

**30:4D-3d1**  
**LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2023                    **CHAPTER:** 306

**NJSA:** 30:4D-3d1 Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid.

**BILL NO:** A4049                    (Substituted for S3495 (3R))

**SPONSOR(S)** McKnight, Angela V. and others

**DATE INTRODUCED:** 5/19/2022

**COMMITTEE:**                    **ASSEMBLY:** Aging & Senior Services  
Human Services  
Budget

**SENATE:** --

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE: ASSEMBLY:** 01/08/2024

**SENATE:** 01/08/2024

**DATE OF APPROVAL:** 1/16/2024

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (A4049 AcaAcaAcaSaSa (5R) enacted)    Yes

**A4049**

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

**COMMITTEE STATEMENT: ASSEMBLY:**    Yes    Aging & Senior Services  
Human Services  
Budget

**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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**    Yes    12/11/2023  
12/21/2023

**LEGISLATIVE FISCAL ESTIMATE:**    Yes    06/17/2023  
07/06/2023  
12/22/2023  
01/11/2024

**S3495 (3R)**

<b>INTRODUCED BILL:</b> (Includes sponsor(s) statement)	Yes	
<b>COMMITTEE STATEMENT:</b>		
<b>ASSEMBLY:</b>	No	
<b>SENATE:</b>	Yes	Health, Human Services & Sr. 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](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	Yes	12/11/2023 12/21/2023
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<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	12/22/2023 01/10/2024
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<b>VETO MESSAGE:</b>	No
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<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>	Yes
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**FOLLOWING WERE PRINTED:**

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<b>REPORTS:</b>	No
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<b>HEARINGS:</b>	No
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<b>NEWSPAPER ARTICLES:</b>	Yes
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Matthew Fazelpoor, 'Murphy takes action on slew of legislation', *NJBIZ*, 17 Jan 2024

CL/MM

P.L. 2023, CHAPTER 306, *approved January 16, 2024*  
Assembly, No. 4049 (*Fifth Reprint*)

1 AN ACT concerning presumptive eligibility for Medicaid home and  
2 community-based services <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> and  
3 services provided through programs of all-inclusive care for the  
4 elderly,<sup>2</sup> and supplementing Title 30 of the Revised Statutes.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. a. <sup>5</sup>**[The]** Within 30 months of enactment of P.L. , c. (C. )  
10 (pending before the Legislature as this bill), and conditional on the  
11 receipt of all necessary approvals and the securing of federal financial  
12 participation pursuant to subsection g. of this section, the<sup>5</sup> Department  
13 of Human Services shall provide <sup>5</sup>**[for the]<sup>5</sup> presumptive eligibility**  
14 for <sup>5</sup>**[home and community-based services <sup>4</sup>[<sup>2</sup>, nursing home**  
15 services.]<sup>4</sup> and <sup>3</sup>**[programs of all-inclusive care for the elderly**  
16 (PACE)<sup>2</sup> services provided through PACE<sup>3</sup> under]<sup>5</sup> Medicaid <sup>5</sup>,  
17 including, where appropriate, eligibility for the managed long-term  
18 services and supports program,<sup>5</sup> for an individual who is: seeking  
19 home and community-based services <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> or  
20 PACE enrollment<sup>2</sup>; awaiting an eligibility determination for Medicaid  
21 <sup>5</sup>**[and any applicable Medicaid waiver program offering home and**  
22 community-based services] or for the managed long-term services and  
23 supports program<sup>5</sup> <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> or services provided  
24 through PACE<sup>2</sup>; and likely to be financially and clinically eligible for  
25 Medicaid and <sup>5</sup>**[any applicable Medicaid waiver program offering**  
26 home and community-based services] where necessary the managed  
27 long-term services and supports program<sup>5</sup> <sup>4</sup>[<sup>2</sup>, nursing home  
28 services.]<sup>4</sup> or services provided through PACE<sup>2</sup>, as determined by the  
29 department.

30 b. <sup>5</sup>**[The]** Conditional on federal financial participation, the<sup>5</sup>  
31 department shall provide Medicaid coverage for eligible home and  
32 community-based services <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> or services  
33 provided through PACE<sup>2</sup> to an individual who is granted  
34 <sup>1</sup>**[presumptively]** presumptive<sup>1</sup> eligibility pursuant to this section.

**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:

<sup>1</sup>Assembly ASE committee amendments adopted June 2, 2022.

<sup>2</sup>Assembly AHU committee amendments adopted February 9, 2023.

<sup>3</sup>Assembly ABU committee amendments adopted June 28, 2023.

<sup>4</sup>Senate floor amendments adopted December 11, 2023.

<sup>5</sup>Senate floor amendments adopted December 21, 2023.

1 Coverage provided under this subsection shall begin upon the receipt  
2 of an individual's request for services, pursuant to subsection <sup>3</sup>[c] c.<sup>3</sup>  
3 of this section, and shall be terminated if the individual is determined  
4 clinically or financially ineligible for home and community-based  
5 services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or services provided through  
6 PACE<sup>2</sup> under Medicaid during the eligibility determination process.

7 c. An individual seeking presumptive eligibility for home and  
8 community-based services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or services  
9 provided through PACE<sup>2</sup> under Medicaid shall submit a request to the  
10 department in a manner and form as determined by the commissioner.

11 d. <sup>1</sup>[The] An<sup>1</sup> individual granted presumptive eligibility pursuant  
12 to this section shall be required to submit a completed application for  
13 Medicaid and any applicable Medicaid waiver program offering home  
14 and community-based services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or  
15 services provided through PACE<sup>2</sup> no later than the end of the month  
16 following the month in which presumptive eligibility is granted.

17 e. <sup>5</sup>[<sup>2</sup>A] Conditional on federal financial participation, a<sup>5</sup> home  
18 and community-based services provider <sup>4</sup>[, nursing home facility,]<sup>4</sup> or  
19 PACE center shall be reimbursed for all Medicaid-eligible services  
20 rendered to an individual who has been granted presumptive eligibility  
21 pursuant to this section, regardless <sup>3</sup>[if] of whether<sup>3</sup> the individual  
22 granted presumptive eligibility is determined clinically or financially  
23 ineligible for home and community-based services <sup>4</sup>[, nursing home  
24 services,]<sup>4</sup> or services provided through PACE under Medicaid during  
25 the eligibility determination process.

26 f.<sup>2</sup> The department shall provide each individual granted  
27 presumptive eligibility pursuant to this section a written notice  
28 explaining the terms and conditions of presumptive eligibility and the  
29 home and community-based services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or  
30 services provided through PACE<sup>2</sup> the individual will be eligible to  
31 receive.

32 <sup>2</sup>[f.] g.<sup>2</sup> The commissioner shall apply for such State plan  
33 amendments or waivers as may be necessary to implement the  
34 provisions of this section and to secure federal financial participation  
35 for State Medicaid expenditures under the federal Medicaid program.  
36 <sup>5</sup>The provision of presumptive eligibility pursuant to this section shall  
37 be contingent on securing all necessary federal approvals and federal  
38 financial participation as may be necessary to implement the  
39 provisions of this section.<sup>5</sup>

40 <sup>2</sup>[g.] h.<sup>2</sup> <sup>5</sup>In designing the program required pursuant to  
41 subsection a. of this section, the Department shall assess the success of  
42 other jurisdictions in providing for presumptive eligibility for home  
43 and community-based services and related services for Medicaid  
44 recipients; consider methods for minimizing costs due to  
45 determinations of clinical or financial ineligibility; and engage with

1 relevant stakeholders to determine how to best tailor the benefit to the  
2 needs of the Medicaid population.

3 i.<sup>5</sup> As used in this section:

4 “Commissioner” means the Commissioner of Human Services.

5 “Department” means Department of Human Services.

6 “Eligibility determination” means the administrative process by  
7 which the Division of Medical Assistance and Health Services in the  
8 Department of Human Services or a county welfare agency reviews a  
9 beneficiary’s income, financial resources, and circumstances relating  
10 to the beneficiary’s application for benefits received under Medicaid  
11 or any applicable Medicaid waiver program offering home and  
12 community-based services <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> or services  
13 provided through PACE<sup>2</sup>.

14 <sup>5</sup>“Home and community-based services” means community-based  
15 services provided under the managed long term services and supports  
16 program or personal care assistant services provided in the home under  
17 New Jersey’s Medicaid State Plan.<sup>5</sup>

18 “Medicaid” means the Medicaid program established pursuant to  
19 P.L.1968, c.413 (C.30:4D-1 et seq.).

20 <sup>3</sup>“PACE” means the program of all-inclusive care for the elderly as  
21 defined in section 1 of P.L.1997, c.296 (C.26:2H-88).<sup>3</sup>

22

23 2. The Commissioner of Human Services, in accordance with  
24 the "Administrative Procedure Act," P.L.1968, c.410  
25 (C.52:14B-1 et seq.), shall adopt such rules and regulations as the  
26 commissioner deems necessary to carry out the provisions of this  
27 act.

28

29 3. This act shall take effect <sup>5</sup>[<sup>4</sup>immediately] on the first day of  
30 the 18th month next following enactment, except that the  
31 Commissioner of Human Services may take any anticipatory  
32 administrative action in advance as shall be necessary for the  
33 implementation of this act<sup>4</sup>] immediately<sup>5</sup>.

34

35

36

37

38 Provides for presumptive eligibility for home and community-  
39 based services and services provided through program of all-inclusive  
40 care for the elderly under Medicaid.

# ASSEMBLY, No. 4049

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 19, 2022

**Sponsored by:**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Provides for presumptive eligibility for home and community-based services under Medicaid.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/2/2022)

1 AN ACT concerning presumptive eligibility for Medicaid home and  
2 community-based services and supplementing Title 30 of the  
3 Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. a. The Department of Human Services shall provide for the  
9 presumptive eligibility for home and community-based services  
10 under Medicaid for an individual who is: seeking home and  
11 community-based services; awaiting an eligibility determination for  
12 Medicaid and any applicable Medicaid waiver program offering  
13 home and community-based services; and likely to be financially  
14 and clinically eligible for Medicaid and any applicable Medicaid  
15 waiver program offering home and community-based services, as  
16 determined by the department.

