

**Department of Planning and Budget  
2025 General Assembly Session  
State Fiscal Impact Statement**

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**ORIGINAL**

**Bill Number:** HB 2469

**Patron:** Henson

**Bill Title:** Overtime for certain employees; domestic service workers and live-in domestic workers

**Bill Summary:** Adds domestic workers, as defined in the bill, to provisions related to overtime pay.

**Budget Amendment Necessary:** Yes

**Items Impacted:** Item 288 (DMAS)

**Fiscal Summary:** The proposed legislation will require expenditures for which the Department of Medical Assistance Services (DMAS) is not currently appropriated as the bill will require live-in attendants to be paid an overtime rate for hours in excess of 40. Fiscal impact estimates from the Department of Labor and Industry (DOLI) are not yet available. See table and fiscal analysis below.

**General Fund Expenditure Impact:**

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
DMAS (602)	-	\$15,874,700	\$18,310,601	\$19,317,684	\$20,380,156	\$21,501,065
<b>TOTAL</b>		<b>\$15,874,700</b>	<b>\$18,310,601</b>	<b>\$19,317,684</b>	<b>\$20,380,156</b>	<b>\$21,501,065</b>

**Nongeneral Fund Expenditure Impact:**

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
DMAS (602)	-	\$16,849,292	\$19,351,738	\$20,416,084	\$21,538,969	\$22,723,612
<b>TOTAL</b>		<b>\$16,849,292</b>	<b>\$19,351,738</b>	<b>\$20,416,084</b>	<b>\$21,538,969</b>	<b>\$22,723,612</b>

**Fiscal Analysis:** This impact estimate is preliminary and may be updated if new information becomes available.

**Department of Labor and Industry:**

The Department of Labor and Industry (DOLI) is currently responsible for enforcing wage laws. Impact estimates are not yet available from DOLI.

**Department of Medical Assistance Services:**

By adding domestic workers to the provisions related to overtime pay, the Department of Medical Assistance Services (DMAS) maintains that the cost of providing consumer directed personal care services will increase. Currently, consumer-directed attendants who do not live in the home with the individual for whom they provide personal care services are permitted to work 40 hours a week plus up to an additional 16 hours per week at one-and-a-half times the regular rate. However, live-in attendants are exempt from the Fair Labor

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Standards Act and therefore may work all hours as permitted in the individual's plan of care and agreed upon between the attendant and employer of record. All hours for live-in attendants are currently paid at the regular rate.

DMAS maintains that the provisions of this bill will require live-in attendants to be paid the overtime rate for all hours in excess of 40. However, as consumer directed attendants are limited to 16 hours per week of overtime and the Code language does not allow any overtime to be paid at the regular hourly rate, the bill would effectively cap reimbursable hours for live-in attendants at 56 per week. DMAS assumes this limitation would require families to hire additional attendants living outside the home to cover the full number of hours.

In FY 2024 DMAS had an average of 5,680 members receiving personal care through fee-for-service (FFS) and paid approximately \$269 million for 16.7 million hours of care. Of those hours of care, 27.6 percent were for hours over 40 for the week paid at the regular hourly rate at a cost of \$72 million. Of that \$72 million, \$30.9 million was for hours 41-56 and \$41.1 million was for hours over 56. With this bill, DMAS assumes the \$30.9 million for hours 40-56 would be paid at time and a half for an impact of \$15.5 million a year. It is assumed that the remaining \$41.1 million in services would still be provided just from an alternative attendant. That new attendant may come from another consumer directed attendant or an agency directed attendant.

In FY 2024, DMAS had an average of 26,036 members receiving personal care services through managed care and paid approximately \$684.6 million for these services. Of that amount, DMAS found \$57.7 million of care provided for members for the hours 41 to 56 within a week. Based on the prevalence of multiple attendants per member in FFS, DMAS estimates that 57.5 percent of those overtime hours were provided by single attendants and would newly be eligible for time and a half pay. That extra reimbursement would have been \$16.6 million in FY 2024 under the provisions of this bill. Similar to FFS, hours over 56 would need to find a new attendant.

Based on the above, the total estimated cost of overtime hours using FY 2024 data would have been \$32.1 million (\$15.5 million FFS and \$16.6 million managed care). Using annual growth of 5.5 percent based on historical growth this amount would equate to \$35.7 million in FY 2026. Assuming one month claims payment lag (\$3.0 million), DMAS estimates a total fund cost of this bill to be \$32.7 million in FY 2026 and \$37.7 million (\$18.3 million GF) in FY 2027.

**Other:** Pursuant to the Fair Labor Standards Act, agency-directed aides are already required to be paid time-and-a-half for any hours worked above 40 in a week. There is no overtime rate for personal care aides hired by agencies to provide services, so no additional costs are expected.

The introduced budget includes language in Item 288 that requires a reserve amount be appropriated for new Medicaid initiatives. In addition to the cost of the initiative, the reserve equals the difference between the general fund appropriated for the initiative in FY 2026 and the highest annual general fund cost of the initiative over the next six fiscal years. While not reflected in the table above, the reserve amount is estimated at \$6.8 million general fund for the initiative required by this bill. Act language also delays initiative implementation until the reserve requirement is met.

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SB 897 is similar to this bill, except that it contains a delayed enactment clause which becomes effective on July 1, 2026.