**]**[2] may [2]seek to[2] be certified [2]by the New Jersey Board of Nursing[2] as [1]**[**certified nursing assistant**]** a homemaker-home health aide[1] and, [2]after receiving that certification, may,[2] under the direction of a registered nurse, provide [1]**[**certified nursing assistant**]** homemaker-home health aide[1] services to the enrollee through a private duty nursing agency [2]**[**under the reimbursement rates established pursuant to subsection d. of this section**]** , home health agency, or health care service firm[2] , provided that the enrollee is under 21 years of age and [2]otherwise[2] qualifies [2]**[**for private duty nursing**]** to receive those[2] services under Medicaid or NJ FamilyCare. The division shall develop an assessment tool that will allow the division to readily identify enrollees who meet these eligibility criteria.

[2]**[**b.**]** c.[2] The program established pursuant to this section shall require the family member [2]**[**or approved third-party individual**]**[2] to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] . The private duty nursing services agency [2], home health agency, or health care service firm[2] that will employ the family member [2]**[**or approved third-party individual**]**[2] to provide [2]**[**private duty nursing**]** homemaker-home health aide[2] services to the enrollee shall pay all costs for the family member [2]**[**or approved third-party individual**]**[2] to become certified as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] [2], and to receive certification as a homemaker-home health aide from the New Jersey Board of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SHH committee amendments adopted October 31, 2022.
[2]Senate SBA committee amendments adopted January 19, 2023.

Nursing, before providing services under the program established pursuant to this section[2] . In no case shall a family member [2]**[**or approved third-party individual**]**[2] who becomes a certified [1]**[**nursing assistant**]** homemaker-home health aide[1] under the [2]**[**provisions of**]** program established pursuant to[2] this section be required to repay or reimburse the private duty nursing services agency [2], home health agency, or health care service firm employing the family member[2] for the costs of the family member [2]**[**or approved third-party individual**]**[2] becoming certified as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] under the program.

[2]**[**c. The tasks delegated by a registered nurse to a family member who becomes certified as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] pursuant to this section shall be consistent with the tasks that may be generally delegated to [1]**[**certified nursing assistants**]** homemaker-home health aides[1] pursuant to the rules of the New Jersey Board of Nursing.

d. [1]**[**Certified nursing assistant**]** Homemaker-home health aide[1] services provided by a family member of a Medicaid or NJ FamilyCare enrollee or an approved third-party individual who becomes certified as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] under the program established pursuant to this section shall be reimbursed to a private duty nursing agency at a rate of no less than $30 per hour for such time as the enrollee is under 21 years of age.

e.**]** d.[2] The Director of the Division of Medical Assistance and Health Services in the Department of Human Services shall, no later than three years after the date the program is established pursuant to this section, prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, concerning the viability of the program and the director's recommendations concerning the program.

2. The Assistant Commissioner of the Division of Medical Assistance and Health Services in the Department of Human Services [2]and the New Jersey Board of Nursing[2] shall [2]each[2] adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement the provisions of this act.

3. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

4. This act shall take effect immediately.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1307

STATE OF NEW JERSEY
220th LEGISLATURE

DATED: NOVEMBER 21, 2022

SUMMARY

Synopsis: Establishes program for certain individuals to become certified as homemaker-home health aides 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	Annual
State Cost Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the certified homemaker-home health aide (CHHA) 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 NJ FamilyCare beneficiaries and their families.

- If family or third party CHHA 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 CHHA 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 from federal reimbursements.

BILL DESCRIPTION

This bill requires the Department of Human Services 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 homemaker-home health aide and provide related services to the enrollee through a private duty nursing agency under the direction of a registered nurse. The CHHA 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 department may not establish the CHHA program prior to receiving federal approval of the State's Medicaid waiver application for this initiative. The department 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 department will be required, within three years of the start of the CHHA 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 CHHA.

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 CHHA hours; and 2) the participation of eligible individuals in the CHHA 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 from federal reimbursements. 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 department 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 CHHA services to a beneficiary. Currently, agencies are reimbursed $61 an hour for private duty nursing services provided by an RN and $49 an hour for private duty nursing services provided by an LPN. To the extent that family or third-party CHHA hours replace any existing private nursing duty hours, the State will see a cost savings of between 38.8 percent to 50.8 percent per hour, depending on the credentials of the provider of the existing services.

