

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 608 - HB 702

February 18, 2019

SUMMARY OF BILL: Requires amendments to rules concerning home and community based settings, so they are consistent with an intent for services, to be received in the most integrated setting appropriate to the person's needs. Authorizes the Division of TennCare (Division) to make qualifying home and community based services (HCBS) provided by a non-contract provider eligible for consumer direction and reimbursement.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds \$3,183,000

Assumptions:

- The proposed language for Title 33, Chapter 5 would require the Division to make eligible, for consumer direction and reimbursement, qualifying HCBS received from non-contracted providers when: (1) services are provided by a state-licensed program or provider; (2) services are provided in the most integrated setting appropriate to the individual's needs; (3) services are comparable to those included in the home- and community-based CHOICES program; (4) services align with the person-centered individualized support plan; and (5) services do not exceed annual cost limits assigned to a CHOICES benefit group.
- Based on information provided by the Division, the Division cannot spend federal funds on services outside the scope of the TennCare 1115 Demonstration Waiver. Any services provided would have to be paid with state funds; this fiscal note will focus on one service; however, there are others that will not be covered.
- Tennessee Code Annotated 71-5-109(a) prohibits the Division from expending state funds for Medicaid services in excess of the amount of state funds appropriated by the state for those services. For purposes of this fiscal analysis, it is assumed that this prohibition will not prevent the state from covering the full cost of services with state funds.
- The proposed legislation will require the Division to cover consumer directed facility-based day services. The federally approved service definitions for non-residential day services specify that services cannot be provided in facility-based settings, but rather, must be provided in integrated settings which fully comport with the federal HCBS settings rule.

- In calendar year 2016, the Department of Developmental and Intellectual Disabilities (DIDD) served 3,244 or 22 percent of individuals enrolled in programs using facility-based services at a cost of \$17,900,008 under the 1915(c) waiver at an average cost of \$5,518 ($\$17,900,008 / 3,244$ individuals) per person per year. This waiver is operated by DIDD and is now closed to new enrollment.
- This estimate will assume similar enrollment for facility-based services under the Employment and Community First (ECF) CHOICES program.
- There are currently 2,622 individuals enrolled in the ECF CHOICES program. Assuming 22 percent, or 577 ($2,622 \times 22.0\%$) individuals, will choose to receive this benefit, the recurring increase in state expenditures is estimated to exceed \$3,183,003 ($\$5,518$ per person per year $\times 577$ individuals).
- Based on information provided by the DIDD, the Department's current licensure rules comply with the federal home and community based setting final rule; therefore, any fiscal impact is estimated to be not significant.
- The proposed legislation will not have an impact on the Department of Health or health related boards' programs or policies; therefore, any fiscal impact is estimated to be not significant.

IMPACT TO COMMERCE:

Increase Business Revenue – Exceeds \$3,183,000

Increase Business Expenditures – Less than \$3,183,000

Assumptions:

- Healthcare providers that provide facility-based programs will experience an increase in business revenue for providing services.
- The increase in business revenue is estimated to exceed \$3,183,000.
- For companies to retain solvency, any increased expenditures will be less than the amount of increased revenues collected. Therefore, the increase in business expenditures is estimated to be less than \$3,183,300.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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