



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0296 - Revise nursing home and/or assisted living funding (Beard, Becky)

Status: As Introduced

- | | | |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$251,217	\$459,589	\$1,824,440	\$3,222,509
Federal Special Revenue	\$3,918,949	\$8,046,205	\$10,987,994	\$14,022,913
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Federal Special Revenue	\$3,918,949	\$8,046,205	\$10,987,994	\$14,022,913
Net Impact-General Fund Balance:	<u>(\$251,217)</u>	<u>(\$459,589)</u>	<u>(\$1,824,440)</u>	<u>(\$3,222,509)</u>

Description of fiscal impact: SB 296 revises laws related to Medicaid reimbursement of skilled nursing and assisted living facilities; limits the use of nursing home appropriations, provides for annual inflationary adjustments, regular increases to room and board and directs the Department of Public Health and Human Services (DPHHS) (department) to transfer assisted living individuals from the Home and Community Based Services (HCBS) Big Sky Waiver (BSW) to Community First Choice (CFC).

FISCAL ANALYSIS

Assumptions:

Nursing Homes

1. DPHHS currently projects nursing home reimbursement of \$148,598,431 in FY 2025 based on present law rates. For this analysis, the department assumes the same reimbursement in FY 2026 and FY 2027 under present law.
2. For Section 5, the department assumes a 2.6% inflation factor in nursing home rates in FY 2026 and FY 2027. This is based on the Health Care Cost Review Skilled Nursing Facility Total Market Basket Index rate published by the Centers for Medicare and Medicaid Services (CMS). This would result in total nursing home reimbursement of \$152,461,990 (\$148,598,431 * 1.026) in FY 2026 an increase of \$3,863,559 for FY 2026

and \$156,426,002 in FY 2027 (\$152,461,990 * 1.026). This would be an increase of \$7,827,571 as compared to FY 2025.

TABLE 1

Standard Medicaid	2025 Projection	2026	2027
NH Projection	\$ 141,295,085	\$ 144,968,757	\$ 148,737,945
CMS Market Basket Rate Increase		2.60%	2.60%
Increase per year		\$ 3,673,672	\$ 7,442,860
<i>FMAP</i>			
State Share		35.92%	35.92%
Federal Share		64.08%	64.08%
Benefits			
State Share		\$ 1,319,583	\$ 2,673,475
Federal Share		\$ 2,354,089	\$ 4,769,385
Standard Medicaid Total		\$ 3,673,672	\$ 7,442,860
Medicaid Expansion			
NH Projection	\$ 7,303,346	\$ 7,493,233	\$ 7,688,057
CMS Market Basket Rate Increase		2.60%	2.60%
Increase over 2025		\$ 189,887	\$ 384,711
<i>FMAP</i>			
State Share		10.00%	10.00%
Federal Share		90.00%	90.00%
Benefits			
State Share		\$ 18,989	\$ 38,471
Federal Share		\$ 170,898	\$ 346,240
Medicaid Expansion Total		\$ 189,887	\$ 384,711
All Medicaid			
NH Projection	\$ 148,598,431	\$ 152,461,990	\$ 156,426,002
Increase Per Year		\$ 3,863,559	\$ 7,827,571
Benefits			
State Share		\$ 1,338,572	\$ 2,711,946
Federal Share		\$ 2,524,987	\$ 5,115,625
All Medicaid Total		\$ 3,863,559	\$ 7,827,571

Assisted Living

- Section 10 of the bill directs the department to apply for a state plan amendment to make assisted living facility services, currently covered under a 1915(c) Waiver (Big Sky Waiver), a service covered under Community First Choice, which is a state plan service. Although SB 296 has an effective date of July 1, 2023, administrative rule development, public comment and program startup activities are anticipated to take up to 180 days. For the purposes of this fiscal note, it is anticipated that any new services will be implemented January 1, 2024, dependent on CMS approval.
- There are currently 856 individuals receiving assisted living facility services as part of the HCBS Big Sky Waiver program. Under SB 296, these individuals would now be eligible to receive these services under the CFC State Plan, current funding for federal participation under CFC is 70.12%, 6% higher than the standard Federal Medical Assistance Percentage (FMAP). Movement from the BSW to CFC would result in general fund savings.
- Section 7 states that for the fiscal year beginning July 1, 2025, the department shall increase rates paid for assisted living services, at a minimum, by an inflation factor equal to the consumer price index, U.S, city average, all urban consumers for all items as published by the bureau of labor statistics of the United States department of labor. This information is unavailable for that time period, so the department assumed a 2.6% increase based on the FY 2026 Health Care Cost Review Skilled Nursing Facility Total Market Basket Index rate published by the CMS.

