

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3492-02  
Bill No.: HB 1302  
Subject: Medicaid; Nursing and Boarding Homes; Social Services Department  
Type: Original  
Date: February 17, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
General Revenue	(\$16,485,910 to \$16,895,380)	(\$38,028,911 to \$38,545,345)	(\$64,715,396 to \$65,321,035)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$16,485,910 to \$16,895,380)</b>	<b>(\$38,028,911 to \$38,545,345)</b>	<b>(\$64,715,396 to \$65,321,035)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
Federal*			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Income and costs of approximately \$25,000,000 to \$100,000,000 would net to \$0.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Office of Attorney General (AGO)** state they would represents the Department of Social Services in defending agency decisions, including decisions involving per diem reimbursement rates. Based on DMS projections as to the number of nursing homes that would appeal, DLS assumes it would need 7 additional attorneys and 3 support staff. DLS estimates 50 hours per case (attorney time only). Oversight assumes the AGO can bill the federal government for administrative costs.

Officials from the **Department of Health and Senior Services (DOH)** state this proposal would not be expected to fiscally impact the operations of the DOH. DOH states if a fiscal impact were to result, funds to support the program would be sought through he appropriations process.

Officials from the **Department of Mental Health (DMH)** assume this proposal does not include ICF-MR's, therefore DMH assumes no fiscal impact.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state that annually recalculating Medicaid reimbursement rates for the nursing home industry would significantly increase the cost to the Medicaid program in the next three years and increase the cost to the Medicaid program in future years. This proposal allows for a three year transition

ASSUMPTION (continued)

period for the recalculated Medicaid rates to be the actual rates paid. By recalculating the rates annually, the DMS would not be able to control program expenditures.

DMS used the 1999 audited cost report data, trended to 2005. DMS assumed the effective date for recalculated rates to be effective the later of passage and approval or July 1, 2004. The DMS is using July 1, 2004 for the effective date.

The DMS states rates effective January 1, 2004 would require the 2001 cost reports; however, not all of the cost reports have been audited. The DMS used 1999 which is the latest best available information at the time this fiscal note was completed. The DMS estimates that the 2001 cost reports will be completely audited by July 1, 2004. However, the DMS predicts that numerous facilities will appeal the rate recalculation (based on the rebase done in 1995, when approximately 60% of the facilities filed appeals). DMS believes a significant amount of time will be spent on the appeals and that it probably will not be able to finish subsequent years' audits in time for a January rebase. Therefore, additional staff would be needed to complete the audits and recalculate the rates on a timely basis. DMS has included 3 additional staff in the fiscal impact (1 Senior Auditor and 2 Auditor II).

If reported costs are used (i.e. vs. audited data), the DMS estimates that it would cost an additional \$3.39 per day to rebase (based on comparison of 1999 unaudited data to 1999 audited data).

DMS calculations were based on current regulations, which includes rebased ceilings, incentives, etc. The DMS states one-third of the annual impact for fiscal year 2005, two-thirds for fiscal year 2006 and full impact for fiscal year 2007 was realized for the three year transition period.

To determine subsequent years' impact for rebasing, the DMS trended the 1999 rebasing analysis to 2006 and 2007 (an additional 2.8% trend for each year - based on CMS Market Basket Index for 2005) and compared it to the 2005/2006 rebased rates. DMS assumed that the medians and ceiling would also be recalculated based on the 2006/2007 trended costs. Only the pass through expenses of the FRV rates have been recalculated due to time constraints.

ASSUMPTION (continued)

Summary of costs:

**SFY 05**

Cost to Rebase - 2005 (1999 cost trended to 2005)	\$1,066,432,146
Cost for Current Rates	<u>\$ 941,633,384</u>
Annual Rebase Impact - FY 05	\$ 124,798,762
 Rates effective January 1, 2004 - 6 months in SFY 05	 <u><u>\$ 41,599,587</u></u>

**SFY 06**

Cost to Rebase - 2006 (1999 cost trended to 2006)	\$1,086,647,543
Cost to Rebase - 2005 (1999 cost trended to 2005)	<u>\$1,066,432,146</u>
Rebase Impact - FY 06 (using FY 05 estimated days)	<u>\$ 20,215,397</u>
Estimated per day impact - FY 05 estimated days	9,160,408 \$2.21
Estimated SFY 06 days	9,206,210
Annual Rebase Impact - FY 06	\$ 20,316,474
Annual Rebase Impact - FY 05	<u>\$ 124,798,762</u>
Total	<u><u>\$ 145,115,236</u></u>
 Two-thirds effective, SFY06 impact	 <u><u>\$ 96,743,490</u></u>

**SFY 07**

Cost to Rebase - 2007 (1999 cost trended to 2007)	\$1,106,736,236
Cost to Rebase - 2006 (1999 cost trended to 2006)	<u>\$1,086,647,543</u>
Rebase Impact - FY 06 (using FY 05 estimated days)	<u>\$ 20,088,693</u>
Estimated per day impact - FY 05 estimated days	9,160,408 \$2.19
Estimated SFY 07 days	9,252,241
Annual Rebase Impact - FY 07	\$ 20,290,082
Annual Rebase Impact - FY 06	\$ 20,316,474
Annual Rebase Impact - FY 05	<u>\$ 124,798,762</u>
Total	<u><u>\$ 165,405,318</u></u>

If the rebase was calculated using reported costs that were not audited, an additional \$10,000,000 would be needed.