In order for CHHA hours to replace private duty nursing hours, however, the department assessment of a beneficiary's needs would need to determine a level of care that could be fulfilled by a CHHA's scope of practice, as they cannot perform the same care duties as an LPN or RN. For example, CHHAs, LPNs, and RNs can all support the daily care needs of patients, such as bathing, dressing, feeding, taking temperatures, and bed-making. CHHAs, additionally, may be authorized to assist a beneficiary with select household duties, such as shopping or meal planning and preparation, when furnished in combination with personal care and other health services, as specified in the beneficiary's plan of care. LPNs and RNs, however, can provide a higher level of

care than a CHHA, which may involve taking and reporting a patient's vital signs, giving injections, administering medications, and monitoring catheters. Both CHHAs and LPNs work under the supervision of an RN.

Furthermore, according to State regulation, the Department of Human Services 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 department may approve fewer private duty nursing hours for those beneficiaries who have family members or third party individuals available to provide CHHA hours at the appropriate level of care, which would effectively decrease certain State expenditures, as less costly CHHA hours could replace more expensive private duty nursing hours.

Conversely, to the extent that family or third party CHHA 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. By contrast, in 2022, the Statewide average Medicaid reimbursement rate for a CHHA was $11.52 per hour.

Currently, there is no minimum number of private duty nursing hours that the department can approve for beneficiaries under the age of 21. Further, this bill does not establish a cap on the number of CHHA hours that a family member or other approved third party may provide a beneficiary, leaving open ended the potential number of maximum supplemental CHHA 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 certified nursing assistant 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 CHHA 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 CHHA certification.

Finally, the Department of Human Services would incur marginal additional costs to assess and report to the Governor and the Legislature concerning the CHHA program's viability and the recommendations from the Director of the Division of Medical Assistance and Health Services concerning the program.

Section: *Human Services*

Analyst: *Anne Cappabianca*
Associate Fiscal Analyst

Approved: *Thomas Koenig*
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.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 1307

STATE OF NEW JERSEY
220th LEGISLATURE

DATED: FEBRUARY 2, 2023

SUMMARY

Synopsis: Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to certain Medicaid enrollees.

Type of Impact: Annual State cost and revenue impacts.

Agencies Affected: Department of Human Services; Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the certified homemaker-home health aide (CHHA) 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 NJ FamilyCare beneficiaries and their families.

- If CHHA hours provided by a family member 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 CHHA hours provided by a family member supplement existing private duty nursing hours, the State would incur higher expenditures, depending on the number of additional hours reimbursed. 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 from federal reimbursements.

BILL DESCRIPTION

This bill requires the Department of Human Services to establish a program under which a family member of a Medicaid or NJ FamilyCare enrollee, who is under the age of 21, may seek certification as a homemaker-home health aide and, once certified, provide related services to the beneficiary through a private duty nursing services agency, home health agency, or health care service firm under the direction of a registered nurse. The department will be required to apply for State plan amendments and waivers as are necessary to implement the provisions of the bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program. The department will also be required to develop an assessment tool that will allow for the identification of NJ FamilyCare beneficiaries who meet the eligibility criteria for this program. Additionally, the department will be required, within three years of the start of the CHHA 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, home health agency, or health care service firm employing the individual will be required to pay all costs for the individual to become certified as a CHHA.

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 CHHA hours; and 2) the participation of eligible individuals in the CHHA 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 from federal reimbursements. On the other hand, there is the potential for lower overall eligible State Medicaid-reimbursable costs, which will result in lower State matching revenues.

Currently, the Medicaid program reimburses private duty nursing services agencies, home health agencies, and health care service firms $61 per hour for private duty nursing services provided by an RN and $49 an hour for private duty nursing services provided by an LPN. By comparison, the Statewide average Medicaid reimbursement rate for services provided by a CHHA was $11.52 per hour in 2022. To the extent that family member CHHA hours replace any existing private nursing duty hours, the State will see a cost savings of between 76.5 percent to 81.1 percent per hour, depending on the credentials of the provider of the existing services.