17 b. The department shall provide Medicaid coverage for eligible  
18 home and community-based services to an individual who is  
19 granted presumptively eligibility pursuant to this section. Coverage  
20 provided under this subsection shall begin upon the receipt of an  
21 individual's request for services, pursuant to subsection c of this  
22 section, and shall be terminated if the individual is determined  
23 clinically or financially ineligible for home and community-based  
24 services under Medicaid during the eligibility determination  
25 process.

26 c. An individual seeking presumptive eligibility for home and  
27 community-based services under Medicaid shall submit a request to  
28 the department in a manner and form as determined by the  
29 commissioner.

30 d. The individual granted presumptive eligibility pursuant to this  
31 section shall be required to submit a completed application for  
32 Medicaid and any applicable Medicaid waiver program offering  
33 home and community-based services no later than the end of the  
34 month following the month in which presumptive eligibility is  
35 granted.

36 e. The department shall provide each individual granted  
37 presumptive eligibility pursuant to this section a written notice  
38 explaining the terms and conditions of presumptive eligibility and  
39 the home and community-based services the individual will be  
40 eligible to receive.

41 f. The commissioner shall apply for such State plan amendments  
42 or waivers as may be necessary to implement the provisions of this  
43 section and to secure federal financial participation for State  
44 Medicaid expenditures under the federal Medicaid program.

45 g. As used in this section:

46 "Commissioner" means the Commissioner of Human Services.

47 "Department" means Department of Human Services.

1 "Eligibility determination" means the administrative process by  
2 which the Division of Medical Assistance and Health Services in  
3 the Department of Human Services or a county welfare agency  
4 reviews a beneficiary's income, financial resources, and  
5 circumstances relating to the beneficiary's application for benefits  
6 received under Medicaid or any applicable Medicaid waiver  
7 program offering home and community-based services.

8 "Medicaid" means the Medicaid program established pursuant to  
9 P.L.1968, c.413 (C.30:4D-1 et seq.).

10  
11 2. The Commissioner of Human Services, in accordance with  
12 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
13 seq.), shall adopt such rules and regulations as the commissioner  
14 deems necessary to carry out the provisions of this act.

15  
16 3. This act shall take effect immediately.

17  
18  
19 STATEMENT

20  
21 This bill requires the Department of Human Services  
22 (department) to provide for the presumptive eligibility for home and  
23 community-based services under Medicaid for an individual who is:  
24 seeking home and community-based services; awaiting an  
25 eligibility determination for Medicaid and any applicable Medicaid  
26 waiver program offering home and community-based services; and  
27 likely to be financially and clinically eligible for Medicaid and any  
28 applicable Medicaid waiver program offering home and  
29 community-based services, as determined by the department.

30 The department will provide Medicaid coverage for eligible  
31 home and community-based services to an individual who is  
32 granted presumptively eligibility. Coverage will begin upon the  
33 receipt of an individual's request for services and will end if the  
34 individual is determined clinically or financially ineligible for home  
35 and community-based services under Medicaid during the eligibility  
36 determination process.

37 An individual seeking presumptive eligibility for home and  
38 community-based services under Medicaid will be required to  
39 submit a request to the department in a manner and form as  
40 determined by the Commissioner of Human Services  
41 (commissioner). The individual granted presumptive eligibility will  
42 be required to submit a completed application for Medicaid and any  
43 applicable Medicaid waiver program offering home and  
44 community-based services no later than the end of the month  
45 following the month in which presumptive eligibility is granted.  
46 The department will provide each individual granted presumptive  
47 eligibility pursuant to this bill a written notice explaining the terms



1 and conditions of presumptive eligibility and the home and  
2 community-based services the individual will be eligible to receive.

3 The commissioner will apply for such State plan amendments or  
4 waivers as may be necessary to implement the provisions of this bill  
5 and to secure federal financial participation for State Medicaid  
6 expenditures under the federal Medicaid program.

# ASSEMBLY AGING AND SENIOR SERVICES COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4049**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 2, 2022

The Assembly Aging and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 4049.

This bill, as amended, requires the Department of Human Services (department) to provide for the presumptive eligibility for home and community-based services under Medicaid for an individual who is: seeking home and community-based services; awaiting an eligibility determination for Medicaid and any applicable Medicaid waiver program offering home and community-based services; and likely to be financially and clinically eligible for Medicaid and any applicable Medicaid waiver program offering home and community-based services, as determined by the department.

The department will provide Medicaid coverage for eligible home and community-based services to an individual who is granted presumptive eligibility. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for home and community-based services under Medicaid during the eligibility determination process.

An individual seeking presumptive eligibility for home and community-based services under Medicaid will be required to submit a request to the department in a manner and form as determined by the Commissioner of Human Services (commissioner). An individual granted presumptive eligibility will be required to submit a completed application for Medicaid and any applicable Medicaid waiver program offering home and community-based services no later than the end of the month following the month in which presumptive eligibility is granted. The department will provide each individual granted presumptive eligibility pursuant to this bill a written notice explaining the terms and conditions of presumptive eligibility and the home and community-based services the individual will be eligible to receive.

The commissioner will apply for such State plan amendments or waivers as may be necessary to implement the provisions of this bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

COMMITTEE AMENDMENTS:

The committee amendments make technical changes to address issues related to grammar and syntax.

# ASSEMBLY HUMAN SERVICES COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 4049

with committee amendments

# STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2023

The Assembly Human Services Committee reports favorably and with committee amendments Assembly Bill No.4049 (1R).

As amended by the committee, this bill requires the Department of Human Services (department) to provide for the presumptive eligibility for home and community-based services, nursing home services, and programs of all-inclusive care for the elderly (PACE) under Medicaid for an individual who is: seeking home and community-based services, nursing home care or PACE enrollment; awaiting an eligibility determination for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE; and likely to be financially and clinically eligible for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE as determined by the department.

As amended, the department will provide Medicaid coverage for eligible home and community-based services, nursing home services, services provided through PACE to an individual who is granted presumptive eligibility. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

As amended, an individual seeking presumptive eligibility for home and community-based services, nursing home services, or services provided through PACE under Medicaid will be required to submit a request to the department in a manner and form as determined by the Commissioner of Human Services (commissioner). An individual granted presumptive eligibility will be required to submit a completed application for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE no later than the end of the month following the month in which presumptive eligibility

is granted. The department will provide each individual granted presumptive eligibility pursuant to this bill a written notice explaining the terms and conditions of presumptive eligibility and the home and community-based services, nursing home services, or services provided through PACE that the individual will be eligible to receive.

As amended, a home and community-based services provider, nursing home facility, or PACE center is to be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility, regardless if the individual granted presumptive eligibility is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

The commissioner will apply for such State plan amendments or waivers as may be necessary to implement the provisions of this bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

#### COMMITTEE AMENDMENTS

The committee amended the bill to require the department to provide presumptive eligibility for nursing home services and services provided through programs of all-inclusive care for the elderly (PACE) to eligible individuals under Medicaid. As introduced, the bill required the department to provide presumptive eligibility for home and community-based services to eligible individuals under Medicaid but did not require that the department provide such eligibility for nursing home services and services provided through PACE.

The committee amendments stipulate that a home and community-based services provider, nursing home facility, or PACE center is to be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility, regardless if the individual granted presumptive eligibility is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

The committee amended the bill to update the title and synopsis of the bill to reflect the changes to the bill.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

[Second Reprint]

## ASSEMBLY, No. 4049

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 28, 2023

The Assembly Budget Committee reports favorably and with committee amendments Assembly Bill No. 4049 (2R).

As amended by the committee, this bill requires the Department of Human Services (department) to provide for the presumptive eligibility for home and community-based services, nursing home services, and the program of all-inclusive care for the elderly (PACE) under Medicaid for an individual who is: seeking home and community-based services, nursing home care or PACE enrollment; awaiting an eligibility determination for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE; and likely to be financially and clinically eligible for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE as determined by the department.

As amended, the department will provide Medicaid coverage for eligible home and community-based services, nursing home services, services provided through PACE to an individual who is granted presumptive eligibility. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

As amended, an individual seeking presumptive eligibility for home and community-based services, nursing home services, or services provided through PACE under Medicaid will be required to submit a request to the department in a manner and form as determined by the Commissioner of Human Services (commissioner). An individual granted presumptive eligibility will be required to submit a completed application for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE no later than the end of the month following the month in which presumptive eligibility

is granted. The department will provide each individual granted presumptive eligibility pursuant to this bill a written notice explaining the terms and conditions of presumptive eligibility and the home and community-based services, nursing home services, or services provided through PACE that the individual will be eligible to receive.

As amended, a home and community-based services provider, nursing home facility, or PACE center is to be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility, regardless of whether the individual granted presumptive eligibility is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

The commissioner will apply for such State plan amendments or waivers as may be necessary to implement the provisions of this bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

#### COMMITTEE AMENDMENTS

The committee amendments make certain technical changes concerning cross-citations, punctuation, and grammar.

#### FISCAL IMPACT:

The Office of Legislative Services determines that requiring presumptive eligibility under Medicaid for home and community-based services, nursing home services, and programs of all-inclusive care for the elderly will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$24 million to \$99.5 million. Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant's care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for services provided to applicants during the presumptive eligibility period. Because State Medicaid expenditures are expected to be lower under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$12 million to \$49.8 million annually.

STATEMENT TO  
[Third Reprint]  
**ASSEMBLY, No. 4049**

with Senate Floor Amendments  
(Proposed by VITALE)

ADOPTED: DECEMBER 11, 2023

These Senate amendments revise the scope of the bill to eliminate provisions of the bill that would have provided presumptive eligibility for nursing home services to certain individuals and would have reimbursed nursing home facilities for the nursing home services provided to those individuals.

The Senate amendments revise the effective date of the bill to the first date of the 18th month after enactment and specify that the Commissioner of Human Services may take advance anticipatory administrative action as is needed for implementation.

The Senate amendments revise the title and synopsis of the bill to reflect these changes.



STATEMENT TO  
[Fourth Reprint]  
**ASSEMBLY, No. 4049**

with Senate Floor Amendments  
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 21, 2023

The floor amendments clarify that the provision of presumptive eligibility under the bill is for Medicaid, including where appropriate, eligibility for the managed long-term services and supports program, rather than for home and community-based services and services provided through the program of all-inclusive care for the elderly. The floor amendments further clarify that an individual who is awaiting an eligibility determination for Medicaid for the managed long-term services and supports program, rather than home and community-based services, and who is financially eligible for the managed long-term services and supports program, rather than home and community-based services, will qualify for the provision of presumptive eligibility under the bill, provided that the individual meets the existing requirement of seeking home and community-based services.

