

LEGISLATIVE FISCAL ESTIMATE:

Yes

VETO MESSAGE:

Yes

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

RH/CL

§§1, 2 -
C.30:4D-7n &
30:4D-7o
§3 - Note

P.L. 2017, CHAPTER 239, *approved October 6, 2017*
Assembly, No. 320 (*Second Reprint*)

1 AN ACT concerning Medicaid reimbursement for personal care
2 services and supplementing Title 30 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The hourly reimbursement rate for personal care services
8 within the Medicaid program established pursuant to P.L.1968,
9 c.413 (C.30:4D-1 et seq.), whether the services are provided in the
10 Medicaid fee-for-service delivery system or through a managed care
11 delivery system, shall be no less than ¹["\$15.50 per hour"] the
12 established State Medicaid fee-for-service rate^{1 2}["], except that this
13 amount shall be adjusted on July 1 of every fifth calendar year
14 following the effective date of this act in direct proportion to the
15 rise or fall in the Consumer Price Indices average for all urban wage
16 earners for the New York metropolitan and the Philadelphia
17 metropolitan regions as reported by the Bureau of Labor Statistics
18 of the United States Department of Labor during the last full
19 calendar year preceding the date upon which the adjustment is
20 made.] . Any and all rate increases realized pursuant to this section
21 shall be used solely to increase wages for workers who directly
22 provide personal care services.²

23
24 ²2. Every provider that receives reimbursement for personal care
25 services pursuant to a Medicaid managed care contract shall
26 annually provide a report to the Division of Medical Assistance and
27 Health Services in the Department of Human Services regarding the
28 use of funds received as reimbursement for personal care services,
29 including assurances that the increased funds received pursuant to
30 section 1 of P.L. c. (C.) (pending before the Legislature as
31 this bill) are being used exclusively for salary increases for workers
32 who directly provide personal care services and detailed data on the
33 salary increases resulting from section 1 of P.L. c. (C.)
34 (pending before the Legislature as this bill); including the prior
35 salary, current salary, and other changes to the salary of the workers
36 who directly provide personal care services.²

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:

¹Assembly AHU committee amendments adopted May 19, 2016.

²Assembly amendments adopted in accordance with Governor's recommendations July 31, 2017.

ASSEMBLY, No. 320

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblymen Johnson, Diegnan, Assemblywoman Jimenez, Assemblyman Coughlin and Assemblywoman McKnight

SYNOPSIS

Establishes minimum Medicaid reimbursement rate for personal care services.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/20/2016)

1 AN ACT concerning Medicaid reimbursement for personal care
2 services and supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. The hourly reimbursement rate for personal care services
8 within the Medicaid program established pursuant to P.L.1968,
9 c.413 (C.30:4D-1 et seq.), whether the services are provided in the
10 Medicaid fee-for-service delivery system or through a managed care
11 delivery system, shall be no less than \$15.50 per hour, except that
12 this amount shall be adjusted on July 1 of every fifth calendar year
13 following the effective date of this act in direct proportion to the
14 rise or fall in the Consumer Price Indices average for all urban wage
15 earners for the New York metropolitan and the Philadelphia
16 metropolitan regions as reported by the Bureau of Labor Statistics
17 of the United States Department of Labor during the last full
18 calendar year preceding the date upon which the adjustment is
19 made.

20

21 2. This act shall take effect immediately, and shall apply to
22 services provided on or after the effective date of this act and to any
23 Medicaid managed care contract executed or renewed on or after
24 the effective date of this act.

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26

27

STATEMENT

28

29 This bill would set a minimum reimbursement rate of \$15.50 per
30 hour for Medicaid personal care services. The minimum rate would
31 apply whether the services are provided in the Medicaid fee-for-
32 service delivery system or through a managed care delivery system.
33 The bill would also require that the minimum hourly rate be
34 increased every five years based in direct proportion to the rise or
35 fall in the Consumer Price Indices average for all urban wage
36 earners for the New York metropolitan and the Philadelphia
37 metropolitan regions as reported by the Bureau of Labor Statistics
38 of the United States Department of Labor during the last full
39 calendar year preceding the date upon which the adjustment is
40 made.

41

42 The reimbursement rate for personal care services in the
43 Medicaid fee-for-service program has been \$15.50 for several years.
44 However, the shift of most Medicaid personal care services to a
45 managed care delivery system has allowed private managed care
46 organizations to unilaterally reduce reimbursement rates to already
struggling provider agencies and health care workers.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 320

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 2016

The Assembly Human Services Committee reports favorably and with committee amendments Assembly Bill No. 320.