In order for CHHA hours to replace private duty nursing hours, however, the departmental assessment of a beneficiary's needs would need to determine a level of care that could be fulfilled by a CHHA's scope of practice, as they cannot perform the same care duties as an LPN or RN. For example, CHHAs, LPNs, and RNs can all support the daily care needs of patients, such as bathing, dressing, feeding, taking temperatures, and bed-making. CHHAs, additionally, may be authorized to assist a beneficiary with select household duties, such as shopping or meal planning and preparation, when furnished in combination with personal care and other health services, as

specified in the beneficiary's plan of care. LPNs and RNs, however, can provide a higher level of care than a CHHA, which may involve taking and reporting a patient's vital signs, giving injections, administering medications, and monitoring catheters. Both CHHAs and LPNs work under the supervision of an RN.

Furthermore, according to State regulation, the department 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 department may approve fewer private duty nursing hours for those beneficiaries who have family members that are credentialed and available to provide CHHA hours at the appropriate level of care, which would effectively decrease certain State expenditures, as less costly CHHA hours could replace more expensive private duty nursing hours.

Conversely, to the extent that family CHHA hours supplement existing private duty nursing hours, the State would incur higher Medicaid expenditures, depending on the number of additional hours reimbursed under the bill.

Currently, there is no minimum number of private duty nursing hours that the department can approve for beneficiaries under the age of 21. Further, this bill does not establish a cap on the number of CHHA hours that a family member may provide a beneficiary, leaving open ended the potential number of maximum supplemental CHHA 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 certified nursing assistant 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 CHHA 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 CHHA certification.

The department also would incur marginal additional costs to assess and report to the Governor and the Legislature concerning the CHHA program's viability and the recommendations concerning the program. Finally, the New Jersey Board of Nursing within the Department of Law and Public Safety would incur higher costs in order to certify family members who apply for CHHA credentials under the bill.

Section: *Human Services*

Analyst: *Anne Cappabianca*
Associate Fiscal Analyst

Approved: *Thomas Koenig*
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.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 1307

STATE OF NEW JERSEY
220th LEGISLATURE

DATED: MARCH 31, 2023

SUMMARY

Synopsis: Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to certain Medicaid enrollees.

Type of Impact: Annual State cost and revenue impacts.

Agencies Affected: Department of Human Services; Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the certified homemaker-home health aide (CHHA) 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 NJ FamilyCare beneficiaries and their families.

- If CHHA hours provided by a family member 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 CHHA hours provided by a family member 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 from federal reimbursements.

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BILL DESCRIPTION

This bill requires the Department of Human Services to establish a program under which a family member of a Medicaid or NJ FamilyCare enrollee, who is under the age of 21, may seek certification as a homemaker-home health aide and, once certified, provide related services to the beneficiary through a home care services agency under the direction of a registered nurse. The bill defines the term "family member" broadly to include individuals with a close association that is equivalent to a family relationship. The bill also specifies that the department may not establish the CHHA program prior to receiving federal approval of the State's Medicaid waiver application for this initiative. The department, moreover, will be required to develop an assessment tool that will allow for the identification of NJ FamilyCare beneficiaries who meet the eligibility criteria for this program. Additionally, the department will be required, within three years of the start of the CHHA 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 home care services agency employing the individual will be required to pay all costs for the individual to become certified as a CHHA.

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 CHHA hours; and 2) the participation of eligible individuals in the CHHA 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 from federal reimbursements. On the other hand, there is the potential for lower overall eligible State Medicaid-reimbursable costs, which will result in lower State matching revenues.

During FY 2023, the Medicaid program reimburses home care services agencies $61 per hour for private duty nursing services provided by a RN and $49 an hour for private duty nursing services provided by a licensed practical nurse LPN. The Governor's proposed FY 2024 Budget recommends increasing these reimbursement rates to $62 per hour for private duty nursing services rendered by an RN and $50 per hour for such services when provided by an LPN. By comparison, the Statewide average Medicaid reimbursement rate for services provided by a CHHA is $11.96 per hour in 2023. To the extent that family CHHA hours replace any existing private nursing duty hours, the State will see a cost savings of between 75.6 percent to 80.4 percent per hour in FY 2023, depending on the credentials of the provider of the existing services.