The floor amendments provide that the provision of presumptive eligibility under the bill is to occur within 30 months of the enactment of the bill and is contingent on securing all necessary federal approvals and federal financial participation as may be necessary.

The floor amendments require the Department of Human Services to assess the success of other jurisdictions in providing for presumptive eligibility for home and community-based services and related services for Medicaid recipients; consider methods for minimizing costs due to determinations of clinical or financial ineligibility; and engage with relevant stakeholders to determine how to best tailor the benefit to the needs of the Medicaid population when designing the presumptive eligibility program described in the bill.

The floor amendments provide that “home and community based services,” as used in the bill, means community-based services provided under the managed long term services and supports program or personal care assistant services provided in the home under New Jersey’s Medicaid State Plan.

The floor amendments provide that the provisions of the bill are to take effect immediately upon enactment, rather than on the first day of the 18th month next following enactment and with the Commissioner of Human Services being authorized to take any anticipatory administrative action in advance as is necessary for implementation.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 4049**

## **STATE OF NEW JERSEY 220th LEGISLATURE**

DATED: JUNE 19, 2023

### **SUMMARY**

- Synopsis:** Provides for presumptive eligibility for home and community-based services, nursing home services, and services provided through programs of all-inclusive care for the elderly under Medicaid.
- Type of Impact:** Annual net State cost savings and annual net State revenue losses.
- Agencies Affected:** Department of Human Services.

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>Net State Cost Savings</b>	\$24 million to \$99.5 million
<b>Net State Revenue Loss</b>	\$12 million to \$49.8 million

- The Office of Legislative Services (OLS) determines that requiring presumptive eligibility under Medicaid for home and community-based services (HCBS), nursing home services, and programs of all-inclusive care for the elderly (PACE) will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$24 million to \$99.5 million.
- Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant's care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for services provided to applicants during the presumptive eligibility period.
- Because State Medicaid expenditures are expected to be lower under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$12 million to \$49.8 million annually.

## **BILL DESCRIPTION**

This bill requires the Department of Human Services to provide for the presumptive eligibility for HCBS, nursing home services, and PACE under Medicaid. An individual seeking presumptive eligibility under this bill will be required to submit a request in a manner determined by the department. The department will provide each individual granted presumptive eligibility a written notice explaining the terms and conditions of presumptive eligibility and the services that the individual will be eligible to receive. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for such services during the eligibility determination process.

A provider is to be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility under the bill, regardless of whether the individual granted presumptive eligibility is determined to be clinically or financially ineligible during the eligibility determination process.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received; however, the following data was provided in the FY 2024 Governor's Budget. The data was utilized to establish the estimate discussed below.

<b><u>SERVICE</u></b>	<b><u>FY 2024 AVERAGE MONTHLY CLIENTS</u></b>	<b><u>FY 2024 AVERAGE COST PER CLIENT PER MONTH</u></b>
Nursing Home Services	25,231	\$6,827.73
Program of All-inclusive Care for the Elderly (PACE)	1,304	\$5,075.43
Community-Based Long Term Care Services (HCBS)	45,584	\$3,093.48

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

The OLS determines that requiring presumptive eligibility under Medicaid for HCBS, nursing home services, and PACE will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$24 million to \$99.5 million. Because State Medicaid expenditures are expected to be lower under the bill, State revenues are also expected to be lower by \$12 million to \$49.8 million annually from reduced federal reimbursements. Generally, presumptive eligibility provides individuals access to Medicaid services without having to wait for their application to be fully processed.

Cost savings occur under presumptive eligibility when an applicant's care needs can be met outside of a nursing home setting, which is typically more expensive than community-based care. Using retroactive eligibility, Medicaid applicants currently have more immediate access to nursing home services when the need for long-term care arises. Retroactive eligibility allows Medicaid providers to submit claims for eligible services provided three months prior to the beneficiary's eligibility determination. Generally, under retroactivity eligibility, a nursing home facility can

decide to assume the financial responsibility of providing three months of services with a delay in payment, and admit a resident with a pending Medicaid eligibility determination. Many HCBS and PACE providers, however, lack this financial flexibility.

Under this bill, Medicaid applicants will be able to use presumptive eligibility to equally access nursing home services, HCBS, and PACE from the time of initial need. Assuming that five to 15 percent of enrollees, who absent the bill would receive nursing home services, instead would receive home and community-based services under the bill, results in a \$56.5 million to \$169.6 million annual cost savings to the State. These savings would be reduced somewhat, however, from the increase in costs for services provided to applicants during the presumptive eligibility period. Based on studies and certain OLS assumptions regarding increased utilization of nursing home services, HCBS, and PACE by providing presumptive eligibility for applicants, the OLS estimates the total annual net cost savings to the State under the bill to be \$24 million to \$99.5 million. If a more dramatic shift occurs and more applicants pursue home and community-based services in favor of more costly nursing homes, State cost savings would be higher. The OLS notes that lower State Medicaid spending would also reduce revenues from federal reimbursements. The OLS estimates the annual net State revenue loss under this bill to be in the range of \$12 million to \$49.8 million.

The assumption of cost savings under presumptive eligibility is supported by multiple studies that determined that offering immediate access to home and community-based services, without waiting for the lengthy Medicaid eligibility determination process to be complete, is cost effective for states. For example, Colorado offered a “Fast Track” Medicaid financial eligibility program for HCBS to pilot program participants who were discharged from the hospital. The pilot program enrolled a total of 115 participants, at a total cost of \$106,879; by contrast, cost savings under the pilot program were estimated at \$407,012. Another study determined that a similar Washington state program saved Medicaid an average of \$1,964 per beneficiary each month by helping individuals access community services instead of institutional care.

The OLS notes several variables that may affect the cost of services under this bill, such as: the administrative costs associated with implementing the program; the unpredictability of how many applicants will submit requests for presumptive eligibility under the applicable programs, as well as the length of the presumptive eligibility period; provider capacity to deliver services to these applicants; and unknown components of the presumptive eligibility program that will be determined following enactment, such as the type of providers or staff who will be authorized to determine presumptive eligibility and the funding sources for service costs incurred for an individual who is determined ineligible for Medicaid.

*Section:* Human Services

*Analyst:* Sarah Schmidt  
Lead Research 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]

## ASSEMBLY, No. 4049

### STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 6, 2023

#### SUMMARY

- Synopsis:** Provides for presumptive eligibility for home and community-based services, nursing home services, and services provided through program of all-inclusive care for the elderly under Medicaid.
- Type of Impact:** Annual net State cost savings and annual net State revenue losses.
- Agencies Affected:** Department of Human Services.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>Net State Cost Savings</b>	\$24 million to \$99.5 million
<b>Net State Revenue Loss</b>	\$12 million to \$49.8 million

- The Office of Legislative Services (OLS) determines that requiring presumptive eligibility under Medicaid for home and community-based services (HCBS), nursing home services, and programs of all-inclusive care for the elderly (PACE) will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$24 million to \$99.5 million.
- Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant's care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for services provided to applicants during the presumptive eligibility period.
- Because State Medicaid expenditures are expected to be lower under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$12 million to \$49.8 million annually.

## **BILL DESCRIPTION**

This bill requires the Department of Human Services to provide for the presumptive eligibility for HCBS, nursing home services, and PACE under Medicaid. An individual seeking presumptive eligibility under this bill will be required to submit a request in a manner determined by the department. The department will provide each individual granted presumptive eligibility a written notice explaining the terms and conditions of presumptive eligibility and the services that the individual will be eligible to receive. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for such services during the eligibility determination process.

A provider will be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility under the bill, regardless of whether the individual granted presumptive eligibility is determined to be clinically or financially ineligible during the eligibility determination process.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received; however, the following data was provided in the FY 2024 Governor's Budget. These data were utilized to establish the estimate discussed below.

<b><u>SERVICE</u></b>	<b><u>FY 2024 AVERAGE MONTHLY CLIENTS</u></b>	<b><u>FY 2024 AVERAGE COST PER CLIENT PER MONTH</u></b>
Nursing Home Services	25,231	\$6,827.73
Program of All-inclusive Care for the Elderly (PACE)	1,304	\$5,075.43
Community-Based Long Term Care Services (HCBS)	45,584	\$3,093.48

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

The OLS determines that requiring presumptive eligibility under Medicaid for HCBS, nursing home services, and PACE will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$24 million to \$99.5 million. Because State Medicaid expenditures are expected to be lower under the bill, State revenues are also expected to be lower by \$12 million to \$49.8 million annually from reduced federal reimbursements. Generally, presumptive eligibility provides individuals access to Medicaid services without having to wait for their application to be fully processed.

Cost savings occur under presumptive eligibility when an applicant's care needs can be met outside of a nursing home setting, which is typically more expensive than community-based care. Using retroactive eligibility, Medicaid applicants currently have more immediate access to nursing home services when the need for long-term care arises. Retroactive eligibility allows Medicaid providers to submit claims for eligible services provided three months prior to the beneficiary's eligibility determination. Generally, under retroactivity eligibility, a nursing home facility can decide to assume the financial responsibility of providing three months of services with a delay in

payment, and admit a resident with a pending Medicaid eligibility determination. Many HCBS and PACE providers, however, lack this financial flexibility.

Under this bill, Medicaid applicants will be able to use presumptive eligibility to equally access nursing home services, HCBS, and PACE from the time of initial need. Assuming that five to 15 percent of enrollees, who absent the bill would receive nursing home services, instead would receive home and community-based services under the bill, results in a \$56.5 million to \$169.6 million annual cost savings to the State. These savings would be reduced somewhat, however, from the increase in costs for services provided to applicants during the presumptive eligibility period. Based on studies and certain OLS assumptions regarding increased utilization of nursing home services, HCBS, and PACE by providing presumptive eligibility for applicants, the OLS estimates the total annual net cost savings to the State under the bill to be \$24 million to \$99.5 million. If a more dramatic shift occurs and more applicants pursue home and community-based services, instead of more costly nursing homes, State cost savings would be higher. The OLS notes that lower State Medicaid spending would also reduce revenues from federal reimbursements. The OLS estimates the annual net State revenue loss under this bill to be in the range of \$12 million to \$49.8 million.