This bill would require that the hourly reimbursement rate for personal care services which are funded through a Medicaid managed care organization be equal to the Medicaid fee-for-service rate for these same services.

Currently, the hourly Medicaid fee-for-service rate is set at \$18.00 per hour, and reportedly the Medicaid managed care organization rate varies, but is generally less than \$18.00 per hour. The FY 2017 Budget Recommendation proposes decreasing the Medicaid fee-for-service rate to \$15.50 per hour, the rate at which it had been set for several years.

The majority of Medicaid personal care services are reimbursed through a managed care delivery system and not through fee-for-service. Reports indicate that managed care organizations have lower reimbursement hourly rates than fee-for-service, and this lower rate burdens the already economically struggling provider agencies and health care workers.

The bill would also require that the minimum hourly rate be increased every five years based in direct proportion to the rise or fall in the Consumer Price Indices average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions as reported by the Bureau of Labor Statistics of the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amendments delete the specific hourly rate of \$15.50 and replace it with a more general reference to the Medicaid fee-for-service rate to ensure that any changes made to the fee-for-service rate are matched by the hourly rate paid by a Medicaid managed care organization.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 320

STATE OF NEW JERSEY

DATED: JUNE 20, 2016

The Assembly Appropriations Committee reports favorably Assembly Bill No. 320 (1R).

This bill requires that the hourly reimbursement rate for personal care services funded through a Medicaid managed care organization be equal to the Medicaid fee-for-service rate for these same services.

Currently, the hourly Medicaid fee-for-service rate is set at \$18.00 per hour, and reportedly the Medicaid managed care organization rate varies, but is generally less than \$18.00 per hour. The FY 2017 Budget Recommendation proposes decreasing the Medicaid fee-for-service rate to \$15.50 per hour, the rate at which it had been set for several years.

The majority of Medicaid personal care services are reimbursed through a managed care delivery system and not through fee-for-service. Reports indicate that managed care organizations have lower reimbursement hourly rates than fee-for-service, and this lower rate burdens the already economically struggling provider agencies and health care workers.

The bill also requires that the minimum hourly rate be increased every five years based in direct proportion to the rise or fall in the Consumer Price Indices average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions as reported by the Bureau of Labor Statistics of the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made.

FISCAL IMPACT:

The hourly rate paid to personal care assistants reimbursed through the fee-for-service Medicaid system is \$18.00 in the current fiscal year. According to testimony provided to the OLS, this rate is approximately \$2.50 more per hour than the reimbursement rate currently paid by the Medicaid managed care organizations (MCOs).

Information previously provided by the Department of Human Services to the OLS indicates that the Medicaid MCOs paid approximately 2.35 million claims in FY 2014 for 6.65 million hours of personal care assistance provided by Medicaid MCO's. If each of

these claims were to be increased by \$2.50, the total increase would equal \$16.64 million in the first year of enactment. These State expenditures would be eligible for at least a 50 percent federal Medicaid match, and in some instances would be eligible for up to a 95 percent federal match, so the Office of Legislative Services estimates that this bill may have a net impact on the State General Fund of up to \$8.32 million in the first year after enactment, which will increase approximately 2 percent each year thereafter.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 320

STATE OF NEW JERSEY

DATED: JUNE 1, 2017

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 320 (1R).

This bill requires the minimum hourly reimbursement rate for personal care services funded through a Medicaid managed care organization to be no less than the established Medicaid fee-for-service rate for these same services.

Currently, the hourly Medicaid fee-for-service rate and the hourly reimbursement rate for personal care services funded through a Medicaid managed care organization are set at different amounts. The FY 2017 Appropriations Act sets the hourly Medicaid fee-for-service rate at \$18 per hour, while the Medicaid managed care organization rate varies, but is generally less than \$18 per hour.

The majority of Medicaid personal care services are reimbursed through a managed care delivery system, and not through fee-for-service. Reports indicate that managed care organizations have lower hourly reimbursement rates than fee-for-service, and this lower rate burdens the already economically struggling provider agencies and health care workers.

The bill also requires the minimum hourly reimbursement rate to be adjusted every five years, in direct proportion to the rise or fall in the Consumer Price Indices average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions, as reported by the Bureau of Labor Statistics of the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made.