In order for CHHA hours to replace private duty nursing hours, however, the Department of Human Services' assessment of a beneficiary's needs would need to determine a level of care that could be fulfilled by a CHHA's scope of practice, as they cannot perform the same care duties as an LPN or RN. For example, CHHAs, LPNs, and RNs can all support the daily care needs of patients, such as bathing, dressing, feeding, taking temperatures, and bed-making. CHHAs, additionally, may be authorized to assist a beneficiary with select household duties, such as

shopping or meal planning and preparation, when furnished in combination with personal care and other health services, as specified in the beneficiary's plan of care. LPNs and RNs, however, can provide a higher level of care than a CHHA, which may involve taking and reporting a patient's vital signs, giving injections, administering medications, and monitoring catheters. Both CHHAs and LPNs work under the supervision of an RN.

Furthermore, according to State regulation, the department 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 department may approve fewer private duty nursing hours for those beneficiaries who have family members that are credentialed and available to provide CHHA hours at the appropriate level of care, which would effectively decrease certain State expenditures, as less costly CHHA hours could replace more expensive private duty nursing hours.

Conversely, to the extent that family CHHA hours supplement existing private duty nursing hours, the State would incur higher Medicaid expenditures, depending on the number of additional hours reimbursed under the bill.

Currently, there is no minimum number of private duty nursing hours that the department can approve for beneficiaries under the age of 21. Further, this bill does not establish a cap on the number of CHHA hours that a family member may provide a beneficiary, leaving open ended the potential number of maximum supplemental CHHA 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 certified nursing assistant 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 CHHA 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 CHHA certification.

The Department also would incur marginal additional costs to assess and report to the Governor and the Legislature concerning the CHHA program's viability and to issue recommendations concerning the program. Finally, the New Jersey Board of Nursing within the Division of Consumer Affairs in the Department of Law and Public Safety would incur higher costs in order to certify family members who apply for CHHA credentials under the bill.

Section:	*Human Services*
Analyst:	*Anne Cappabianca* *Senior Fiscal Analyst*
Approved:	*Thomas Koenig* *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.).

ASSEMBLY, No. 3585

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 14, 2022

Sponsored by:
Assemblywoman PAMELA R. LAMPITT
District 6 (Burlington and Camden)
Assemblyman ANTHONY S. VERRELLI
District 15 (Hunterdon and Mercer)
Assemblywoman ANGELA V. MCKNIGHT
District 31 (Hudson)

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.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/2/2022)

AN ACT concerning certified nursing assistants and home care services and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. No later than six months after the effective date of this act, the Division of Medical Assistance and Health Services in the Department of Human Services shall establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare, or a third-party individual approved by the parent or guardian of an enrollee in Medicaid or NJ FamilyCare, may be certified as certified nursing assistant and, under the direction of a registered nurse, provide certified nursing assistant services to the enrollee through a private duty nursing agency under the reimbursement rates established pursuant to subsection d. of this section, provided that the enrollee is under 21 years of age and qualifies for private duty nursing services under Medicaid or NJ FamilyCare. The division shall develop an assessment tool that will allow the division to readily identify enrollees who meet these eligibility criteria.

b. The program established pursuant to this section shall require the family member or approved third-party individual to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as a certified nursing assistant. The private duty nursing services agency that will employ the family member or approved third-party individual to provide private duty nursing services to the enrollee shall pay all costs for the family member or approved third-party individual to become certified as a certified nursing assistant. In no case shall a family member or approved third-party individual who becomes a certified nursing assistant under the provisions of this section be required to repay or reimburse the private duty nursing services agency for the costs of the family member or approved third-party individual becoming certified as a certified nursing assistant under the program.

c. The tasks delegated by a registered nurse to a family member who becomes certified as a certified nursing assistant pursuant to this section shall be consistent with the tasks that may be generally delegated to certified nursing assistants pursuant to the rules of the New Jersey Board of Nursing.

d. Certified nursing assistant services provided by a family member of a Medicaid or NJ FamilyCare enrollee or an approved third-party individual who becomes certified as a certified nursing assistant under the program established pursuant to this section shall be reimbursed at a rate of no less than $30 per hour for such time as the enrollee is under 21 years of age.