The assumption of cost savings under presumptive eligibility is supported by multiple studies that determined that offering immediate access to home and community-based services, without waiting for the lengthy Medicaid eligibility determination process to be complete, is cost effective for states. For example, Colorado offered a “Fast Track” Medicaid financial eligibility program for HCBS to pilot program participants who were discharged from the hospital. The pilot program enrolled a total of 115 participants, at a total cost of \$106,879; by contrast, cost savings under the pilot program were estimated at \$407,012. Another study determined that a similar Washington state program saved Medicaid an average of \$1,964 per beneficiary each month by helping individuals access community services instead of institutional care.

The OLS notes several variables that may affect the cost of services under this bill, such as: the administrative costs associated with implementing the program; the unpredictability of how many applicants will submit requests for presumptive eligibility under the applicable programs, as well as the length of the presumptive eligibility period; provider capacity to deliver services to these applicants; and unknown components of the presumptive eligibility program that will be determined following enactment, such as the type of providers or staff who will be authorized to determine presumptive eligibility and the funding sources for service costs incurred for an individual who is determined ineligible for Medicaid.

*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.).

# LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

**ASSEMBLY, No. 4049**

## **STATE OF NEW JERSEY 220th LEGISLATURE**

DATED: DECEMBER 22, 2023

### SUMMARY

- Synopsis:** Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid.
- Type of Impact:** Annual net State cost savings and annual net State revenue loss.
- Agencies Affected:** Department of Human Services

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>Net State Cost Savings</b>	\$17.2 million to \$62.7 million
<b>Net State Revenue Loss</b>	\$8.6 million to \$31.3 million

- The Office of Legislative Services (OLS) determines that requiring presumptive eligibility under Medicaid for home and community-based services (HCBS) and programs of all-inclusive care for the elderly (PACE) will reduce annual State Medicaid expenditures and result in annual net State cost savings of between \$17.2 million to \$62.7 million.
- Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant's care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for HCBS or PACE services provided to applicants during the presumptive eligibility period.
- Because State Medicaid expenditures are expected to decrease under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$8.6 million to \$31.3 million annually.



## **BILL DESCRIPTION**

The bill requires the Department of Human Services to provide for the presumptive eligibility for HCBS and PACE services under Medicaid. An individual seeking presumptive eligibility under this bill will be required to submit a request in a manner determined by the department. The department will provide each individual granted presumptive eligibility a written notice explaining the terms and conditions of presumptive eligibility and the services that the individual will be eligible to receive. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for such services during the eligibility determination process. A provider will be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility under the bill, regardless of whether the individual granted presumptive eligibility is determined to be clinically or financially ineligible during the eligibility determination process.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received; however, the following data was provided in the FY 2024 Governor's Budget. These data were utilized to establish the estimate discussed below.

<u>Service</u>	<u>FY2024 AVERAGE MONTHLY CLIENTS</u>	<u>FY 2024 AVERAGE COST PER CLIENT PER MONTH</u>
Nursing Home Services	25,231	\$6,827.73
Program of All-inclusive Care for the Elderly (PACE)	1,304	\$5,075.43
Community-Based Long Term Care Services (HCBS)	45,584	\$3,093.48

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

The OLS determines that requiring presumptive eligibility under Medicaid for HCBS and PACE services will reduce annual State Medicaid expenditures and result in annual net State cost savings of between \$17.2 million to \$62.7 million. Because State Medicaid expenditures are expected to decrease under the bill, State revenues are also expected to be lower by \$8.6 million to \$31.3 million annually from reduced federal reimbursements. Generally, presumptive eligibility provides individuals access to Medicaid services without having to wait for their application to be fully processed.

Cost savings occur under presumptive eligibility when an applicant's care needs can be met outside of a nursing home setting, which is typically more expensive than community-based care. Using retroactive eligibility, Medicaid applicants currently have more immediate access to nursing home services when the need for long-term care arises. Retroactive eligibility allows Medicaid providers to submit claims for eligible services provided in the three month window immediately prior to the beneficiary's eligibility determination. Generally, under retroactivity eligibility, a nursing home facility can decide to assume the financial responsibility of providing three months

of services with a delay in payment, and admit a resident with a pending Medicaid eligibility determination. Many HCBS and PACE providers, however, lack this financial flexibility.

Under this bill, Medicaid applicants will be able to use presumptive eligibility to access HCBS and PACE from the time of initial need. Assuming that five to 15 percent of enrollees, who absent the bill would receive nursing home services, instead would receive home and community-based services under the bill, results in a \$56.5 million to \$169.6 million annual cost savings to the State. These savings would be offset somewhat, however, from the increase in costs for services provided to applicants during the presumptive eligibility period. Based on studies and certain OLS assumptions regarding increased utilization of HCBS and PACE by providing presumptive eligibility for applicants, the OLS estimates the total annual net cost savings to the State under the bill to be \$17.2 million to \$62.7 million. If a more dramatic shift occurs and more applicants pursue home and community-based services, instead of more costly nursing homes, State cost savings would be higher. The OLS notes that lower State Medicaid spending would also reduce revenues from federal reimbursements. The OLS estimates the annual net State revenue loss under this bill to be in the range of \$8.6 million to \$31.3 million.

The assumption of cost savings under presumptive eligibility is supported by multiple studies that determined that offering immediate access to home and community-based services, without waiting for the lengthy Medicaid eligibility determination process to be complete, is cost effective for states. For example, Colorado offered a “Fast Track” Medicaid financial eligibility program for HCBS to pilot program participants who were discharged from the hospital. The pilot program enrolled a total of 115 participants, at a total cost of \$106,879; by contrast, cost savings under the pilot program were estimated at \$407,012. Another study determined that a similar Washington state program saved Medicaid an average of \$1,964 per beneficiary each month by helping individual’s access community services instead of institutional care.

The OLS notes several variables that may affect the cost of services under this bill, such as: the administrative costs associated with implementing the program; the unpredictability of how many applicants will submit requests for presumptive eligibility under the applicable programs, as well as the length of the presumptive eligibility period; provider capacity to deliver services to these applicants; and unknown components of the presumptive eligibility program that will be determined following enactment, such as the type of providers or staff who will be authorized to determine presumptive eligibility and the funding sources for service costs incurred for an individual who is determined ineligible for Medicaid.

*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.).

# LEGISLATIVE FISCAL ESTIMATE

[Fifth Reprint]

## ASSEMBLY, No. 4049

### STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 11, 2024

#### SUMMARY

- Synopsis:** Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid.
- Type of Impact:** Annual net State cost savings and annual net State revenue loss.
- Agencies Affected:** Department of Human Services.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>Net State Cost Savings</b>	\$17.2 million to \$62.7 million
<b>Net State Revenue Loss</b>	\$8.6 million to \$31.3 million

- The Office of Legislative Services (OLS) determines that requiring presumptive eligibility for Medicaid, including home and community based services (HCBS) accessed through the State’s managed long-term services and supports program and programs of all-inclusive care for the elderly (PACE), will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$17.2 million to \$62.7 million.
- Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant’s care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for HCBS or PACE services provided to applicants during the presumptive eligibility period.
- Because State Medicaid expenditures are expected to decrease under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$8.6 million to \$31.3 million annually.

## **BILL DESCRIPTION**

The bill requires the Department of Human Services to provide for the presumptive eligibility for the State Medicaid program including, where appropriate, eligibility for the managed long-term services and supports program for an individual seeking HCBS or PACE enrollment. An individual seeking presumptive eligibility under this bill will be required to submit a request in a manner determined by the department. The department will provide each individual granted presumptive eligibility a written notice explaining the terms and conditions of presumptive eligibility and the services that the individual will be eligible to receive. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for such services during the eligibility determination process. A provider will be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility under the bill, regardless of whether the individual granted presumptive eligibility is determined to be clinically or financially ineligible during the eligibility determination process.

The provision of presumptive eligibility for the services required under the bill will be contingent upon the receipt of all necessary federal approvals and securing federal reimbursement for State Medicaid expenditures.

In designing the presumptive eligibility program for HCBS and PACE services, the Department of Human Services will evaluate other states' initiatives to provide presumptive eligibility for HCBS for Medicaid enrollees, and consider procedures to minimize costs attributable to determinations of clinical or financial ineligibility for such services under the State Medicaid program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received; however, the following data was provided in the FY 2024 Governor's Budget. These data were utilized to establish the estimate discussed below.

<u>Service</u>	<u>FY2024 AVERAGE MONTHLY CLIENTS</u>	<u>FY 2024 AVERAGE COST PER CLIENT PER MONTH</u>
Nursing Home Services	25,231	\$6,827.73
Program of All-inclusive Care for the Elderly (PACE)	1,304	\$5,075.43
Community-Based Long Term Care Services (HCBS)	45,584	\$3,093.48

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

The OLS determines that requiring presumptive eligibility under Medicaid for the managed long-term services and supports program's HCBS and PACE services will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$17.2 million to \$62.7 million. Because State Medicaid expenditures are expected to decrease under the bill, State revenues are

also expected to be lower by \$8.6 million to \$31.3 million annually from reduced federal reimbursements. Generally, presumptive eligibility provides individuals access to Medicaid services without having to wait for their application to be fully processed.

Cost savings occur under presumptive eligibility when an applicant's care needs can be met outside of a nursing home setting, which is typically more expensive than community-based care. Using retroactive eligibility, Medicaid applicants currently have more immediate access to nursing home services when the need for long-term care arises. Retroactive eligibility allows Medicaid providers to submit claims for eligible services provided in the three month window immediately prior to the beneficiary's eligibility determination. Generally, under retroactivity eligibility, a nursing home facility can decide to assume the financial responsibility of providing three months of services with a delay in payment, and admit a resident with a pending Medicaid eligibility determination. Many HCBS and PACE providers, however, lack this financial flexibility.