The bill takes effect immediately upon enactment and applies to services provided on or after the effective date of the bill and to any Medicaid managed care contract executed or renewed on or after the bill's effective date.

As reported, this bill is identical to Senate Bill No. 1018 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services estimates that this bill may result in an annual net cost increase to the State General Fund of up to \$8.3 million beginning in the first year after enactment, which would

increase approximately two percent every fifth year thereafter. The estimated net increase is composed of State expenditure growth of up to \$16.6 million annually in the first four years after enactment of which approximately 50 percent, or up to \$8.3 million, would be offset by enhanced federal Medicaid revenue.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 320

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JUNE 19, 2016

SUMMARY

- Synopsis:** Establishes minimum Medicaid reimbursement rate for personal care services.
- Type of Impact:** Expenditure increase, General Fund; partially offset by enhanced federal Medicaid funds
- Agencies Affected:** Department of Human Services

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	up to \$16.64 million	up to \$16.97 million	up to \$17.66 million
State Revenue	up to \$8.32 million	up to \$8.48 million	up to \$8.65 million

- The Office of Legislative Services (OLS) estimates that this bill may have a net impact on the State General Fund of up to \$8.32 million in the first year after enactment, which will increase approximately 2 percent each year thereafter.
- The hourly rate paid to personal care assistants reimbursed through the fee-for-service Medicaid system is \$18.00 in the current fiscal year. According to testimony provided to the OLS, this rate is approximately \$2.50 more per hour than the reimbursement rate currently paid by the Medicaid managed care organizations (MCOs).
- Information previously provided by the Department of Human Services to the OLS indicates that the Medicaid MCOs paid approximately 2.35 million claims in FY 2014 for 6.65 million hours of personal care assistance provided by Medicaid MCO's. If each of these claims were to be increased by \$2.50, the total increase would equal \$16.64 million in the first year of enactment.
- These State expenditures would be eligible for at least a 50 percent federal Medicaid match, and in some instances would be eligible for up to a 95 percent federal match.
- The bill further provides that the hourly rate be adjusted each year by the Consumer Price Indices (CPI) average for all urban wage earners for the New York metropolitan and the

Philadelphia metropolitan regions. Although this rate varies from year to year, the average rate for the previous ten years was a 2.12 percent increase and 1.8 percent increase in the New York and the Philadelphia metropolitan areas respectively.

BILL DESCRIPTION

Assembly Bill No. 320 (1R) of 2016 requires that the hourly reimbursement rate for personal care services which are funded through a Medicaid managed care organization be equal to the Medicaid fee-for-service rate for these same services.

Currently, the hourly Medicaid fee-for-service rate is set at \$18.00 per hour, and reportedly the Medicaid managed care organization rate varies, but is generally less than \$18.00 per hour. The FY 2017 Budget Recommendation proposes decreasing the Medicaid fee-for-service rate to \$15.50 per hour, the rate at which it had been set for several years.

The majority of Medicaid personal care services are reimbursed through a managed care delivery system and not through fee-for-service. Reports indicate that managed care organizations have lower reimbursement hourly rates than fee-for-service, and this lower rate burdens the already economically struggling provider agencies and health care workers.

This bill also requires that the minimum hourly rate be increased every five years based in direct proportion to the rise or fall in the Consumer Price Indices average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions as reported by the Bureau of Labor Statistics of the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may have a net impact on the State General Fund of up to \$8.32 million in the first year after enactment, which will increase approximately 2 percent each year thereafter.

The hourly rate paid to personal care assistants reimbursed through the fee-for-service Medicaid system is \$18.00 in the current fiscal year.¹ According to testimony provided to the OLS, this rate is approximately \$2.50 more per hour than the reimbursement rate currently paid by the Medicaid managed care organizations, which is on average \$15.50 per hour.² Testimony also indicated that there are MCOs which reimburse less than \$15.50 per hour, but for the purposes of this estimate the \$15.50 hourly rate is used for the MCO rate.

Additionally, although the rate in the current year is set by the FY 2016 Appropriations Act at \$18.00 per hour, there is no guarantee that this rate will continue. The current FY 2017 Budget Recommendation includes language which reduces the fee-for-service Medicaid rate back to

¹ Page B-105, FY 2016 Appropriations Handbook.

² Testimony provided to the Assembly Human Services Committee on May 19, 2016 by Louise Lindenmeier, Director of Government Affairs, Bayada Home Health Care.