2. The Assistant Commissioner of the Division of Medical Assistance and Health Services in the Department of Human Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement the provisions of this act.

3. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

4. This act shall take effect immediately.

STATEMENT

This bill requires the Division of Medical Assistance and Health Services (DMAHS) in the Department of Human Services (DHS) to establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare or a third-party individual approved by the enrollee's parent or guardian may be certified as certified nursing assistant (CNA) and, under the direction of a registered nurse, provide CNA services to the enrollee through a private duty nursing agency, which services will be subject to an enhanced reimbursement rate. The program established under the bill will apply to enrollees who are under 21 years of age and qualify for private duty nursing services under Medicaid or NJ FamilyCare. The DMAHS will be required to develop an assessment tool that will allow the DMAHS to readily identify enrollees who meet these eligibility criteria.

Under the program, the family member or approved third-party individual will be required to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as a CNA. The private duty nursing services agency that will employ the family member or approved third-party individual will be required to pay all costs for the family member or approved third-party individual to become certified as a CNA. In no case will the family member or approved third-party individual be required to repay or reimburse the agency for the costs of becoming a CNA.

The tasks delegated by a registered nurse to a family member or approved third-party individual who becomes certified as a certified nursing assistant under the bill are to be consistent with the tasks that may be generally delegated to certified nursing assistants pursuant to the rules of the New Jersey Board of Nursing.

The DMAHS will be required to establish the program within six months after the effective date of the bill. The DHS will be

required to apply for State plan amendments and waivers as are necessary to implement the provisions of the bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

[First Reprint]

ASSEMBLY, No. 3585

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 14, 2022

Sponsored by:
Assemblywoman PAMELA R. LAMPITT
District 6 (Burlington and Camden)
Assemblyman ANTHONY S. VERRELLI
District 15 (Hunterdon and Mercer)
Assemblywoman ANGELA V. MCKNIGHT
District 31 (Hudson)

SYNOPSIS

Establishes program for certain individuals to become certified as homemaker-home health aides and provide private duty nursing services to certain Medicaid enrollees under increased reimbursement rates.

CURRENT VERSION OF TEXT

As reported by the Assembly Health Committee on November 14, 2022, with amendments.

(Sponsorship Updated As Of: 5/2/2022)

AN ACT concerning [1]**[**certified nursing assistants**]** homemaker-home health aides[1] and home care services and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. No later than [1]**[**six**]** nine[1] months after the effective date of this act [1]and receipt of federal approval for the program[1], the Division of Medical Assistance and Health Services in the Department of Human Services shall establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare, or a third-party individual approved by the parent or guardian of an enrollee in Medicaid or NJ FamilyCare, may be certified as [1]**[**certified nursing assistant**]** a homemaker-home health aide[1] and, under the direction of a registered nurse, provide [1]**[**certified nursing assistant**]** homemaker-home health aide[1] services to the enrollee through a private duty nursing agency under the reimbursement rates established pursuant to subsection d. of this section, provided that the enrollee is under 21 years of age and qualifies for private duty nursing services under Medicaid or NJ FamilyCare. The division shall develop an assessment tool that will allow the division to readily identify enrollees who meet these eligibility criteria.

b. The program established pursuant to this section shall require the family member or approved third-party individual to complete all the training, testing, and other qualification criteria as are required under State and federal law for certification as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] . The private duty nursing services agency that will employ the family member or approved third-party individual to provide private duty nursing services to the enrollee shall pay all costs for the family member or approved third-party individual to become certified as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] . In no case shall a family member or approved third-party individual who becomes a certified [1]**[**nursing assistant**]** homemaker-home health aide[1] under the provisions of this section be required to repay or reimburse the private duty nursing services agency for the costs of the family member or approved third-party individual becoming certified as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] under the program.

c. The tasks delegated by a registered nurse to a family member who becomes certified as a [1]**[**certified nursing assistant**]**