Under this bill, Medicaid applicants will be able to use presumptive eligibility to access HCBS and PACE from the time of initial need. Assuming that five to 15 percent of enrollees, who absent the bill would receive nursing home services, instead would receive home and community-based services under the bill, results in a \$56.5 million to \$169.6 million annual cost savings to the State. These savings would be offset somewhat, however, from the increase in costs for services provided to applicants during the presumptive eligibility period. Based on studies and certain OLS assumptions regarding increased utilization of HCBS and PACE by providing presumptive eligibility for applicants, the OLS estimates the total annual net cost savings to the State under the bill to be \$17.2 million to \$62.7 million. If a more dramatic shift occurs and more applicants pursue home and community-based services, instead of more costly care provided in nursing homes, State cost savings would be higher. The OLS notes that lower State Medicaid spending would also reduce revenues from federal reimbursements. The OLS estimates the annual net State revenue loss under this bill to be in the range of \$8.6 million to \$31.3 million.

The assumption of cost savings under presumptive eligibility is supported by multiple studies that determined that offering immediate access to home and community-based services, without waiting for the lengthy Medicaid eligibility determination process to be complete, is cost effective for states. For example, Colorado offered a "Fast Track" Medicaid financial eligibility program for HCBS to pilot program participants who were discharged from the hospital. The pilot program enrolled a total of 115 participants, at a total cost of \$106,879; by contrast, cost savings under the pilot program were estimated at \$407,012. Another study determined that a similar Washington state program saved Medicaid an average of \$1,964 per beneficiary each month by helping individuals access community services instead of institutional care.

The OLS notes several variables that may affect the cost of services under this bill, such as: the administrative costs associated with implementing the program; the unpredictability of how many applicants will submit requests for presumptive eligibility under the applicable programs, as well as the length of the presumptive eligibility period; provider capacity to deliver services to these applicants; and unknown components of the presumptive eligibility program that will be determined following enactment, such as the type of providers or staff who will be authorized to determine presumptive eligibility and the funding sources for service costs incurred for an individual who is determined ineligible for Medicaid.

The Department of Human Services' administrative costs will increase by an indeterminate amount in order to comply with a provision in the bill that requires the department to assess other states' presumptive eligibility programs and to consider processes to minimize State Medicaid costs related to determinations of clinical or financial ineligibility for HCBS accessed through the managed long-term services and supports program.

*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.).

# SENATE, No. 3495

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 19, 2023

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Gill, Diegnan, Singer, Stanfield, Thompson, Turner and Ruiz**

**SYNOPSIS**

Provides for presumptive eligibility for home and community-based services under Medicaid.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/11/2023)**

1 AN ACT concerning presumptive eligibility for Medicaid home and  
2 community-based services and supplementing Title 30 of the  
3 Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. a. The Department of Human Services shall provide for the  
9 presumptive eligibility for home and community-based services  
10 under Medicaid for an individual who is: seeking home and  
11 community-based services; awaiting an eligibility determination for  
12 Medicaid and any applicable Medicaid waiver program offering  
13 home and community-based services; and likely to be financially  
14 and clinically eligible for Medicaid and any applicable Medicaid  
15 waiver program offering home and community-based services, as  
16 determined by the department.

17 b. The department shall provide Medicaid coverage for eligible  
18 home and community-based services to an individual who is  
19 granted presumptive eligibility pursuant to this section. Coverage  
20 provided under this subsection shall begin upon the receipt of an  
21 individual's request for services, pursuant to subsection c of this  
22 section, and shall be terminated if the individual is determined  
23 clinically or financially ineligible for home and community-based  
24 services under Medicaid during the eligibility determination  
25 process.

26 c. An individual seeking presumptive eligibility for home and  
27 community-based services under Medicaid shall submit a request to  
28 the department in a manner and form as determined by the  
29 commissioner.

30 d. An individual granted presumptive eligibility pursuant to  
31 this section shall be required to submit a completed application for  
32 Medicaid and any applicable Medicaid waiver program offering  
33 home and community-based services no later than the end of the  
34 month following the month in which presumptive eligibility is  
35 granted.

36 e. The department shall provide each individual granted  
37 presumptive eligibility pursuant to this section a written notice  
38 explaining the terms and conditions of presumptive eligibility and  
39 the home and community-based services the individual will be  
40 eligible to receive.

41 f. The commissioner shall apply for such State plan  
42 amendments or waivers as may be necessary to implement the  
43 provisions of this section and to secure federal financial  
44 participation for State Medicaid expenditures under the federal  
45 Medicaid program.

46 g. As used in this section:

47 "Commissioner" means the Commissioner of Human Services.

48 "Department" means Department of Human Services.



1 "Eligibility determination" means the administrative process by  
2 which the Division of Medical Assistance and Health Services in  
3 the Department of Human Services or a county welfare agency  
4 reviews a beneficiary's income, financial resources, and  
5 circumstances relating to the beneficiary's application for benefits  
6 received under Medicaid or any applicable Medicaid waiver  
7 program offering home and community-based services.

8 "Medicaid" means the Medicaid program established pursuant to  
9 P.L.1968, c.413 (C.30:4D-1 et seq.).

10  
11 2. The Commissioner of Human Services, in accordance with  
12 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
13 1 et seq.), shall adopt such rules and regulations as the  
14 commissioner deems necessary to carry out the provisions of this  
15 act.

16  
17 3. This act shall take effect immediately.

18  
19  
20 STATEMENT

21  
22 This bill requires the Department of Human Services  
23 (department) to provide for the presumptive eligibility for home and  
24 community-based services under Medicaid for an individual who is:  
25 seeking home and community-based services; awaiting an  
26 eligibility determination for Medicaid and any applicable Medicaid  
27 waiver program offering home and community-based services; and  
28 likely to be financially and clinically eligible for Medicaid and any  
29 applicable Medicaid waiver program offering home and  
30 community-based services, as determined by the department.

31 The department will provide Medicaid coverage for eligible  
32 home and community-based services to an individual who is  
33 granted presumptive eligibility. Coverage will begin upon the  
34 receipt of an individual's request for services and will end if the  
35 individual is determined clinically or financially ineligible for home  
36 and community-based services under Medicaid during the eligibility  
37 determination process.

38 An individual seeking presumptive eligibility for home and  
39 community-based services under Medicaid will be required to  
40 submit a request to the department in a manner and form as  
41 determined by the Commissioner of Human Services  
42 (commissioner). The individual granted presumptive eligibility will  
43 be required to submit a completed application for Medicaid and any  
44 applicable Medicaid waiver program offering home and  
45 community-based services no later than the end of the month  
46 following the month in which presumptive eligibility is granted.  
47 The department will provide each individual granted presumptive  
48 eligibility pursuant to this bill a written notice explaining the terms

**S3495 VITALE, JOHNSON**

4

1 and conditions of presumptive eligibility and the home and  
2 community-based services the individual will be eligible to receive.

3 The commissioner will apply for such State plan amendments or  
4 waivers as may be necessary to implement the provisions of this bill  
5 and to secure federal financial participation for State Medicaid  
6 expenditures under the federal Medicaid program.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 3495**

**STATE OF NEW JERSEY**

DATED: MAY 11, 2023

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 3495.

This bill requires the Department of Human Services (department) to provide for the presumptive eligibility for home and community-based services under Medicaid for an individual who is: seeking home and community-based services; awaiting an eligibility determination for Medicaid and any applicable Medicaid waiver program offering home and community-based services; and likely to be financially and clinically eligible for Medicaid and any applicable Medicaid waiver program offering home and community-based services, as determined by the department.

The department will provide Medicaid coverage for eligible home and community-based services provided to an individual who is granted presumptive eligibility. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for home and community-based services under Medicaid during the eligibility determination process.

An individual seeking presumptive eligibility under the bill will be required to submit a request to the department in a manner and form as determined by the Commissioner of Human Services (commissioner). The individual granted presumptive eligibility will be required to submit a completed application for Medicaid and any applicable Medicaid waiver program offering home and community-based services no later than the end of the month following the month in which presumptive eligibility is granted. The department will provide each individual granted presumptive eligibility pursuant to this bill a written notice explaining the terms and conditions of presumptive eligibility and the services the individual will be eligible to receive.

The commissioner will apply for such State plan amendments or waivers as may be necessary to implement the provisions of this bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3495**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3495.

As amended by the committee, this bill requires the Department of Human Services (department) to provide for the presumptive eligibility for home and community-based services, nursing home services, and the program of all-inclusive care for the elderly (PACE) under Medicaid for an individual who is: seeking home and community-based services, nursing home care or PACE enrollment; awaiting an eligibility determination for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE; and likely to be financially and clinically eligible for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE as determined by the department.

As amended, the department will provide Medicaid coverage for eligible home and community-based services, nursing home services, services provided through PACE to an individual who is granted presumptive eligibility. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

As amended, an individual seeking presumptive eligibility for home and community-based services, nursing home services, or services provided through PACE under Medicaid will be required to submit a request to the department in a manner and form as determined by the Commissioner of Human Services (commissioner). An individual granted presumptive eligibility will be required to submit a completed application for Medicaid and any applicable Medicaid waiver program offering home and community-based services, nursing home services, or services provided through PACE no later than the end of the month following the month in which presumptive eligibility is granted. The department will provide each individual granted presumptive eligibility pursuant to this bill a written notice explaining

the terms and conditions of presumptive eligibility and the home and community-based services, nursing home services, or services provided through PACE that the individual will be eligible to receive.

As amended, a home and community-based services provider, nursing home facility, or PACE center is to be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility, regardless of whether the individual granted presumptive eligibility is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

The commissioner will apply for such State plan amendments or waivers as may be necessary to implement the provisions of this bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

#### COMMITTEE AMENDMENTS:

The committee amendments require the department to provide presumptive eligibility for nursing home services and services provided through programs of all-inclusive care for the elderly (PACE) to eligible individuals under Medicaid. As introduced, the bill only provided presumptive eligibility for home and community-based services.

The committee amendments stipulate that a home and community-based services provider, nursing home facility, or PACE center is to be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility, regardless of whether the individual granted presumptive eligibility is determined clinically or financially ineligible for home and community-based services, nursing home services, or services provided through PACE under Medicaid during the eligibility determination process.

The committee amendments revise the title and synopsis of the bill to reflect these changes.

The committee amendments make certain technical changes concerning cross-citations, punctuation, and grammar.