\$15.50 per hour.³ This is the rate which has been provided through budget language for the past several years for fee-for-service. The OLS estimates that if there is no change in the current FY 2017 Budget Recommendation, this bill will have much less of a fiscal impact. However, for the purposes of this fiscal estimate the OLS uses the current \$18.00 per hour fee-for-service rate.

Information provided by the Department of Human Services to the OLS indicates that the Medicaid MCOs paid approximately 2.35 million claims in FY 2014 for 6.65 million hours of personal care assistance provided by Medicaid MCOs. If each of these claims was to be increased by \$2.50, the total increase in State expenditures would equal \$16.64 million in the first year of enactment.

These State expenditures would be eligible for at least a 50 percent federal Medicaid match, and in some instances would be eligible for up to a 95 percent federal match.⁴ For the purposes of this estimate, the OLS anticipates that the State will receive federal revenue which will offset approximately 50 percent of the expenditures, or \$8.32 million in the first year, \$8.48 million in the second year and \$8.65 million in the third year after enactment.

The bill further provides that the hourly rate be adjusted each year by the CPI average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions. Although this rate varies from year to year, the average rate for the previous ten years was a 2.12 percent increase and 1.8 percent increase in the New York and the Philadelphia metropolitan areas.⁵

Overall, the OLS estimates that the State will spend up to \$16.64 million, \$16.97 million, and \$17.31 million annually in the first three years after enactment. Approximately 50 percent of these expenditures will be offset by enhanced federal Medicaid revenue.

Section: Human Services
Analyst: Robin Ford
Lead Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

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

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

³ Page D-182, FY 2017 Budget Recommendation.

⁴ Provisions of the Affordable Care Act require that expenditures for certain new Medicaid enrollees are matched 100 percent by federal funding. The federal matching rate for this population will decrease to 95 percent in January 2017, and decrease further in subsequent years to a minimum of 90 percent in January 2020.

⁵ <http://www.bls.gov/cpi/#data> , accessed for New York and Philadelphia metropolitan area data on June 1, 2016.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 320

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: OCTOBER 12, 2017

SUMMARY

Synopsis: Establishes minimum Medicaid reimbursement rate for personal care services.

Type of Impact: Annual State expenditure increase, General Fund; partially offset by enhanced federal Medicaid funds

Agencies Affected: Department of Human Services

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
State Cost Increase	\$25.7 million	\$26.2 million	\$26.7 million
State Revenue Increase	\$12.8 million	\$13.1 million	\$13.4 million

- The Office of Legislative Services (OLS) estimates that this bill may have a net cost impact on the State General Fund of approximately \$12.8 million in FY 2019, which is to grow by an estimated two percent annually. However, there is uncertainty on the future number of claims and the fee-for-service rate that will be established through future budget language.
- The hourly rate paid for personal care assistant services reimbursed through the fee-for-service Medicaid system is \$19.00 in the current fiscal year. According to testimony provided to the Assembly Human Services Committee, this rate is approximately \$3.50 more per hour than the average reimbursement rate currently paid by the Medicaid managed care organizations (MCOs).
- Information previously provided by the Department of Human Services to the OLS indicates that the Medicaid MCOs paid approximately 2.35 million claims in FY 2014 for 6.65 million hours of personal care assistance provided by Medicaid MCOs. If the hourly rate for each of these claims had been increased by \$3.50, the total increase would have equaled \$23.3 million in FY 2014. Assuming two-percent annual growth, the total increase in State expenditures would equal \$25.7 million in FY 2019.
- These State expenditures would be eligible for at least a 50 percent federal Medicaid match, and in some instances would be eligible for up to a 94 percent federal match in 2018.

Therefore, net State expenditures could be \$12.8 million for these claims, assuming a federal match of 50 percent.

- Additionally, the provision of the bill which requires the MCOs to report certain data to the Division of Medical Assistance and Health Services may result in minimal increased expenditures by the State. The OLS estimates that any cost to collect the new information would result in increased per beneficiary costs charged by the MCOs to the State.

BILL DESCRIPTION

Assembly Bill No. 320 (2R) of 2016 requires that the hourly reimbursement rate for personal care services which are funded through a Medicaid MCO be equal to the Medicaid fee-for-service rate for these same services.