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AHE committee amendments adopted November 14, 2022.

homemaker-home health aide[1] pursuant to this section shall be consistent with the tasks that may be generally delegated to [1]**[**certified nursing assistants**]** homemaker-home health aides[1] pursuant to the rules of the New Jersey Board of Nursing.

d. [1]**[**Certified nursing assistant**]** Homemaker-home health aide[1] services provided by a family member of a Medicaid or NJ FamilyCare enrollee or an approved third-party individual who becomes certified as a [1]**[**certified nursing assistant**]** homemaker-home health aide[1] under the program established pursuant to this section shall be reimbursed [1]to a private duty nursing agency[1] at a rate of no less than $30 per hour for such time as the enrollee is under 21 years of age.

[1]e. The Director of the Division of Medical Assistance and Health Services in the Department of Human Services shall, no later than three years after the date the program is established pursuant to this section, prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, concerning the viability of the program and the director's recommendations concerning the program.[1]

2. The Assistant Commissioner of the Division of Medical Assistance and Health Services in the Department of Human Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement the provisions of this act.

3. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

4. This act shall take effect immediately.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3585

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3585 (1R).

As amended by the committee, this bill requires the Division of Medical Assistance and Health Services (DMAHS) in the Department of Human Services (DHS) to establish a program under which a family member of an enrollee in Medicaid or NJ FamilyCare may be certified by the New Jersey Board of Nursing as a homemaker-home health aide (HHA) and, under the direction of a registered nurse, provide HHA services to the enrollee through a home care services agency. The program will apply to enrollees who are under 21 years of age and qualify for HHA services under Medicaid or NJ FamilyCare. The DMAHS will be required to develop an assessment tool to allow the DMAHS to readily identify eligible enrollees.

As amended by the committee, the bill defines "family member" to mean a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood, and any other individual with a close association that is the equivalent of a family relationship.

Under the program, the family member will be required to meet the requirements for certification as an HHA and be certified as an HHA before providing services under the program. The home care services agency that will employ the family member will be required to pay the costs for the family member to become certified as an HHA. In no case will the family member be required to repay or reimburse the agency employing the HHA for the costs of becoming certified.

The DMAHS will be required to establish the program within nine months after the effective date of the bill and after receipt of federal approval for the program. The DHS is to apply for State plan amendments and waivers as are necessary to implement the provisions of the bill and secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

No later than three years after the program is established, the DMAHS will be required to prepare and submit a report to the

Governor and the Legislature concerning the viability of the program and its recommendations related to the program.

As reported by the committee with amendments, Assembly Bill No. 3585 (1R) is identical to Senate Bill No. 1307 (2R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to remove references to authorized third party individuals and to add a definition for "family member."

The committee amendments add language clarifying that homemaker-home health aides (HHAs) certified under the program established under the bill are to be certified by the New Jersey Board of Nursing. The amendments add language providing that the Board of Nursing is to promulgate rules and regulations as necessary to implement the bill.

The committee amendments clarify that an HHA certified under the program is to be employed by a home care services firm, rather than by a private duty nursing agency.

The committee amendments remove language providing that the tasks delegated to a HHA certified under the program will be limited to those authorized for an HHA pursuant to the New Jersey Board of Nursing, as those rules and restrictions would apply in any case.

The committee amendments remove language from the bill that would establish minimum reimbursement rates for HHA services provided under the bill, and revise the synopsis of the bill to reflect that change.

FISCAL IMPACT:

The Office of Legislative Services concludes that the certified homemaker-home health aide (CHHA) 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 NJ FamilyCare beneficiaries and their families. If family CHHA hours replace existing private duty nursing hours provided by either a registered nurse or a licensed practical nurse, the State will see a cost savings. Conversely, if CHHA hours provided by a family member supplement existing private duty nursing hours, the State would incur higher expenditures, depending on the number of additional hours reimbursed. 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 from federal reimbursements.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3585

STATE OF NEW JERSEY
220th LEGISLATURE

DATED: DECEMBER 12, 2022

SUMMARY

Synopsis: Establishes program for certain individuals to become certified as homemaker-home health aides 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.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the certified homemaker-home health aide (CHHA) 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 NJ FamilyCare beneficiaries and their families.