#### FISCAL IMPACT:

The Office of Legislative Services determines that requiring presumptive eligibility under Medicaid for home and community-based services, nursing home services, and programs of all-inclusive care for the elderly will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$24 million to \$99.5 million. Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant's care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for services provided to applicants during the presumptive

eligibility period. Because State Medicaid expenditures are expected to be lower under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$12 million to \$49.8 million annually.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 3495**

with Senate Floor Amendments  
(Proposed by VITALE)

ADOPTED: DECEMBER 11, 2023

These Senate amendments revise the scope of the bill to eliminate provisions of the bill that would have provided presumptive eligibility for nursing home services to certain individuals and would have reimbursed nursing home facilities for the nursing home services provided to those individuals.

The Senate amendments revise the effective date of the bill to the first date of the 18th month after enactment and specify that the Commissioner of Human Services may take advance anticipatory administrative action as is needed for implementation.

The Senate amendments revise the title and synopsis of the bill to reflect these changes.

STATEMENT TO  
[Second Reprint]  
**SENATE, No. 3495**

with Senate Floor Amendments  
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 21, 2023

The floor amendments clarify that the provision of presumptive eligibility under the bill is for Medicaid, including where appropriate, eligibility for the managed long-term services and supports program, rather than for home and community-based services and services provided through the program of all-inclusive care for the elderly. The floor amendments further clarify that an individual who is awaiting an eligibility determination for Medicaid for the managed long-term services and supports program, rather than home and community-based services, and who is financially eligible for the managed long-term services and supports program, rather than home and community-based services, will qualify for the provision of presumptive eligibility under the bill, provided that the individual meets the existing requirement of seeking home and community-based services.

The floor amendments provide that the provision of presumptive eligibility under the bill is to occur within 30 months of the enactment of the bill and is contingent on securing all necessary federal approvals and federal financial participation as may be necessary.

The floor amendments require the Department of Human Services to assess the success of other jurisdictions in providing for presumptive eligibility for home and community-based services and related services for Medicaid recipients; consider methods for minimizing costs due to determinations of clinical or financial ineligibility; and engage with relevant stakeholders to determine how to best tailor the benefit to the needs of the Medicaid population when designing the presumptive eligibility program described in the bill.

The floor amendments provide that “home and community based services,” as used in the bill, means community-based services provided under the managed long term services and supports program or personal care assistant services provided in the home under New Jersey’s Medicaid State Plan.

The floor amendments provide that the provisions of the bill are to take effect immediately upon enactment, rather than on the first day of the 18th month next following enactment and with the Commissioner of Human Services being authorized to take any anticipatory administrative action in advance as is necessary for implementation.



# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3495

## STATE OF NEW JERSEY 220th LEGISLATURE

DATED: DECEMBER 22, 2023

### SUMMARY

- Synopsis:** Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid.
- Type of Impact:** Annual net State cost savings and annual net State revenue loss.
- Agencies Affected:** Department of Human Services

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>Net State Cost Savings</b>	\$17.2 million to \$62.7 million
<b>Net State Revenue Loss</b>	\$8.6 million to \$31.3 million

- The Office of Legislative Services (OLS) determines that requiring presumptive eligibility under Medicaid for home and community-based services (HCBS) and programs of all-inclusive care for the elderly (PACE) will reduce annual State Medicaid expenditures and result in annual net State cost savings of between \$17.2 million to \$62.7 million.
- Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant's care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for HCBS or PACE services provided to applicants during the presumptive eligibility period.
- Because State Medicaid expenditures are expected to decrease under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$8.6 million to \$31.3 million annually.

## **BILL DESCRIPTION**

The bill requires the Department of Human Services to provide for the presumptive eligibility for HCBS and PACE services under Medicaid. An individual seeking presumptive eligibility under this bill will be required to submit a request in a manner determined by the department. The department will provide each individual granted presumptive eligibility a written notice explaining the terms and conditions of presumptive eligibility and the services that the individual will be eligible to receive. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for such services during the eligibility determination process. A provider will be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility under the bill, regardless of whether the individual granted presumptive eligibility is determined to be clinically or financially ineligible during the eligibility determination process.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received; however, the following data was provided in the FY 2024 Governor's Budget. These data were utilized to establish the estimate discussed below.

<u>Service</u>	<u>FY2024 AVERAGE MONTHLY CLIENTS</u>	<u>FY 2024 AVERAGE COST PER CLIENT PER MONTH</u>
Nursing Home Services	25,231	\$6,827.73
Program of All-inclusive Care for the Elderly (PACE)	1,304	\$5,075.43
Community-Based Long Term Care Services (HCBS)	45,584	\$3,093.48

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

The OLS determines that requiring presumptive eligibility under Medicaid for HCBS and PACE services will reduce annual State Medicaid expenditures and result in annual net State cost savings of between \$17.2 million to \$62.7 million. Because State Medicaid expenditures are expected to decrease under the bill, State revenues are also expected to be lower by \$8.6 million to \$31.3 million annually from reduced federal reimbursements. Generally, presumptive eligibility provides individuals access to Medicaid services without having to wait for their application to be fully processed.

Cost savings occur under presumptive eligibility when an applicant's care needs can be met outside of a nursing home setting, which is typically more expensive than community-based care. Using retroactive eligibility, Medicaid applicants currently have more immediate access to nursing home services when the need for long-term care arises. Retroactive eligibility allows Medicaid providers to submit claims for eligible services provided in the three month window immediately prior to the beneficiary's eligibility determination. Generally, under retroactivity eligibility, a nursing home facility can decide to assume the financial responsibility of providing three months

of services with a delay in payment, and admit a resident with a pending Medicaid eligibility determination. Many HCBS and PACE providers, however, lack this financial flexibility.

Under this bill, Medicaid applicants will be able to use presumptive eligibility to access HCBS and PACE from the time of initial need. Assuming that five to 15 percent of enrollees, who absent the bill would receive nursing home services, instead would receive home and community-based services under the bill, results in a \$56.5 million to \$169.6 million annual cost savings to the State. These savings would be offset somewhat, however, from the increase in costs for services provided to applicants during the presumptive eligibility period. Based on studies and certain OLS assumptions regarding increased utilization of HCBS and PACE by providing presumptive eligibility for applicants, the OLS estimates the total annual net cost savings to the State under the bill to be \$17.2 million to \$62.7 million. If a more dramatic shift occurs and more applicants pursue home and community-based services, instead of more costly nursing homes, State cost savings would be higher. The OLS notes that lower State Medicaid spending would also reduce revenues from federal reimbursements. The OLS estimates the annual net State revenue loss under this bill to be in the range of \$8.6 million to \$31.3 million.

The assumption of cost savings under presumptive eligibility is supported by multiple studies that determined that offering immediate access to home and community-based services, without waiting for the lengthy Medicaid eligibility determination process to be complete, is cost effective for states. For example, Colorado offered a “Fast Track” Medicaid financial eligibility program for HCBS to pilot program participants who were discharged from the hospital. The pilot program enrolled a total of 115 participants, at a total cost of \$106,879; by contrast, cost savings under the pilot program were estimated at \$407,012. Another study determined that a similar Washington state program saved Medicaid an average of \$1,964 per beneficiary each month by helping individual’s access community services instead of institutional care.

The OLS notes several variables that may affect the cost of services under this bill, such as: the administrative costs associated with implementing the program; the unpredictability of how many applicants will submit requests for presumptive eligibility under the applicable programs, as well as the length of the presumptive eligibility period; provider capacity to deliver services to these applicants; and unknown components of the presumptive eligibility program that will be determined following enactment, such as the type of providers or staff who will be authorized to determine presumptive eligibility and the funding sources for service costs incurred for an individual who is determined ineligible for Medicaid.

*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.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 3495 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 10, 2024

### SUMMARY

- Synopsis:** Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid.
- Type of Impact:** Annual net State cost savings and annual net State revenue loss.
- Agencies Affected:** Department of Human Services.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>Net State Cost Savings</b>	\$17.2 million to \$62.7 million
<b>Net State Revenue Loss</b>	\$8.6 million to \$31.3 million

- The Office of Legislative Services (OLS) determines that requiring presumptive eligibility for Medicaid, including home and community based services (HCBS) accessed through the State’s managed long-term services and supports (MLTSS) program and programs of all-inclusive care for the elderly (PACE), will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$17.2 million to \$62.7 million.
- Providing for presumptive eligibility under Medicaid for these services would result in State cost savings by allowing for an applicant’s care needs to be met outside of a nursing home setting and, instead, via less expensive community-based care. The magnitude of cost savings, however, will be reduced somewhat due to increased costs for HCBS or PACE services provided to applicants during the presumptive eligibility period.
- Because State Medicaid expenditures are expected to decrease under the bill, State revenues are also expected to be lower from reduced federal reimbursements. The net State revenue loss is estimated at \$8.6 million to \$31.3 million annually.

## **BILL DESCRIPTION**

The bill requires the Department of Human Services to provide for the presumptive eligibility for the State Medicaid program including, where appropriate, eligibility for the MLTSS for an individual seeking HCBS or PACE enrollment. An individual seeking presumptive eligibility under this bill will be required to submit a request in a manner determined by the department. The department will provide each individual granted presumptive eligibility a written notice explaining the terms and conditions of presumptive eligibility and the services that the individual will be eligible to receive. Coverage will begin upon the receipt of an individual's request for services and will end if the individual is determined clinically or financially ineligible for such services during the eligibility determination process. A provider will be reimbursed for all Medicaid-eligible services rendered to an individual who has been granted presumptive eligibility under the bill, regardless of whether the individual granted presumptive eligibility is determined to be clinically or financially ineligible during the eligibility determination process.

The provision of presumptive eligibility for the services required under the bill will be contingent upon the receipt of all necessary federal approvals and securing federal reimbursement for State Medicaid expenditures.

In designing the presumptive eligibility program for HCBS and PACE services, as required under the bill, the Department of Human Services will evaluate other states' initiatives to provide presumptive eligibility for HCBS for Medicaid enrollees, and consider procedures to minimize costs attributable to determinations of clinical or financial ineligibility for such services under the State Medicaid program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received; however, the following data was provided in the FY 2024 Governor's Budget. These data were utilized to establish the estimate discussed below.