ASSUMPTION (continued)

Average total pe diem audit adjustment mad to reported cost	\$3.39
Estimated 05 days	9,160,408
Additional cost using Reported Costs vs. Audited Costs	\$31,053,783
One-third effective July 1, 2004	\$10,351,261

The DMS states the proposal is unclear as to whether the nursing facilities' rates will be held harmless (a facility's rate will not be reduced under the rebase). If a hold harmless provision is assumed, additional funding would be needed - \$1,053,979 for FY 05, \$1,577,825 in FY 06 and \$1,815,826 in FY 07.

Because of the hold harmless factor, the DMS will report the fiscal impact as a range. The DMS believes the fiscal impact of the proposed legislation would be as follows:

FY 05 - \$41,776,249 to \$42,830,228\*  
 FY 06 - \$96,936,591 to \$98,514,416\*  
 FY 07 - \$165,603,300 to \$167,419,126\*

\* Impact includes funding for 3 additional staff. Fiscal estimates do not include the added cost of using unaudited cost reports, which would increase the funding needed by over \$10 million annually.

<u>FISCAL IMPACT - State Government</u>	FY 2005	FY 2006	FY 2007
<b>GENERAL REVENUE</b>			

<u>Costs -Office of Attorney General</u>			
Personal Services (10 FTE)	(\$130,793)	(\$160,940)	(\$164,964)
Fringe Benefits	(\$52,932)	(\$65,132)	(\$66,761)
Equipment and Expenses	<u>(\$59,226)</u>	<u>(\$45,720)</u>	<u>(\$47,093)</u>
Total <u>Costs</u> - Office of Attorney General	(\$242,951)	(\$271,792)	(\$278,818)

Costs - Department of Social Services -  
 Division of Medical Services

Additional nursing home services costs	(\$16,161,440 to \$16,570,910)	(\$37,681,397 to \$38,197,831)	(\$64,358,957 to \$64,965,414)
Personal Services (3 FTE)	(\$51,469)	(\$52,756)	(\$54,075)
Fringe Benefits	(\$21,308)	(\$21,841)	(\$22,387)
Equipment and Expenses	(\$8,742)	(\$1,125)	(\$1,159)
<u>Total Costs - Department of Social Services - Division of Medical Services</u>	<u>(\$16,242,959 to \$16,652,429)</u>	<u>(\$37,757,119 to \$38,273,553)</u>	<u>(\$64,436,578 to \$65,043,035)</u>

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$16,485,910 to \$16,895,380)</u></b>	<b><u>(\$38,028,911 to \$38,545,345)</u></b>	<b><u>(\$64,715,396 to \$65,321,853)</u></b>
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**FEDERAL**

Income - Department of Social Services-  
 Division of Medical Services

Medicaid Reimbursements	\$25,519,666 to \$26,164,175	\$59,234,366 to \$60,199,206	\$101,222,973 to \$102,333,351
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Income - Office of Attorney General

Administrative Costs	\$241,837	\$275,395	\$282,466
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Costs - Department of Social Services -  
 Division of Medical Services

Additional nursing home services costs	(\$25,438,147 to \$26,082,656)	(\$59,158,644 to \$60,123,484)	(\$101,145,352 to \$102,255,730)
Personal Services (3 FTE)	(\$51,469)	(\$52,756)	(\$54,075)
Fringe Benefits	(\$21,308)	(\$21,841)	(\$22,387)
Equipment and Expenses	(\$8,742)	(\$1,125)	(\$1,159)
<u>Total Costs - Department of Social Services - Division of Medical Services</u>	<u>(\$25,519,666 to \$26,164,175)</u>	<u>(\$59,234,366 to \$60,199,206)</u>	<u>(\$101,222,973 to \$102,333,351)</u>

Costs - Office of Attorney General

Personal Services (10 FTE)	(\$137,721)	(\$169,465)	(\$173,701)
Fringe Benefits	(\$55,736)	(\$68,582)	(\$70,297)
Equipment and Expenses	(\$48,380)	(\$37,348)	(\$38,468)
<u>Total Costs - Office of Attorney General</u>	<u>(\$241,837)</u>	<u>(\$275,395)</u>	<u>(\$282,466)</u>

**ESTIMATED NET EFFECT ON**

<b>FEDERAL</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2005	FY 2006	FY 2007
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<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal creates the Elder Care Protection Act of 2004 and requires the Division of Medical Services in the Department of Social Services to annually recalculate the Medicaid per diem reimbursement rate of each nursing home facility participating as a provider in the Medicaid Program.

The proposal:

- (1) Requires the recalculation to be performed over three state fiscal years and in three separate payments beginning July 1, 2004;
- (2) Requires the recalculation to be based on a facility's reported costs which are filed with the department, beginning with the facility's fiscal year ending in 2001; and
- (3) Prohibits the division from applying a minimum utilization adjustment factor to a recalculation.

The proposal contains provisions pertaining to the factors used in the recalculations which begin July 1, 2004. Effective July 1, 2007, each facility will receive a full Medicaid recalculation based on its 2004 Medicaid cost report of adjusted costs.

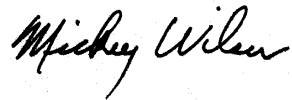
DESCRIPTION (continued)

The bill contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services  
Department of Health and Senior Services  
Department of Mental Health

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 17, 2004