- If family or third party CHHA 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 CHHA 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 from federal reimbursements.

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BILL DESCRIPTION

This bill requires the Department of Human Services 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 homemaker-home health aide and provide related services to the enrollee through a private duty nursing agency under the direction of a registered nurse. The CHHA 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 department may not establish the CHHA program prior to receiving federal approval of the State's Medicaid waiver application for this initiative. The department 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 department will be required, within three years of the start of the CHHA 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 CHHA.

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 CHHA hours; and 2) the participation of eligible individuals in the CHHA 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 from federal reimbursements. 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 department 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 CHHA services to a beneficiary. Currently, agencies are reimbursed $61 an hour for private duty nursing services provided by an RN and $49 an hour for private duty nursing services provided by an LPN. To the extent that family or third-party CHHA hours replace any existing private nursing duty hours, the State will see a cost savings of between 38.8 percent to 50.8 percent per hour, depending on the credentials of the provider of the existing services.

In order for CHHA hours to replace private duty nursing hours, however, the department assessment of a beneficiary's needs would need to determine a level of care that could be fulfilled by a CHHA's scope of practice, as they cannot perform the same care duties as an LPN or RN. For example, CHHAs, LPNs, and RNs can all support the daily care needs of patients, such as bathing, dressing, feeding, taking temperatures, and bed-making. CHHAs, additionally, may be authorized to assist a beneficiary with select household duties, such as shopping or meal planning and preparation, when furnished in combination with personal care and other health services, as specified in the beneficiary's plan of care. LPNs and RNs, however, can provide a higher level of

care than a CHHA, which may involve taking and reporting a patient's vital signs, giving injections, administering medications, and monitoring catheters. Both CHHAs and LPNs work under the supervision of an RN.

Furthermore, according to State regulation, the Department of Human Services 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 department may approve fewer private duty nursing hours for those beneficiaries who have family members or third party individuals available to provide CHHA hours at the appropriate level of care, which would effectively decrease certain State expenditures, as less costly CHHA hours could replace more expensive private duty nursing hours.

Conversely, to the extent that family or third party CHHA 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. By contrast, in 2022, the Statewide average Medicaid reimbursement rate for a CHHA was $11.52 per hour.

Currently, there is no minimum number of private duty nursing hours that the department can approve for beneficiaries under the age of 21. Further, this bill does not establish a cap on the number of CHHA hours that a family member or other approved third party may provide a beneficiary, leaving open ended the potential number of maximum supplemental CHHA 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 certified nursing assistant 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 CHHA 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 CHHA certification.

Finally, the Department of Human Services would incur marginal additional costs to assess and report to the Governor and the Legislature concerning the CHHA program's viability and the recommendations from the Director of the Division of Medical Assistance and Health Services concerning the program.

Section: *Human Services*

Analyst: *Anne Cappabianca*
Associate Fiscal Analyst

Approved: *Thomas Koenig*
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.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3585

STATE OF NEW JERSEY
220th LEGISLATURE

DATED: MARCH 31, 2023

SUMMARY

Synopsis: Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to certain Medicaid enrollees.

Type of Impact: Annual State cost and revenue impacts.

Agencies Affected: Department of Human Services; Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the certified homemaker-home health aide (CHHA) 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 NJ FamilyCare beneficiaries and their families.

- If CHHA hours provided by a family member 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 CHHA hours provided by a family member 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 from federal reimbursements.

BILL DESCRIPTION

This bill requires the Department of Human Services to establish a program under which a family member of a Medicaid or NJ FamilyCare enrollee, who is under the age of 21, may seek certification as a homemaker-home health aide and, once certified, provide related services to the beneficiary through a home care services agency under the direction of a registered nurse. The bill defines the term "family member" broadly to include individuals with a close association that is equivalent to a family relationship. The bill also specifies that the department may not establish the CHHA program prior to receiving federal approval of the State's Medicaid waiver application for this initiative. The department, moreover, will be required to develop an assessment tool that will allow for the identification of NJ FamilyCare beneficiaries who meet the eligibility criteria for this program. Additionally, the department will be required, within three years of the start of the CHHA 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 home care services agency employing the individual will be required to pay all costs for the individual to become certified as a CHHA.

