



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 1420

PRINTERS NO. 3371

PRIME SPONSOR: Thomas

### COST / (SAVINGS)

FUND	FY 2021/22	FY 2022/23
General Fund	\$0	See Fiscal Impact

**SUMMARY:** House Bill 1420, Printer's Number 3371, amends the Human Services Code to provide for: a COVID-19 Mental Health Public Awareness Campaign; supplemental payments to Personal Care and Domiciliary Care Homes; extension of the Nursing Facility Budget Adjustment Factor; minimum nursing facility payment rates; nursing facility resident care and related costs; audits and obligations of pharmacy benefit managers; amendments to informational materials related to the LIFE Program; Agency with Choice; limits on reimbursement to counties; extension of the Nursing Facility Assessment; Managed Care Organization Assessments; innovative health care delivery models; and abrogation of regulations.

This legislation is effective immediately upon enactment, except for as otherwise noted.

### ANALYSIS & FISCAL IMPACT:

#### **COVID-19 Mental Health Public Awareness Campaign**

This legislation requires the Department of Human Services (DHS) to establish a public awareness campaign regarding the programs and services available for first responders, health care workers, other frontline workers, and their families experiencing mental health issues related to the COVID-19 pandemic.

*Fiscal Impact* - DHS estimates this public awareness campaign would cost \$1.5 million, which can be accommodated within the remaining balance of \$53.3 million in supplemental federal Community Health Services Block Grant funds.

#### **Supplemental Payments to Personal Care and Domiciliary Care Homes**

This legislation increases state Supplemental Security Income payments for eligible individuals residing in a Personal Care or Domiciliary Care Home. The monthly payment for eligible Personal Care Home residents will increase from \$439.30 to \$639.30 for individuals and from \$957.40 to \$1,357.40 for couples. The monthly payment for eligible Domiciliary Care Home residents will increase from \$434.30 to \$634.30 for individuals and from \$947.40 to \$1,347.40 for couples.

*Fiscal Impact* - The General Appropriations Act of 2022 includes \$20 million in state funds for the purpose of increasing supplemental payments.

### **Nursing Facility Budget Adjustment Factor**

This legislation extends the authority to apply the Nursing Facility Budget Adjustment Factor (BAF) for an additional four years, from June 30, 2022, until June 30, 2026. The BAF ensures that the average payment rates for nursing facility services paid through the fee-for-service system complies to the amount permitted by the funds appropriated by the General Appropriations Act for the fiscal year. This provision is effective retroactive to June 29, 2022.

*Fiscal Impact* - The extension of the BAF does not have a fiscal impact.

### **Minimum Nursing Facility Payment Rates**

This legislation requires Community HealthChoices (CHC) managed care organizations (MCOs) to adopt a minimum payment rate for reimbursing nursing facilities that is equal to or greater than the nursing facility case-mix rates calculated by DHS for reimbursement through the fee-for-service system. The minimum payment rate will be in effect from January 1, 2023, through December 31, 2025.

*Fiscal Impact* - This language requires that funds appropriated in the Community HealthChoices appropriation for the purpose of increasing nursing facility payments be passed-through by the CHC MCOs to nursing facilities. The General Appropriations Act of 2022 includes \$134 million in state funds and \$279 million in total funds for this purpose.

### **Nursing Facility Resident Care and Related Costs**

This legislation requires that at least 70% of a nursing facility's total costs must be resident care or other related costs and provides for penalties of up to 5% of the facility's MA reimbursement for noncompliance. Penalties collected by DHS will be deposited into the Nursing Facility Quality Improvement Fund and may be used by DHS to enforce these provisions and provide funding for nursing facility quality improvement.

*Fiscal Impact* - These provisions have no net fiscal impact on Commonwealth funds. Any penalty deposited into the Nursing Facility Quality Improvement Fund will come from funds that would otherwise be paid to a nursing facility through the MA program.

### **Pharmacy Benefit Manager Audit and Obligations**

This legislation provides the Department of the Auditor General with the authority to conduct audits and reviews of pharmacy benefit managers (PBMs) that subcontract with Medical Assistance Managed Care Organizations. The Auditor General may review all previous audits completed by DHS and shall have access to all documents it deems necessary to complete audits and reviews.