<u>Service</u>	<u>FY2024 AVERAGE MONTHLY CLIENTS</u>	<u>FY 2024 AVERAGE COST PER CLIENT PER MONTH</u>
Nursing Home Services	25,231	\$6,827.73
Program of All-inclusive Care for the Elderly (PACE)	1,304	\$5,075.43
Community-Based Long Term Care Services (HCBS)	45,584	\$3,093.48

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

The OLS determines that requiring presumptive eligibility under Medicaid for the MLTSS program's HCBS and PACE services will reduce annual State Medicaid expenditures and result in annual net State cost savings of \$17.2 million to \$62.7 million. Because State Medicaid expenditures are expected to decrease under the bill, State revenues are also expected to be lower by \$8.6 million to \$31.3 million annually from reduced federal reimbursements. Generally,

presumptive eligibility provides individuals access to Medicaid services without having to wait for their application to be fully processed.

Cost savings occur under presumptive eligibility when an applicant's care needs can be met outside of a nursing home setting, which is typically more expensive than community-based care. Using retroactive eligibility, Medicaid applicants currently have more immediate access to nursing home services when the need for long-term care arises. Retroactive eligibility allows Medicaid providers to submit claims for eligible services provided in the three month window immediately prior to the beneficiary's eligibility determination. Generally, under retroactivity eligibility, a nursing home facility can decide to assume the financial responsibility of providing three months of services with a delay in payment, and admit a resident with a pending Medicaid eligibility determination. Many HCBS and PACE providers, however, lack this financial flexibility.

Under this bill, Medicaid applicants will be able to use presumptive eligibility to access HCBS and PACE from the time of initial need. Assuming that five to 15 percent of enrollees, who absent the bill would receive nursing home services, instead would receive home and community-based services under the bill, results in a \$56.5 million to \$169.6 million annual cost savings to the State. These savings would be offset somewhat, however, from the increase in costs for services provided to applicants during the presumptive eligibility period. Based on studies and certain OLS assumptions regarding increased utilization of HCBS and PACE by providing presumptive eligibility for applicants, the OLS estimates the total annual net cost savings to the State under the bill to be \$17.2 million to \$62.7 million. If a more dramatic shift occurs and more applicants pursue home and community-based services, instead of more costly care provided in nursing homes, State cost savings would be higher. The OLS notes that lower State Medicaid spending would also reduce revenues from federal reimbursements. The OLS estimates the annual net State revenue loss under this bill to be in the range of \$8.6 million to \$31.3 million.

The assumption of cost savings under presumptive eligibility is supported by multiple studies that determined that offering immediate access to home and community-based services, without waiting for the lengthy Medicaid eligibility determination process to be complete, is cost effective for states. For example, Colorado offered a "Fast Track" Medicaid financial eligibility program for HCBS to pilot program participants who were discharged from the hospital. The pilot program enrolled a total of 115 participants, at a total cost of \$106,879; by contrast, cost savings under the pilot program were estimated at \$407,012. Another study determined that a similar Washington state program saved Medicaid an average of \$1,964 per beneficiary each month by helping individuals access community services instead of institutional care.

The OLS notes several variables that may affect the cost of services under this bill, such as: the administrative costs associated with implementing the program; the unpredictability of how many applicants will submit requests for presumptive eligibility under the applicable programs, as well as the length of the presumptive eligibility period; provider capacity to deliver services to these applicants; and unknown components of the presumptive eligibility program that will be determined following enactment, such as the type of providers or staff who will be authorized to determine presumptive eligibility and the funding sources for service costs incurred for an individual who is determined ineligible for Medicaid.

The Department of Human Services' administrative costs will increase by an indeterminate amount in order to comply with a provision in the bill that requires the department to assess other states' presumptive eligibility programs and to consider processes to minimize State Medicaid costs related to determinations of clinical or financial ineligibility for HCBS accessed through the MLTSS program.

*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

01/16/2024

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

**SCS for S-281/ACS for A-3791 (Greenstein, Turner/Sumter, Reynolds-Jackson) – w/STATEMENT** - Concerns automatic fire sprinkler systems within newly constructed townhouses

[Copy of Statement](#)

**S-539wGR/A-2140 (Ruiz, Pou/Reynolds-Jackson, Wimberly, Mosquera)** - Permits online purchase of eligible foods using WIC funds and use of WIC funds for grocery delivery charges

**S-659/A-2014 (Oroho, Greenstein/Conaway, Wirths, Umba)** - “Manufacturing in Higher Education Act”; requires various State entities to promote manufacturing career pathways for students and provides assistance to manufacturing industry

**S-1110/A-3936 (Polistina, Singleton/Guardian, Swift, McClellan)** - Authorizes CRDA to finance transportation projects between Atlantic City Airport and Atlantic City Tourism District

**S-1662/A-3526 (Ruiz, Codey/Lampitt, Benson, Saucikie)** - Requires NJ Youth Suicide Prevention Advisory Council to prepare report regarding suicide prevention instruction in public schools

**S-1680wGR/A-2257 (Pou, Ruiz/Murphy, Quijano, Wimberly)** - Designates each community college in State as provider of allowable services under SNAP employment and training program

**S-2076/ACS for A-3319 (Zwicker, Greenstein/McKnight, Lampitt)** - Establishes “Twelfth Grade Postsecondary Transition Year Pilot Program” in Department of Education

**S-2535wGR/A-4048 (Polistina, Pou/Benson, McKnight, Reynolds-Jackson, Carter)** - Requires health benefits coverage of hearing aids and cochlear implants

**S-2841/A-4292 (Scutari, Bramnick/Carter)** - Raises minimum amount of liability coverage for commercial motor vehicles and autocabs

**SCS for S-3080/ACS for-398 (Ruiz, Burgess/Caputo, Giblin, Tucker)** - Establishes position of Youth Disconnection Prevention and Recovery Ombudsperson; establishes “School Disconnection Prevention Task Force”; appropriates \$200,000

**S-3102/A-4715 (Smith, Singleton/Stanley, Benson)** - Establishes uptime requirement for electric vehicle charging station incentive programs

**S-3176/A-4760 (Greenstein, Smith/Swain, Haider, Tully)** - Requires DEP and Drinking Water Quality Institute to perform study concerning regulation and treatment of perfluoroalkyl and polyfluoroalkyl substances

**SCS for S-3632 and 3649w/GR/ACS for A-1948 (Johnson, Cryan/Haider, Conaway, Quijano)** - Requires labeling of non-flushable disposable wipes

**S-3758/A-5343 (Cryan/Karabinchak)** - Changes deadline for unaffiliated mail-in voters to declare their political party before primary election

**S-3837/A-5438 (Pou, Cruz-Perez/Pintor Marin, Wimberly)** - Clarifies process for administrative appropriations to UEZs

**S-3897/A-5578 (Ruiz, Sarlo/Jasey, Carter, Reynolds-Jackson)** - Authorizes Higher Education Student Assistance Authority to award annual summer tuition aid grants

**S-4040/A-5881 (Polistina, Lagana/Tully, Guardian, Swift)** - Concerns jurisdiction and operations of regional municipal courts

**S-4084/A-5851 (Ruiz, Cruz-Perez/Moriarty, Calabrese, Moen)** - Concerns temporary registration certificates and license plates

**S-4130/A-5849 (Codey/Jasey, Tucker)** - Special legislation to change name of “Township of South Orange Village” to “South Orange Village”; changes titles of certain municipal officials; permits nonpartisan municipal elections to be moved to November; permits stipend for governing body members

**S-4206/A-5856 (Sarlo/Calabrese)** - Changes number of signatures required on primary election petition to nominate certain municipal candidates in certain municipalities

**S-4209/A-5879 (Sarlo/Pintor Marin)** - Eliminates vote on school budgets for Type II school districts in April elections, except for separate proposals to spend above cap

**S-4268/A-5911 (Scutari/Danielsen)** - Permits certain special State officers to represent cannabis businesses

**A-203/S-2884 (Rooney, Benson, Caputo/A.M. Bucco)** - Authorizes creation of special license plates commemorating horse as State animal

**A-1100/S-995 (Calabrese, Mukherji, McKnight/Ruiz, Stack)** - Requires entities to remove abandoned lines and mark information on certain lines

**A-1107/S-770 (Chaparro, Murphy, Mukherji/Pou, Beach)** - Directs Chief Technology Officer to conduct study on impacts of redacting handwritten signatures published on State websites; allows for protocols for such redactions to be established by rules and regulations

**ACS for A-1255/SS for S-1794 (Stanley, Conaway, Benson/Gopal, Singer)** - Updates requirements and standards for authorization and prior authorization of health care services

**A-1727/S-3300 (Speight, Reynolds-Jackson, Verrelli/Stanfield, Ruiz)** - Requires Attorney General to perform outreach and provide services to victims of human trafficking under certain circumstances

**A-1729/S-3550 (Speight, Reynolds-Jackson, McKnight/Greenstein, Ruiz)** - Requires AG to address human trafficking in underserved communities

**A-1755/S-2505 (McKeon, Calabrese, Conaway/Smith, Greenstein)** - Requires installation of operational automatic rain sensor or smart sprinkler as condition of sale of certain real properties, and on certain commercial, retail, and industrial properties and common interest communities within specified timeframes

**A-2146wGR/S-855 (Reynolds-Jackson, Wimberly, Sumter/Singleton, Beach)** - Creates State business assistance program to establish contracting agency procurement goals for socially and economically disadvantaged business enterprises

**A-2581/S-2503 (Lampitt, Park/Beach)** - Provides that certain cosmetology and hairstyling courses may be taught using distance learning technology

**A-3142/S-1564 (Moen, Moriarty, Benson/Singleton, Corrado)** - Authorizes grants to purchase and rehabilitate abandoned homes for homeless veterans

**A-3211/S-2302 (Speight, Haider, Swain/Gopal, Ruiz)** - Establishes “New Jersey Feminine Hygiene Products for the Homeless Act”

**A-3980/S-2706 (Speight, McKnight, Atkins/Zwicker, Turner)** - Grants child placed in resource family care and resource family parents the right to be notified when case manager or supervisor is assigned to child; grants child in resource family care right to be notified of certain property and benefits

**A-4033wGR/S-2657 (Coughlin, Wimberly/Sarlo, Ruiz)** - Extends deadline for completion of school district’s annual audit

