

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

By adding domestic workers to the provisions related to overtime pay, DMAS maintains that the cost of providing consumer directed personal care services under Medicaid waivers 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 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 assumes that all services provided by live in consumer-directed attendants are covered under a Medicaid waiver.

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 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 fee-for-service, 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 fee-for-service, 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 fee-for-service 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. However, due to the bill's delayed enactment, medical assistance costs would not increase until FY 2027. DMAS estimates FY 2027 cost to be \$37.7 million (\$18.3 million general fund). Continued growth of 5.5 percent is assumed in subsequent years.

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.

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