Additionally, the bill requires that any increases in rates due to the enactment of this bill be used solely to increase wages for workers who directly provide personal care services. To support this directive, the bill requires the MCOs to annually report to the Division of Medical Assistance and Health Services in the Department of Human Services regarding the use of funds received as reimbursement for personal care services, including assurances that the increased funds received pursuant to this bill are being used exclusively for salary increases for workers who directly provide personal care services. Furthermore, the report is to detail the prior salary, current salary, and other changes to the salary of the workers who directly provide personal care services.

Currently, the hourly Medicaid fee-for-service rate is set at \$19.00 per hour, and the Medicaid MCO rate varies, but is generally between \$12.00 and \$16.00 per hour. The majority of Medicaid personal care services are reimbursed through a managed care delivery system and not through fee-for-service.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may have a net cost impact on the State General Fund of approximately \$12.8 million in FY 2019, which is to grow by an estimated two percent annually. This cost is primarily attributable to the increase in the hourly fee paid by MCOs to personal care assistant services.

Additionally, the provision of the bill which requires the MCOs to report certain data to the Division of Medical Assistance and Health Services may result in minimal increased expenditures by the State. This would be so if the MCOs passed any cost increase related to the collection and reporting of the data on to the State through increased rates.

The hourly rate paid to personal care assistants reimbursed through the fee-for-service Medicaid system is \$19.00 in the current fiscal year.¹ According to testimony provided to the Assembly Human Services Committee, this rate is approximately \$3.50 more per hour than the reimbursement rate currently paid by the Medicaid MCOs, which is on average \$15.50 per hour.² Testimony also indicated that there are MCOs that reimburse less than \$15.50 per hour, but for the purposes of this estimate the \$15.50 hourly rate is used for the MCO rate.

Additionally, although the rate in the current year is set by the FY 2018 Appropriations Act at \$19.00 per hour, there is no guarantee that this rate will remain at the current level. Budget language in recent fiscal years has established the fee-for-service rate at various levels between \$15.50 and \$19.00 per hour. This bill would not take effect until the next fiscal year, beginning July 1, 2018. For the purposes of this fiscal estimate, the OLS uses the current \$19.00 per hour fee-for-service rate.

Information provided by the Department of Human Services to the OLS indicates that the Medicaid MCOs paid approximately 2.35 million claims in FY 2014 for 6.65 million hours of personal care assistance provided by Medicaid MCOs. For this estimate, a two-percent growth rate in hours has been applied using the FY 2014 hours as a baseline. If the hourly rate for each of these claims were to be increased by \$3.50, the total increase in State expenditures would equal \$25.7 million in FY 2019, \$26.2 million in FY 2020, and \$26.7 million in FY 2021.

These State expenditures would be eligible for at least a 50 percent federal Medicaid match, and in some instances would be eligible for up to a 94 percent federal match.³ For the purposes of this estimate, the OLS anticipates that the State would receive federal matching funds which would offset approximately 50 percent of the expenditures, or \$12.8 million in FY 2019, \$13.1 million in FY 2020, and \$13.4 million in FY 2021.

Section: Human Services

*Analyst: Robin Ford
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

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

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

¹ Page B-92, FY 2018 Appropriations Handbook.

² Testimony provided to the Assembly Human Services Committee on May 19, 2016 by Louise Lindenmeier, Director of Government Affairs, Bayada Home Health Care.

³ Provisions of the federal Affordable Care Act require that expenditures for certain new Medicaid enrollees will be matched 94 percent in January 2018. This rate will decrease in subsequent years to a minimum 90 percent federal match in January 2020.

SENATE, No. 1018

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 8, 2016

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

Senators Allen, Pou, Beach and Gordon

SYNOPSIS

Establishes minimum Medicaid reimbursement rate for personal care services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/31/2017)

1 AN ACT concerning Medicaid reimbursement for personal care
2 services and supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. The hourly reimbursement rate for personal care services
8 within the Medicaid program established pursuant to P.L.1968,
9 c.413 (C.30:4D-1 et seq.), whether the services are provided in the
10 Medicaid fee-for-service delivery system or through a managed care
11 delivery system, shall be no less than \$15.50 per hour, except that
12 this amount shall be adjusted on July 1 of every fifth calendar year
13 following the effective date of this act in direct proportion to the
14 rise or fall in the Consumer Price Indices average for all urban wage
15 earners for the New York metropolitan and the Philadelphia
16 metropolitan regions as reported by the Bureau of Labor Statistics
17 of the United States Department of Labor during the last full
18 calendar year preceding the date upon which the adjustment is
19 made.

