

Fiscal Estimate Narratives

DHFS 8/2/2005

LRB Number	05-2340/2	Introduction Number	AB-540	Estimate Type	Original
Subject					
Consent by a legal representative for participation in MA waiver					

Assumptions Used in Arriving at Fiscal Estimate

Current law establishes several medical assistance home and community based waiver programs, including the long term support community options waiver program (COP-W), the community integration program for residents of state centers for the developmentally disabled (CIP 1A), the community integration program for persons relocated or meeting reimbursable levels of care (CIP II), and the community integration program and brain injury waiver program for persons with developmental disabilities (CIP IB and BIW). In addition, the Department administers home and community based waivers that serve children with disabilities and is in the process of requesting a waiver for individuals with mental health issues; however these waivers are not addressed in AB 540.

Under current policy, in all of the Department's home and community based waivers, an individual or if they are unable the individual's legal representative, must be informed of the services available under the home and community based waiver and given a choice of whether to participate in the waiver program. This occurs as part of the assessment and plan process. Before an individual can begin receiving waiver services, they or their legal representative must sign the individualized service plan. The signature signifies that the participant is in agreement with the plan as written, and that he or she has been advised by the county of the right to accept or reject any or all parts of the plan, and that he or she has been advised of their right to choose between receiving services in the community or at an institution. When a participant or guardian of the participant refuses to sign the plan, the plan is not approved unless the county or state petitions the court to approve the plan through a protective placement order under Chapter 55, or when the participant is a minor, the comparable provisions under Chapter 48. A copy of the court order must accompany the plan submitted to the Department. This process is described in detail as part of the Department's Medicaid Waivers Manual, which the federal Centers for Medicaid and Medicare Services has approved.

This bill directs the Department to ensure that all participants in the COP-W, CIP 1A, CIP 1B, CIP II and BIW programs are informed of the alternatives under the waiver and are given the choice of whether to participate. In the cases where the legal representative of a minor does not consent to the minor's participation in the program, the bill requires the Department to file a petition with the court under chapter 48 for a hearing on the best interest of the child.

The Department currently oversees the process that ensures individuals are given the choice between waiver or institutional services. However, the Department does not currently file petitions on behalf of minors whose legal representatives do not consent to participation in the waiver programs. This bill will have a fiscal impact on the Department. As of July 2005, there are 29 individuals under the age of 18 living in ICFs-MR including the state centers. Under current policy, all 29 of these individuals would receive an annual review to determine the appropriateness of living in an institutional setting. Under this bill, if it is determined that waiver participation is appropriate for the minor and the minor's legal representative refuses waiver participation, the Department would be required to file a petition on behalf of the minor. Filing a petition on behalf of a minor would require a thorough investigation by contract staff, including looking at such factors as the child and guardian's preferences and needs and the appropriateness of a community placement. The Department estimates this would require on average 20 hours of contract staff time at \$65 per hour for a total estimated cost per child of \$1,300 for an annual cost of \$37,700 (\$18,850 GPR and \$18,850 FED). In addition, the Department estimates that on average 80 hours of attorney time would be needed per petition filed. Since it is possible that the Department may need to file a petition on behalf of all 29 children currently living in facilities each year, the Department would need an additional 1.0 FTE attorney position at an estimated cost of \$59,700 GPR per year. The annual cost of the bill would be \$78,550 GPR and \$18,850 FED.

This bill should have no fiscal impact on counties because it would not change the way they currently

administer the waiver programs.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2005 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$59,700		
(FTE Position Changes)	(1.0 FTE)		
State Operations - Other Costs	37,700		
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$97,400		\$
B. State Costs by Source of Funds			
GPR	78,550		
FED	18,850		
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$		\$
NET ANNUALIZED FISCAL IMPACT			
	State	Local	
NET CHANGE IN COSTS	\$97,400		\$
NET CHANGE IN REVENUE	\$		\$
Agency/Prepared By		Authorized Signature	Date
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