*Fiscal Impact* - There is no fiscal impact related to providing authority to the Auditor General to conduct audits and reviews of PBMs.

### **LIFE Program Informational Materials**

This legislation amends the provisions that require DHS to include information pertaining to the Living Independence for the Elderly (LIFE) Program when educating or notifying an individual about long-term care services and supports in order to apply the provisions to the

Independent Enrollment Broker (IEB) and require that the quarterly report by the department document compliance.

*Fiscal Impact* – There is no fiscal impact related to these changes.

### **Agency with Choice**

This legislation prohibits DHS from administering or contracting with a single statewide entity to administer the Agency with Choice Financial Management Services model of service delivery to beneficiaries of programs administered by the Office of Long-Term Living, including the CHC, OBRA Waiver, and Act 150 programs, for twelve months.

*Fiscal Impact* – This provision will result in savings of \$320,400 in state funds (\$667,500 in total funds) in the MA – Community HealthChoices appropriation, which was requested for the procurement.

### **Limits on Reimbursement to Counties**

This legislation provides that money appropriated for community-based family centers may not be considered as part of the base for calculation of a county’s child welfare needs-based budget. This language has historically been in the annual article of the Fiscal Code and is being moved to the Human Services Code for permanent codification.

*Fiscal Impact* – There is no fiscal impact related to codifying this provision in the Human Services Code.

### **Nursing Facility Assessment**

This legislation extends the authority for the nursing facility assessment imposed on county and nonpublic nursing facilities for an additional four years, from June 30, 2022, until June 30, 2026. This provision is effective retroactive to June 29, 2022.

*Fiscal Impact* – Reauthorization of the nursing facility assessment will maintain approximately \$450 million in annual assessment revenues that will be used to support nursing facility payments.

### **Managed Care Organization Assessments**

This legislation updates the managed care organization (MCO) assessment to reflect the current fixed monthly fee and expiration date. The MCO assessment was most recently reauthorized via Act 23 of 2020 (the Fiscal Code) and this provision codifies those changes in the Human Services Code.

*Fiscal Impact* – There is no fiscal impact associated with moving authorization for the MCO assessment from the Fiscal Code to the Human Services Code.

### **Innovative Health Care Delivery Models**

This legislation provides that in order to operate an outpatient emergency department (OED):

1. The hospital operating an OED shall offer general acute care services.
2. The OED shall be included as an outpatient location under the license of the hospital and be located within 35 miles of the hospital.
3. The OED shall be located at least 35 miles from another hospital, hospital campus, or OED that is not under common legal ownership of the hospital operating the OED.
4. The hospital shall continue to meet the definition of “hospital” in the Health Care Facilities Act.

5. The hospital, including the OED, shall maintain compliance with regulations for General and Special Hospitals.

*Fiscal Impact* – There is no fiscal impact related to these provisions regarding OEDs.

### **Abrogation of Regulations**

This legislation abrogates the following regulations within Title 55 (Human Services) of the Pennsylvania Code:

- Sections 1153.14(1), 1223.14(2), and 5230.55(c) to allow for psychiatric, psychotherapy, and other related services to be delivered and supervised via telehealth if clinically appropriate to do so.
- Section 1121.53(c) to extent that payment for prescriptions is limited to a 34-day supply or 100 units to allow for dispensing of a 90-day supply.
- Sections 1123.2, 1249.52(a)(1), 1249.54(a)(3), and 1249.55(a), to the extent that supplies or services must be prescribed by a physician to allow for certain prescriptions by other health care practitioners.
- Sections 3270.137, 3270.153, 3280.137, 3280.153, 3290.137, and 3290.153 to the extent they apply to individuals with symptoms of COVID-19 to remove the requirement that child care employees and children enrolled in child care must receive a physician or nurse practitioner note before returning to the child care center or home.

*Fiscal Impact* – There is no fiscal impact related to permanent abrogation of these regulations.

**PREPARED BY:** Nick McClure  
House Appropriations Committee (R)

**DATE:** July 7, 2022

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*