20

21 2. This act shall take effect immediately, and shall apply to
22 services provided on or after the effective date of this act and to any
23 Medicaid managed care contract executed or renewed on or after
24 the effective date of this act.

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STATEMENT

28

29 This bill would set a minimum reimbursement rate of \$15.50 per
30 hour for Medicaid personal care services. The minimum rate would
31 apply whether the services are provided in the Medicaid fee-for-
32 service delivery system or through a managed care delivery system.
33 The bill would also require that the minimum hourly rate be
34 increased every five years based in direct proportion to the rise or
35 fall in the Consumer Price Indices average for all urban wage
36 earners for the New York metropolitan and the Philadelphia
37 metropolitan regions as reported by the Bureau of Labor Statistics
38 of the United States Department of Labor during the last full
39 calendar year preceding the date upon which the adjustment is
40 made.

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The reimbursement rate for personal care services in the
Medicaid fee-for-service program has been \$15.50 for several years.
However, the shift of most Medicaid personal care services to a
managed care delivery system has allowed private managed care
organizations to unilaterally reduce reimbursement rates to already
struggling provider agencies and health care workers.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1018

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 30, 2017

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1018.

As amended by the committee, this bill would require the hourly reimbursement rate for personal care services funded through a Medicaid managed care organization to be equal to the Medicaid fee-for-service rate for those same services.

Currently, the hourly Medicaid fee-for-service rate is \$18 per hour, as provided by the FY 2017 Appropriations Act, while the Medicaid managed care organization rate varies, but is generally less than \$18 per hour.

The majority of Medicaid personal care services are reimbursed through a managed care delivery system, and not through fee-for-service. Reports indicate that managed care organizations have lower hourly reimbursement rates than fee-for-service, and this lower rate burdens the already economically struggling provider agencies and health care workers.

The bill would also require the minimum hourly rate to be increased every five years, in direct proportion to the rise or fall in the Consumer Price Indices average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions, as reported by the Bureau of Labor Statistics of the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made.

The committee amended the bill to delete the specific hourly rate of \$15.50 and replace it with a more general reference to the Medicaid fee-for-service rate, in order to ensure that any changes made to the fee-for-service rate are matched by the hourly rate paid by a Medicaid managed care organization.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1018

STATE OF NEW JERSEY

DATED: JUNE 1, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1018 (1R).

This bill requires the minimum hourly reimbursement rate for personal care services funded through a Medicaid managed care organization to be no less than the established Medicaid fee-for-service rate for these same services.

Currently, the hourly Medicaid fee-for-service rate and the hourly reimbursement rate for personal care services funded through a Medicaid managed care organization are set at different amounts. The FY 2017 Appropriations Act sets the hourly Medicaid fee-for-service rate at \$18 per hour, while the Medicaid managed care organization rate varies, but is generally less than \$18 per hour.

The majority of Medicaid personal care services are reimbursed through a managed care delivery system, and not through fee-for-service. Reports indicate that managed care organizations have lower hourly reimbursement rates than fee-for-service, and this lower rate burdens the already economically struggling provider agencies and health care workers.

The bill also requires the minimum hourly reimbursement rate to be adjusted every five years, in direct proportion to the rise or fall in the Consumer Price Indices average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions, as reported by the Bureau of Labor Statistics of the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made.

The bill takes effect immediately upon enactment and applies to services provided on or after the effective date of the bill and to any Medicaid managed care contract executed or renewed on or after the bill's effective date.

As reported, this bill is identical to Assembly Bill No. 320 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services estimates that this bill may result in an annual net cost increase to the State General Fund of up to \$8.3 million beginning in the first year after enactment, which would

increase approximately two percent every fifth year thereafter. The estimated net increase is composed of State expenditure growth of up to \$16.6 million annually in the first four years after enactment of which approximately 50 percent, or up to \$8.3 million, would be offset by enhanced federal Medicaid revenue.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1018 STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JUNE 5, 2017

SUMMARY

- Synopsis:** Establishes minimum Medicaid reimbursement rate for personal care services.
- Type of Impact:** Annual expenditure increase to the General Fund; partially offset by enhanced federal Medicaid funds
- Agencies Affected:** Department of Human Services

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1 to 4</u>
Annual State Cost Increase	up to \$16,600,000
Annual State Revenue Increase	up to \$8,300,000

