

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

SB 2429 – HB 2342

April 17, 2014

SUMMARY OF ORIGINAL BILL: Authorizes an existing licensed nursing home that meets certain criteria to divide and relocate up to 260 of its licensed beds to two locations.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – The proposed legislation could result in a nursing home reaching full occupancy of current licensed beds. If the legislation directly results in the facility reaching full capacity, the Bureau of TennCare could incur additional expenditures that, while currently responsible for such costs, the Bureau is not currently experiencing. It is difficult to determine the exact fiscal impact directly related to the passage of the legislation and the fiscal year in which the full impact will be realized. If the facility reaches full occupancy for its currently licensed beds, the TennCare program will expend approximately \$3,621,900 in state funds and \$6,745,700 in federal funds for costs of approximately 181 filled beds.

SUMMARY OF AMENDMENT (016168): Deletes all language after the enacting clause. Authorizes any existing licensed and operating nursing home to relocate less than all of its licensed beds to a new location if the proposed location for the partial relocation facility is within the same county as the existing nursing home and if an application for the qualified partial relocation of the beds is filed with and approved by the Health Services and Development Agency (HSDA). Requires the existing nursing home to immediately take action to reduce its licensed bed capacity to reflect the number of licensed beds relocated to the replacement facility upon full certification for Medicare and Medicaid of the partial replacement facility.

The provisions of the bill as amended do not apply to any certificate of need project filed before the bill as amended becomes law.

SB 2429 – HB 2342 (CORRECTED)

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On April 15, 2014, a fiscal memorandum was issued estimating a fiscal impact as follows:

Other Fiscal Impact – The proposed legislation could result in a nursing home reaching greater occupancy of current licensed beds. If the legislation directly results in the facility relocating all but one licensed bed which leads to greater capacity of Medicaid residents, the Bureau of TennCare could incur additional expenditures that, while currently responsible for such costs, the Bureau is not currently experiencing. It is difficult to determine the exact fiscal impact directly related to the passage of the bill as amended and the fiscal year in which the full impact will be realized. If the facility reaches greater occupancy for all but one of its currently licensed beds, the TennCare program will expend approximately \$3,601,900 in state funds and \$6,708,400 in federal funds for costs of approximately 180 filled beds.

This fiscal impact was limited to the one known facility that is currently in the process of trying to relocate a portion of its licensed beds. Based on additional information from the Bureau of TennCare, the estimated fiscal impact is being expanded to include the possible statewide implications of the bill as amended. The estimated fiscal impact is:

(CORRECTED)

Other Fiscal Impact – The proposed legislation could result in a nursing home reaching greater occupancy of current licensed beds. If the legislation directly results in the facility relocating all but one licensed bed which leads to greater capacity of Medicaid residents, the Bureau of TennCare could incur additional expenditures that, while currently responsible for such costs, the Bureau is not currently experiencing. It is difficult to determine the exact fiscal impact directly related to the passage of the bill as amended and the fiscal year in which the full impact will be realized. If the facility reaches greater occupancy for all but one of its currently licensed beds, the TennCare program will expend approximately \$3,601,900 in state funds and \$6,708,400 in federal funds for costs of approximately 180 filled beds.

Statewide, if all facilities with unoccupied beds relocated licensed beds to new facilities and realized greater occupancy rates, there would be a greater potential cost to the TennCare program. The maximum increase in TennCare expenditures for all possible unoccupied beds, under the provisions of the bill as amended and not including the 180 beds above, would be \$97,331,700 in state funds and \$181,276,300 in federal funds.

Assumptions for the bill as amended:

- The bill as amended authorizes the relocation of less than all of its licensed beds to a new location and upon full certification; the facility must reduce its licensed bed capacity to reflect the number of beds relocated to the new facility. Therefore, a facility could relocate all but one licensed bed to a new facility.
- If a facility relocates all but one of its licensed beds to a new facility and incurs greater occupancy rates due to the new facility, the TennCare program could incur increased expenditures.
- It is unknown how many existing licensed and operating nursing homes will relocate less than all of its licensed beds to new locations as a result of the proposed bill as amended.
- There are several unknown factors that contribute to the fiscal implications of the proposed bill as amended. These include, but are not limited to: all factors that are currently contributing to the facility not reaching full occupancy, the amount of time it will take for the beds to be relocated; the number of filled beds that will be relocated; the number of unfilled beds that will be relocated and filled as a direct result of the relocation; the number of beds that will not be relocated and will become unlicensed; if the facility will reach full occupancy of the relocated beds and when, if at all, full occupancy occurs; if the residents filling the beds will be Medicaid residents; and if residents filling the unfilled beds are currently receiving TennCare services. Due to these unknown factors, it is difficult to determine the exact fiscal impact and the fiscal year in which the full impact would occur.
- A certificate of need would have to be obtained prior to the relocation of any licensed beds. Application fees from the certificate of need process will be collected to cover the cost of the review; therefore, the net impact to HSDA is not significant.

