



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 19-0433 **Date:** April 18, 2019
Prime Sponsors: Sen. Danielson; Moreno **Bill Status:** Senate HHS
 Rep. Kennedy; Duran **Fiscal Analyst:** Erin Reynolds | 303-866-4146
 Erin.Reynolds@state.co.us

Bill Topic: IMPROVE WAGES AND ACCOUNTABILITY HOME CARE WORKERS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill makes changes to reimbursement rates and sets various requirements for home care service agencies and employees. It will increase state expenditures on an ongoing basis. State revenue may also be increased beginning in FY 2020-21.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$12.1 million to the Department of Health Care Policy and Financing.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 19-238

		FY 2019-20	FY 2020-21
Revenue		-	-
Expenditures	General Fund	\$5,918,704	\$9,575,919
	Federal Funds	\$6,227,615	\$9,669,331
	Centrally Appropriated	\$55,282	\$98,261
	Total	\$12,201,601	\$19,343,511
	Total FTE	3.6 FTE	6.7 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill makes changes to reimbursement rates and sets various requirements for home care service agencies (agencies), with an exception for services provided under the Consumer-Directed Attendant Support Services model and the In-Home Support Services model.

Reimbursement rate increase. The bill requires the Department of Health Care Policy and Financing (HCPF) to request federal approval to increase the rates for basic homemaker, enhanced homemaker, and personal care services by 8.1 percent within 90 days after the bill is signed into law by the Governor. Each agency is required to pay 100 percent of the funding resulting from the rate increase as compensation for employees providing personal care, homemaker, and respite care services in FY 2019-20 on a per-employee basis. By August 1, 2019, each agency is required to provide written notification to each affected employee about the compensation to which they are entitled.

Wage pass-through requirement for agencies receiving Medicaid reimbursements. Effective July 1, 2020, the bill requires that agencies that receive Medicaid reimbursements spend at least 77 percent of the total Medicaid reimbursement amount on compensation for non-administrative employees providing personal care, homemaker, and respite care services.

Reporting. Agencies must submit an electronic report to HCPF by December 31, 2020, of each year detailing the payment the agencies received for services, the total amount of compensation each employee received, and the employee's contact information. Agencies are required to keep documents that verify employee's payroll information for at least three years.

Auditing and enforcement. HCPF is required to audit a random selection of agencies each year for compliance with electronic reporting requirements. If HCPF finds an agency to be out of compliance with electronic reporting requirements, the agency may be subject to a civil penalty of \$100 per day, up to a maximum of \$30,000. If HCPF finds that an agency has failed to pay employees as required under the bill, the agency may be subject to a civil penalty of \$1,000 per employee plus the compensation owed to the employee. HCPF is required to begin enforcement effective December 31, 2021, and providers subject to a penalty may appeal through the existing administrative hearing process. Any penalties collected are credited to the General Fund.

Training. By July 1, 2020, HCPF and the Department of Public Health and Environment (CDPHE) are required to establish a process to enforce initial and ongoing training requirements for employees providing personal care, homemaker, and/or respite care services. Individuals providing these services will be required to either receive training or receive a satisfactory score on a skill validation, and HCPF must make information available online to allow the public to verify that employees completed training or received a satisfactory score on a skill validation, with certain exceptions.

Background

The bill applies to over 400 service agencies in the state with over 6,000 employees.

State Revenue

The bill may increase state General Fund revenue from civil penalties beginning in FY 2020-21. The fiscal note assumes that agencies will comply with the law and this amount will be minimal. Revenue from civil penalties is subject to TABOR; however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

State Expenditures

The bill increases state expenditures by \$12.2 million and 3.6 FTE in FY 2019-20 and \$19.3 million and 6.7 FTE in FY 2020-21. Expenditure increases are shown in Table 2 and discussed below.

**Table 2
 Expenditures Under SB 19-238**

	FY 2019-20	FY 2020-21
Department of Health Care Policy and Financing		
Personal Services	\$267,207	\$446,524
Operating Expenses and Capital Outlay Costs	\$22,612	\$6,650
Reimbursement Rate Increases	\$11,238,676	\$18,605,252
Computer Programming	\$431,000	-
Contractor Costs	\$186,824	\$186,824
Centrally Appropriated Costs*	\$55,282	\$98,261
Total Cost	\$12,201,601	\$19,343,511
<i>General Fund</i>	\$5,918,704	\$9,575,919
<i>Federal Funds</i>	\$6,227,615	\$9,669,331
<i>Centrally Appropriated</i>	\$55,282	\$98,261
Total FTE	3.6 FTE	6.7 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. It is assumed that the standard federal Medicaid match of 50 percent is available for service-related expenditures and the enhanced federal Medicaid match of 75 percent is available for system implementation costs. If actual match rates differ, this will be addressed through the annual budget process.

Department of Health Care Policy and Financing. HCPF requires 4.0 FTE in FY 2019-20 and 7.0 FTE in FY 2020-21. Standard operating and capital outlay expenses are included for new staff and costs and FTE are prorated to reflect the General Fund paydate shift in the first employment year. This staff includes one program manager, four compliance specialists, one policy advisor, and one contract administrator. It is assumed that staff to implement and enforce the wage pass-through requirement will be hired by July 1, 2019, and that audit staff will be hired July 1, 2020.

- *Reimbursement rate increases.* Using current year appropriations, an 8.1 percent rate increase for agency based personal care, homemaker, and respite care services is estimated to cost \$11,238,676 in FY 2019-20 and \$18,605,252 in FY 2020-21. First year costs reflect the assumption that the increase will be in effect October 1, 2019. The actual rate amount will depend on the timing of federal approval; therefore, it is expected that HCPF will seek adjustments to this amount as necessary through the annual budget process.
- *Computer programming.* In FY 2019-20, HCPF requires \$431,000 for computer programming to create a reporting system for agencies to record employee wages and transmit them to HCPF. This cost includes changes to the Medicaid Management Information System at a blended rate of \$138 per hour for 2,000 hours at a cost of \$276,000, and changes to the Business Intelligence Data Management system at a blended rate of \$155 per hour for 1,000 hours at a cost of \$155,000.
- *Contractor costs.* HCPF requires a contractor to assist with the creation of an audit procedure and another to manage the training requirements under the bill at a total cost of \$186,824. If agencies choose to use their own training curriculum, it is assumed that the contractor will have an equivalent amount of work to review and verify that curriculum.

Department of Public Health and Environment. The CDPHE will have an increase in workload to verify the training requirements for home care service agency staff. This can be accomplished within existing resources.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$55,282 in FY 2019-20 and \$98,261 in FY 2020-21.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2019-20, the bill requires an appropriation to the Department of Health Care Policy and Financing of \$12,146,319, which includes \$5,918,704 from the General Fund and \$6,227,615 from federal funds.

State and Local Government Contacts

Health Care Policy and Financing

Public Health and Environment