- The Office of Legislative Services (OLS) estimates that this bill may result in an annual net cost increase to the State General Fund of up to \$8.3 million beginning in the first year after enactment, which would increase approximately two percent every fifth year thereafter.
- The hourly rate paid to personal care assistants reimbursed through the fee-for-service Medicaid system is \$18.00 in the current fiscal year. According to testimony provided to the Assembly Human Services Committee, this rate is approximately \$2.50 more per hour than the reimbursement rate currently paid by the Medicaid managed care organizations (MCOs).
- Information previously provided by the Department of Human Services to the OLS indicates that the Medicaid MCOs paid approximately 2.35 million claims in FY 2014 for 6.65 million hours of personal care assistance. If each of these claims were to be increased by \$2.50 per hour, the total cost increase would equal \$16.6 million in the first year of enactment.
- These State expenditures would be eligible for at least a 50 percent federal Medicaid match, and in some instances would be eligible for up to a 95 percent federal match.
- The bill further provides that the hourly rate be adjusted on July 1 of every fifth calendar year by the Consumer Price Indices (CPI) average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions. Although this rate varies from year

to year, the average rate for the previous ten years was a 2.12 percent increase and 1.8 percent increase in the New York and the Philadelphia metropolitan areas respectively.

BILL DESCRIPTION

Senate Bill No. 1018 (1R) of 2016 requires that the hourly reimbursement rate for personal care services which are funded through a Medicaid MCO be equal to the Medicaid fee-for-service rate for the same services. The minimum hourly rate is to be adjusted every five years based in direct proportion to the change in the CPI average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions as reported by the Bureau of Labor Statistics of the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made.

Currently, the FY 2017 Appropriations Act sets the Medicaid fee-for-service rate at \$18.00 per hour, the rate that has been in effect for several years. The FY 2018 Budget Recommendation proposes continuing the rate. Reports indicate that Medicaid MCO hourly reimbursement rates vary, but are generally less than \$18.00 per hour. The majority of Medicaid personal care services are reimbursed through a managed care delivery system and not through fee-for-service.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in an annual net cost increase to the State General Fund of up to \$8.3 million beginning in the first year after enactment, which would increase approximately two percent every fifth year thereafter. The estimated net increase is composed of State expenditure growth of up to \$16.6 million annually in the first four years after enactment of which approximately 50 percent, or up to \$8.3 million, would be offset by enhanced federal Medicaid revenue.

The current hourly rate paid to personal care assistants reimbursed through the fee-for-service Medicaid system is established in the FY 2017 Appropriations Act as \$18.00 per hour.¹ The FY 2018 Budget Recommendation includes language which would continue the fee-for-service Medicaid rate at \$18.00 per hour.²

According to testimony provided to the Assembly Human Services Committee, this rate is approximately \$2.50 more per hour than the reimbursement rate currently paid by the Medicaid MCOs, which is on average \$15.50 per hour.³ Testimony also indicated that there are MCOs which reimburse less than \$15.50 per hour, but for the purposes of this estimate the \$15.50 hourly rate is used for the MCO rate.

¹ Page B-92, FY 2017 Appropriations Handbook.

² Page D-185, FY 2018 Budget Recommendation.

³ Testimony provided to the Assembly Human Services Committee on May 19, 2016 by Louise Lindenmeier, Director of Government Affairs, Bayada Home Health Care.

Information provided by the Department of Human Services to the OLS indicates that the Medicaid MCOs paid approximately 2.35 million claims in FY 2014 for 6.65 million hours of personal care assistance. If each of these claims were to be increased by \$2.50 per hour, the total increase in State expenditures would equal \$16.6 million in the first year of enactment.

These State expenditures would be eligible for at least a 50 percent federal Medicaid match, and in some instances would be eligible for up to a 95 percent federal match.⁴ For the purposes of this estimate, the OLS anticipates that the State would receive federal revenue which would offset approximately 50 percent of the expenditures, or \$8.3 million per year for the first four years after enactment.

The bill further provides that the hourly rate be adjusted every fifth year by the CPI average for all urban wage earners for the New York metropolitan and the Philadelphia metropolitan regions. Although this rate varies from year to year, the average rate for the previous ten years was a 2.12 percent increase and 1.8 percent increase in the New York and the Philadelphia metropolitan areas respectively.⁵

Section: Human Services

*Analyst: Robin Ford
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

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

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

⁴ Provisions of the Affordable Care Act require that expenditures for certain new Medicaid enrollees are matched 95 percent in January 2017, and then will gradually decrease in subsequent years to a minimum of a 90 percent match in January 2020.