Fiscal Implications to Known Facility:

- Of the one known facility that this would currently apply to, the facility is currently licensed for 419 beds. As of February 7, 2014, 229 beds are filled and 190 are unfilled.
- According to the Bureau of TennCare, the facility has had difficulty reaching full capacity and the occupancy has been declining over the past few years.
- It is unclear as to what has been the cause of the decline in recent years. Based on information provided by the Bureau of TennCare, the facility's occupancy averaged 289 filled beds during calendar year 2012. In December 2013, the occupancy was 217 filled beds. As of February 2014, the occupancy was 229 filled beds. Currently there are 190 unfilled licensed beds.
- The bill authorizes the relocation of less than all of its licensed beds to a new location. Of the known facility, that could result in the relocation of 418 licensed beds.
- In the event that the relocation of the 418 beds directly results in the facility reaching full capacity and an additional 189 beds are filled, the TennCare program could incur costs that the program is responsible for under current law but is not currently incurring due to the facility's inability to reach full capacity.
- Based on 2012 occupancy information, approximately 95 percent of the residents are Medicaid residents. It is assumed that this percentage remains constant.

- The annual average cost of a Level 1 Nursing Facility reimbursement is \$57,279.60. The increase in expenditures for 180 beds (189 currently unfilled beds x 95.0%) is \$10,310,328 ($\$57,279.60 \times 180$).
- Of this amount, \$3,601,913 would be state dollars ($\$10,310,328 \times 34.935\%$) and \$6,708,415 would be federal dollars ($\$10,310,328 \times 65.065\%$).

Fiscal Implications Statewide:

- Based on data from the Centers for Medicare and Medicaid Services (CMS) provided by the Bureau of TennCare, there are 36,993 total licensed nursing home beds in 322 facilities within the state. Of those beds, approximately 29,816 are occupied by residents. This equates to an occupancy rate of approximately 80.6 percent. These totals include all facilities.
 - There are 26 facilities that are Medicare only facilities and do not receive reimbursement from the TennCare program. There are 1,427 licensed beds of which 1,193 are occupied in the Medicare only facilities. These beds will not be included in the estimated fiscal impact.
 - There are 12 facilities that are Medicaid only facilities and receive reimbursement from the TennCare program. There are 750 licensed beds of which 656 are occupied in the Medicaid only facilities resulting in 94 (750 – 656) beds that are unoccupied in these facilities and could be impacted by the proposed legislation.
 - There are 283 facilities that are Medicare and Medicaid facilities and receive reimbursement from the TennCare program. This does not include the one facility mentioned above. There are 34,397 licensed beds of which 27,738 are occupied in the Medicare and Medicaid facilities resulting in 6,659 (34,397 – 27,738) beds that are unoccupied in these facilities and could be impacted by this legislation. These occupancy numbers do not include the one known facility described in the fiscal estimate above.
- After reducing the number of unoccupied beds that could be impacted by at least one bed per impacted facility, the total number of unoccupied beds is estimated to be 82 beds in Medicaid only facilities and 6,376 (6,659 – 283) beds in Medicaid and Medicare facilities.
- Based on conversations with the Bureau of TennCare, Fiscal Review Committee staff is estimating at least 75 percent of the licensed beds in the Medicare and Medicaid facilities receive reimbursement from the TennCare program and 25 percent of the licensed beds receive reimbursement from Medicare or through a private payer. Therefore, the total number of Medicare and Medicaid facility unoccupied beds that could be impacted is further reduced to 4,782 ($6,376 \times .75$).
- The total number of unoccupied beds statewide (not including the 180 unoccupied beds estimated in the fiscal analysis above) that have the potential to be relocated to a new facility and become occupied and be reimbursed by the TennCare program are estimated to be 4,864 ($82 + 4,782$).
- The annual average cost of a Level 1 Nursing Facility reimbursement is \$57,279.60. The increase in expenditures for 4,864 beds is \$278,607,974 ($\$57,279.60 \times 4,864$).

- Of this amount and based on the FY14-15 federal match rate, \$97,331,696 would be state dollars ($\$278,607,974 \times 34.935\%$) and \$181,276,278 would be federal dollars ($\$278,607,974 \times 65.065\%$).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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