**A-4049/S-3495 (McKnight, Reynolds-Jackson, Benson/Vitale, Johnson)** - Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid

**A-4105/S-4202 (Lopez, Jimenez, Quijano/Vitale, Turner)** - Establishes Interagency Council on Homelessness

**A-4183/S-4264 (Haider/Singleton)** - Concerns local unit filing requirement for certain shared services agreements



**A-4212/S-2762 (Pintor Marin, Reynolds-Jackson, Verrelli/Ruiz, Cunningham)** - Establishes Center for Career Relevant Education and Talent Evaluation of New Jersey at Thomas Edison State University

**A-4337/S-4156 (Conaway, Atkins, Rooney/Singleton, Pou)** - Requires Department of Health to provide information to Statewide 2-1-1 telephone system regarding the location of safe disposal sites for hypodermic syringes and needles and prescription drugs

**ACS for A-4496/SCS for S-3247 (Coughlin, Lampitt, Karabinchak, Wimberly/Zwicker, Greenstein)** - Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority; establishes "Charter School and Renaissance School Project Facilities Loan Program" in EDA

**A-4522/S-3234 (Moen, McKnight, Quijano/Singer, Singleton)** - Requires certain disclosures by sellers of single-family homes with solar panels installed

**A-4691/S-1530 (Swain, DeAngelo, Speight/Greenstein, Zwicker)** - Requires hazard mitigation plans to include climate change-related threat assessments and hazard prevention and mitigation strategies

**A-4723/S-2740 (McKeon, Moriarty, Rooney/Codey, Scutari)** - Requires motor vehicle dealer to offer to delete personal information in motor vehicles in certain situations

**A-4791/S-3184 (Kennedy, Haider, McKeon/Diegnan, Sarlo)** - Establishes "Resiliency and Environmental System Investment Charge Program"

**ACS for A-4794/S-3224 (Benson, Mukherji/Singleton, Turner)** - Requires request for proposal to establish demonstration projects to develop electric vehicle charging depots serviced by distributed energy resource charging centers for certain electric vehicle use

**A-4814/S-1023 (Moen, Wimberly/Singleton, Gopal)** - Removes expected family contribution from calculation of financial need under circumstances in which public institutions of higher education may reduce student's institutional financial aid

**ACS for A-4821 and 4823wGR/S-3283 (Karabinchak, Conaway, Schaer/Greenstein, Zwicker)** - Directs DEP to take certain actions concerning identification and testing of microplastics in drinking water, and requires DEP and BPU to study and promote use of microplastics removal technologies

**A-4955/S-3531 (S. Kean, Thomson/Singer, Gopal)** - Designates portion of State Highway Route 71 as "John Tarantino Highway"

**A-5094/S-3476 (Spearman/Beach, Greenstein)** - Concerns licensing of security officer companies

**A-5227/S-3662 (Danielsen, Space/Smith, Oroho)** - Expands eligibility for "fishing buddy license" fee

**A-5285/SCS for S-3708 (Greenwald, Haider, Lopez/Greenstein, A.M. Bucco)** - Requires copies of certain law enforcement records to be provided to victims of domestic violence upon request

**A-5293/S-3746 (Greenwald, McKnight, Rooney/Gopal, Ruiz)** - Concerns New Jersey Civic Information Consortium

**A-5311/S-3061 (Verrelli, McKnight, Matsikoudis/Stanfield, Turner)** - Enters New Jersey into Counseling Compact

**A-5391/S-3765 (DeAngelo/Diegnan, Corrado)** - Imposes conditions on drivers approaching disabled vehicles

**A-5412/S-3850 (Greenwald, Swain, Jasey/Gopal, Singer)** - Establishes nonpublic school transportation program to provide funding to consortiums of nonpublic schools that will assume responsibility for mandated nonpublic school busing

**A-5416wGR/S-3883 (Wimberly, Giblin, Haider/Greenstein, Turner)** - Requires State Board of Education to authorize alternate route to expedite teacher certification of persons employed as paraprofessionals in school districts

**A-5442/S-3793 (Karabinchak, Conaway, McKeon/Smith, Greenstein)** - Directs BPU to conduct study to determine feasibility, marketability, and costs of implementing large-scale geothermal heat pump systems in State

**A-5462/S-3867 (Coughlin, McKnight, Speight/Vitale, Turner)** - Revises law establishing Office of Food Security Advocate, and establishes certain conditions for use of monies appropriated to emergency food organizations

**ACS for A-5495/SCS for S-3846 (Danielsen/Scutari, A.M. Bucco)** - Clarifies types of firearms allowed to be carried or transported while hunting

**A-5516/S-4047 (Reynolds-Jackson, Verrelli, Conaway/Burgess, Turner)** - Requires certain health care professionals to undergo bias training

**A-5565/S-3971 (S. Kean, Thomson/Gopal)** - Provides that 10-year term does not apply to lease of certain municipal properties unless they are waterfront properties or related to waterfront concessions

**A-5567/S-3807 (Torrissi, Calabrese/A.M. Bucco, Sarlo)** - Extends period of usefulness of fire engines for bonding purposes from 10 to 20 years; eliminates exclusion of passenger cars and station wagons

**A-5582/S-3781 (Swain, Simonsen/Lagana, Cryan)** - Establishes grant program for NJ YouthBuild programs through DOLWD; makes appropriation

**A-5610wGR/S-3954 (Greenwald, Spearman, Chaparro/Beach, A.M. Bucco)** - Revises penalties for possession or consumption of alcoholic beverages by underage persons

**A-5748/S-4166 (Spearman, Moen, Moriarty/Cruz-Perez, Madden)** - Amends definition of "participating county" under County Option Hospital Fee Program

**A-5755/S-4183 (Carter, Sumter, Wimberly, Quijano/Scutari, Singleton)** - Enhances notice requirements and occupancy restrictions for hotels and multiple dwellings following determination of potentially hazardous condition

**A-5799/S-1472 (Moen, Moriarty/Beach, Stack)** - Authorizes DOT to establish and administer toll collection and enforcement system on behalf of NJ toll authorities and to enter into reciprocal agreements for enforcement of toll violations with toll authorities from other states

**A-5806/S-4165 (Moriarty, Sauickie/Greenstein, Oroho)** - Appropriates \$48 million from constitutionally dedicated CBT revenues to DEP for State acquisition of lands for recreation and conservation purposes, including Blue Acres projects, and Green Acres Program administrative costs

**A-5807/S-4138 (Freiman/Johnson, Schepisi)** - Appropriates \$58 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects

**A-5808/S-4135 (Park, Freiman, Lopez/Beach, Turner)** - Appropriates \$15,564,293 from constitutionally dedicated CBT revenues to NJ Historic Trust for grants for certain historic preservation projects and associated administrative expenses

**A-5809/S-4097 (Swain, Lopez, Sauickie/Zwicker, Gopal)** - Amends lists of projects eligible to receive loans for environmental infrastructure projects from NJ Infrastructure Bank for FY 2024

**A-5810/S-4098 (Sampson, Sauickie, Lopez/Greenstein, Stanfield)** - Amends lists of environmental infrastructure projects approved for long-term funding by DEP under FY 2024 environmental infrastructure funding program

**A-5828/S-4201 (Lopez/Vitale)** - Authorizes State Treasurer to sell as surplus certain real property and improvements in Township of Woodbridge in Middlesex County

**A-5835/S-4134 (Greenwald, Lampitt/Beach, Turner)** - Authorizes regional authority to develop and operate regional rehabilitation and reentry center

**A-5836/S-4212 (DeAngelo, Sumter, Wimberly/Gopal, Greenstein)** - Makes supplemental appropriation of \$650,000 to New Jersey Division of State Police for trooper recruitment and retention

**A-5910/S-4266 (Egan/Codey)** - Increases annual salary of certain public employees and officers

**AJR-200/SJR-138 (Park, Freiman, Calabrese/Lagana)** - Designates November 22 of each year as Kimchi Day

Governor Murphy pocket vetoed the following bills:

**S-2989/A-1739 (Pou, Singer/McKeon, Quijano, Flynn)** - Makes certain for-profit debt adjusters eligible for licensing to conduct business in State

**S-3172/A-4689 (Gopal, Turner/Lampitt, Matsikoudis, McKnight)** - Establishes teacher certification route for candidates with Montessori teaching credentials

- S-3287/ACS for A-4852 and 1170 (Turner/Reynolds-Jackson, Jasey, Dunn, Wimberly, Calabrese, Spearman, Verrilli)** - Requires institutions of higher education to maintain supply and develop policy governing use of naloxone hydrochloride nasal spray for opioid overdose emergencies
- A-1476/S-930 (Benson, Dancer/Holzapfel, Diegnan)** - Exempts certain motor vehicles that are owned by certain nutrition programs and certain nonprofit organizations that offer social services from motor vehicle registration fees
- A-3642/S-665 (Wirths, Murphy, Benson, Oroho/Greenstein)** - Requires MVC to place designation on motor vehicle's registration information indicating registrant is deaf
- A-3945/S-1660 (Quijano, Reynolds-Jackson, Carter/Ruiz, Singleton)** - Establishes "Male Teachers of Color Mentorship Pilot Program"; appropriates \$95,000
- A-4177/S-2478 (Mosquera, Swain, McKnight, Tucker, Dunn/Ruiz, Vitale)** - Extends duration of law requiring certain provider subsidy payments for child care services be based on enrollment
- A-4396/S-2927 (Lampitt, Jasey, Caputo/Codey)** - Establishes timelines for review and approval by Commissioner of Education of annual certified audits submitted by approved private schools for students with disabilities
- A-4621/S-3156 (Mosquera, Greenwald, Swain/Madden)** - Requires issuance of report on certain information and data on processing of applications for professional and occupational licenses and mandates review of training and call intake in Division of Consumer Affairs.
- A-4740/S-2970 (Mukherji, DeAngelo, McKnight/Cruz-Perez, Turner)** - Provides employee access to employee's employment records on file with DOLWD
- A-5294/S-1825 (Greenwald, Swain, Rooney/Steinhardt, Sarlo, Doherty)** - Exempts sales of investment metal bullion and investment coins from sales and use tax
- A-5893/S-4228 (Karabinchak, Calabrese, Sauckie/Gopal, Sarlo)** - Extends annual horse racing purse subsidies through State fiscal year 2029