⁵ <http://www.bls.gov/cpi/#data> , accessed for New York and Philadelphia metropolitan area data on June 1, 2016.

ASSEMBLY BILL NO. 320
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 320 (First Reprint) with my recommendations for reconsideration.

Personal care assistant services are non-emergency, on-going health-related tasks performed by qualified staff for Medicaid recipients in home and community-based settings. This bill would mandate not only that the rates paid by managed care organizations for personal care assistant services match the fee-for-service rate paid for the same services, but would also impose a cost of living adjustment every five years.

While I understand the sponsors' concern with ensuring adequate funding for home and community-based services that help keep individuals out of more institutionalized settings, adjusting the managed care rates will have a significant impact on the budget and there is no appropriation for these expanded costs in the Fiscal Year 2018 Appropriations Act. With no identified funding, these increased costs cannot be implemented without straining the budget of the Department of Human Services or placing the State in the unenviable position of making an appropriation outside of the budget process to the detriment of its taxpayers.

In addition, the cost of living adjustments will have a significant impact on future budgets. Changes to reimbursement rates for any services, including personal care assistant services, must be done on an annual basis taking into account the funds made available through that fiscal year's Appropriations Act. It has been our policy for eight years that

we do not approve supplemental spending bills unless a specific funding source is identified. We will not change that policy now.

Finally, according to the sponsors of this bill, one of the goals of this bill is to allow providers to increase the pay for workers who provide these services to Medicaid beneficiaries. I fully support higher pay for these workers. However, as drafted, this bill provides no assurances that such goal will be met. Therefore, in addition to removing the cost of living adjustment and delaying the effective date of this bill until the beginning of the next fiscal year when the Legislature and the Governor can determine how to pay for this increased cost in the context of annual budget negotiations, I am recommending that the providers receiving the increased reimbursement rates for personal care assistant services deliver an annual report that shows that the additional funds went to increasing the salaries for staff who provide the services. These increases cannot and should not go to administrative costs or additional profits for the MCO's since the sponsor and supporters contend that is not the intent of the bill. The report should also contain specific, detailed data on the salary increases funded by this new law.

Accordingly, I herewith return Assembly Bill No. 320 (First Reprint) and recommend it be amended as follows:

Page 2, Section 1, Line 12: Delete ", except that this amount shall be" and insert ". Any and all rate increases realized pursuant to this section shall be used solely to increase wages for workers who directly provide personal care services."

Page 2, Section 1, Lines 13-19: Delete in their entirety

Page 2, Line 20:

Insert "2. Every provider that receives reimbursement for personal care services pursuant to a Medicaid managed care contract shall annually provide a report to the Division of Medical Assistance and Health Services in the Department of Human Services regarding the use of funds received as reimbursement for personal care services, including assurances that the increased funds received pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) are being used exclusively for salary increases for workers who directly provide personal care services and detailed data on the salary increases resulting from section 1 of P.L. , c. (C.) (pending before the Legislature as this bill); including the prior salary, current salary, and other changes to the salary of the workers who directly provide personal care services."

Page 2, Section 2, Line 21:

Delete "2." and insert "3."

Page 2, Section 2, Line 21:

Delete "immediately" and insert "July 1, 2018"

Respectfully,

[seal]

/s/ Chris Christie

Governor

Attest:

/s/ James J. DiGiulio

Chief Counsel to the Governor

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BILLS SIGNED:

A-320wGR/S-1018 (Singleton, Vainieri-Huttle, Munoz, Moriarty, Lampitt, Sumter, Mukherji/Weinberg, Cruz-Perez) – Establishes minimum Medicaid reimbursement rate for personal care services

ACS for A-2503wGR/S-516 (Vainieri-Huttle, Mosquera, Tucker, McKnight, Mukherji, Wimberly, Downey/Beck, Sweeney) - Provides protections for individuals with developmental disabilities; upgrades crimes committed against such individuals; and improves transparency and accountability in investigations of abuse, neglect, and exploitation of such individuals; designated as "Stephen Komminos' Law"

AJR-77/SJR-116 (Dancer, Holley, McKnight, Vainieri-Huttle/Thompson) – Designates October as "Dyslexia Awareness Month" in New Jersey

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