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

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ORIGINAL

Bill Number:HB 2089Patron:ShinBill Title:Collective bargaining; individual home care providers

Bill Summary: The proposed legislation establishes within the Department of Medical Assistance Services (DMAS) the Virginia Home Care Authority (VHCA) to ensure the effectiveness and quality of the services of home care programs in the Commonwealth. VHCA would have the following powers and duties.

- Establish and maintain a central registry of individual providers.
- Create a system to match participants who need direct support services with individual providers.
- Arrange for the provision of a paid training program to be available to all individual providers.
- Act as joint employer for individual providers by:
 - Serving as the public employer of individual providers for purposes of collective bargaining.
 - Ensuring that individual providers' payments, wages, and benefits are timely and accurately processed and that appropriate withholdings and tax deductions are made.
 - Maintaining personnel records for individual providers, including tracking their participation in orientations and trainings.
- Provide for a mandatory orientation program for individual providers related to employment in providing direct support services, which orientation program must meet the following requirements:
 - Attendance must be limited to independent providers, participants, independent providers' employer of record, and an exclusive bargaining representative of independent providers.
 - The orientation must be conducted on paid time.
 - An individual provider must attend an initial orientation within 45 days after the date such individual provider begins to provide direct support services.
 - An exclusive bargaining representative must be permitted to attend each orientation, to distribute materials, to collect materials from attendees, and to deliver a presentation.
 - VHCA must provide an attending exclusive bargaining representative a list of each individual provider registered for an orientation at least 24 hours before the orientation begins.
- Espouse, support, and work to preserve participant selection and self-direction of individual providers.
- Support individual providers through a variety of methods aimed at encouraging competence, achieving quality services for participants, and improving individual provider retention through improved job satisfaction.
- Serve as a communications hub for the individual provider workforce to share information relevant to individual providers.
- Maintain neutrality regarding individual providers' selection of an exclusive bargaining representative.
- Compile, update, and maintain a quarterly list data related to all individual providers paid to provide direct support services.
- Provide home care assistance to participants to ensure a continuation of direct support services in the event their individual provider is absent or no longer able to perform their responsibilities.
- Receive, investigate, and respond to complaints or concerns regarding the provision of direct support services.

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- Oversee the quality of direct support services and ensure direct support services are provided in conformance with all applicable requirements.
- Pursue and implement all available strategies to maximize federal Medicaid reimbursement for individual provider programs.
- Convene and support an Interested Parties Advisory Group.
- Collect statewide information and data related to the individual provider workforce.

In addition, the bill authorizes individual providers, as defined in the bill, to select an exclusive bargaining representative and to collectively bargain with the Virginia Home Care Authority regarding matters including wages, benefits, and all terms and conditions of employment that are within VHCA control. The bill's provisions do not become effective unless legislation is enacted in the Commonwealth authorizing public employees to engage in collective bargaining.

Budget Amendment Necessary:YesItems Impacted:288, 292, New ItemExplanation:The provisions of this bill are not effective unless public employee collective bargaining
legislation is enacted. This statement assumes such legislation becomes law and the VHCA
would be implemented effective July 1, 2025.

Fiscal Summary: The scope of the proposed bill is large and complex. The fiscal impact included in this statement is preliminary as potential cost estimates continue to be refined. The tables below only reflect the initial estimate for DMAS and VHCA to perform the duties specifically outlined in the bill. However, costs associated with medical assistance, employer of record, and other state agencies have not yet been determined. This statement will be updated should sufficient data become available.

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<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
DMAS (602) Administration	-	\$24,688,407	\$21,806,111	\$21,806,111	\$21,806,111	\$21,806,111
Position Impact:						
Agency	FY2025	<u>FY2026</u>	FY2027	FY2028	FY2029	<u>FY2030</u>
DMAS (602) Administration	-	133.0	133.0	133.0	133.0	133.0

General Fund Expenditure Impact:

Fiscal Analysis:

Department of Medical Assistance Services

While VHCA would function as an office within DMAS, no federal reimbursement associated costs are expected at this time. Further, it is assumed that all DMAS effort spent on VHCA activities would need to be cost allocated to the general fund. The bill's provisions require VHCA perform a significant number of functions in support of home care programs. As reflected in the bill summary above, these responsibilities include but are not limited to oversight, training, evaluation, and advocacy. In addition, VHCA would be expected to participate in collective bargaining. Based on the scope of expected VHCA activities, DMAS

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estimates that, at a minimum, approximately \$20.5 million and 133 positions would be needed in FY 2026. Approximately \$17.6 million would be needed each year thereafter. It is assumed that DMAS would be required to support all VHCA back-office functions, including but not limited to payroll, human resources, finance, and budget. DMAS maintains that additional office space would also be needed. As such, DMAS estimates that the added administrative support and rent would cost approximately \$4.2 million general fund each year.

This bill's ultimate impact on medical assistance services in the Commonwealth is indeterminate as the scope of VHCA is unclear. There is no reasonable method to demonstrate how the collective bargaining efforts of individual providers will ultimately impact the cost of services. DMAS expended approximately \$22.2 billion (\$7.8 billion state funds) in FY 2024 for medical assistance services. Every one percent increase in this spending equates to approximately \$22.3 million (\$78.4 million general fund). The bill's provisions indicate that VHCA can only alter terms that are within the agency's control. Since VHCA would have no authority to alter any services, rates, or factors that may increase costs with explicit state or federal mandates, the bill's provisions are not expected to have any immediate impact on costs.

Employer of Record

The bill requires VHCA to act as joint employer for individual providers under circumstances enumerated in the bill summary above. It is currently unclear as to whether such requirements would make the Commonwealth the employer of record for these providers thereby making them eligible for state retirement and health care programs.

Other State Agencies:

The potential cost to other state agencies based on the provisions of this bill are still being examined.

Other: The fiscal implications of this bill are still being evaluated. Should new information become available this statement will be updated.