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 CHHA hours; and 2) the participation of eligible individuals in the CHHA 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 from federal reimbursements. On the other hand, there is the potential for lower overall eligible State Medicaid-reimbursable costs, which will result in lower State matching revenues.

During FY 2023, the Medicaid program reimburses home care services agencies $61 per hour for private duty nursing services provided by a RN and $49 an hour for private duty nursing services provided by a licensed practical nurse LPN. The Governor's proposed FY 2024 Budget recommends increasing these reimbursement rates to $62 per hour for private duty nursing services rendered by an RN and $50 per hour for such services when provided by an LPN. By comparison, the Statewide average Medicaid reimbursement rate for services provided by a CHHA is $11.96 per hour in 2023. To the extent that family CHHA hours replace any existing private nursing duty hours, the State will see a cost savings of between 75.6 percent to 80.4 percent per hour in FY 2023, depending on the credentials of the provider of the existing services.

In order for CHHA hours to replace private duty nursing hours, however, the Department of Human Services' assessment of a beneficiary's needs would need to determine a level of care that could be fulfilled by a CHHA's scope of practice, as they cannot perform the same care duties as an LPN or RN. For example, CHHAs, LPNs, and RNs can all support the daily care needs of patients, such as bathing, dressing, feeding, taking temperatures, and bed-making. CHHAs, additionally, may be authorized to assist a beneficiary with select household duties, such as

shopping or meal planning and preparation, when furnished in combination with personal care and other health services, as specified in the beneficiary's plan of care. LPNs and RNs, however, can provide a higher level of care than a CHHA, which may involve taking and reporting a patient's vital signs, giving injections, administering medications, and monitoring catheters. Both CHHAs and LPNs work under the supervision of an RN.

Furthermore, according to State regulation, the department 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 department may approve fewer private duty nursing hours for those beneficiaries who have family members that are credentialed and available to provide CHHA hours at the appropriate level of care, which would effectively decrease certain State expenditures, as less costly CHHA hours could replace more expensive private duty nursing hours.

Conversely, to the extent that family CHHA hours supplement existing private duty nursing hours, the State would incur higher Medicaid expenditures, depending on the number of additional hours reimbursed under the bill.

Currently, there is no minimum number of private duty nursing hours that the department can approve for beneficiaries under the age of 21. Further, this bill does not establish a cap on the number of CHHA hours that a family member may provide a beneficiary, leaving open ended the potential number of maximum supplemental CHHA 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 certified nursing assistant 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 CHHA 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 CHHA certification.

The Department also would incur marginal additional costs to assess and report to the Governor and the Legislature concerning the CHHA program's viability and to issue recommendations concerning the program. Finally, the New Jersey Board of Nursing within the Division of Consumer Affairs in the Department of Law and Public Safety would incur higher costs in order to certify family members who apply for CHHA credentials under the bill.

Section:	*Human Services*
Analyst:	*Anne Cappabianca* *Senior Fiscal Analyst*
Approved:	*Thomas Koenig* *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.).

Governor Murphy Takes Action on Legislation

07/3/2023

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

S-1307/A-3585 (Beach/Lampitt, Verrelli, McKnight) - Establishes program for certain individuals to become certified as homemaker-home health aides and provide services to c Medicaid enrollees

S-1388wGR/A-2725 (Singer, Bucco/Murphy, Webber, Tully) - Establishes "Military Pro Bono Program" to provide pro bono legal representation to active-duty members of Armec Forces, Reserve components, members of National Guard, and veterans

S-3090wGR/A-4498 (Gopal, Lagana/DeAngelo, Murphy, Atkins) - Provides retirement allowance after 20 years of service regardless of age for members of PFRS

S-3943/A-5593 (Pou/Wimberly) - Allows Attorney General to appoint officer in charge when superseding certain law enforcement agencies

A-5323/S-3737 (Pintor Marin, Wimberly/Sarlo) - Revises various provisions concerning State tax law