- Currently there are 256 individuals on a waiting list for assisted living services under the BSW. DPHHS assumes these 256 individuals would now qualify to receive assisted living services under CFC resulting in additional cost.

The table below reflects the fiscal impact for assumptions 5 - 7.

TABLE 2

Assumption #5 - Current ALF	2023	2024	2025	2026	2027
# Current Individuals in ALF	856	886	909	933	957
Caseload Growth		3.53%	2.59%	2.59%	2.59%
Service cost per day	\$ 104.31	\$ 104.31	\$ 104.31	\$ 107.02	\$ 109.80
Inflation Factor (Assumption #6)				2.60%	2.60%
# days per year		\$ 182.00	\$ 365.00	\$ 365.00	\$ 365.00
Annual cost		\$ 16,824,312	\$ 34,614,959	\$ 36,434,785	\$ 38,350,285
CFC FMAP					
State Share	29.88%	30.09%	29.88%	29.92%	29.92%
Federal Share	70.12%	69.91%	70.12%	70.08%	70.08%
State Share		\$ 5,062,435	\$ 10,342,950	\$ 10,901,288	\$ 11,474,405
Federal Share		\$ 11,761,876	\$ 24,272,009	\$ 25,533,497	\$ 26,875,880
Total Cost		\$ 16,824,312	\$ 34,614,959	\$ 36,434,785	\$ 38,350,285
Regular FMAP					
State Share	35.88%	36.09%	35.88%	35.92%	35.92%
Federal Share	64.12%	63.91%	64.12%	64.08%	64.08%
State Share		\$ 6,071,894	\$ 12,419,847	\$ 13,087,375	\$ 13,775,422
Federal Share		\$ 10,752,418	\$ 22,195,112	\$ 23,347,410	\$ 24,574,863
Total Cost		\$ 16,824,312	\$ 34,614,959	\$ 36,434,785	\$ 38,350,285
State Share difference		\$ (1,009,459)	\$ (2,076,898)	\$ (2,186,087)	\$ (2,301,017)
Federal Share difference		\$ 1,009,459	\$ 2,076,898	\$ 2,186,087	\$ 2,301,017
Assumption #7 - Waiting List					
	2023	2024	2025	2026	2027
# currently on waiting list	256	265	272	279	286
Caseload Growth		3.53%	2.59%	2.59%	2.59%
Service cost per day	\$ 104.31	\$ 104.31	\$ 104.31	\$ 107.02	\$ 109.80
Inflation Factor				2.60%	2.60%
# days per year		182	365	365	365
Cost per individual per year		\$ 5,031,570	\$ 10,352,137	\$ 10,896,384	\$ 11,469,244
CFC FMAP					
		2024	2025	2026	2027
State Share		30.09%	29.88%	29.92%	29.92%
Federal Share		69.91%	70.12%	70.08%	70.08%
State Share		\$ 1,513,999	\$ 3,093,219	\$ 3,260,198	\$ 3,431,598
Federal Share		\$ 3,517,571	\$ 7,258,919	\$ 7,636,186	\$ 8,037,646
Additional cost to CFC Program		\$ 5,031,570	\$ 10,352,137	\$ 10,896,384	\$ 11,469,244
Total State Share Impact		\$ 504,541	\$ 1,016,321	\$ 1,074,111	\$ 1,130,581
Total Federal Share Impact		\$ 4,527,029	\$ 9,335,816	\$ 9,822,273	\$ 10,338,663
Total Cost 5-7		\$ 5,031,570	\$ 10,352,137	\$ 10,896,384	\$ 11,469,244

- There are currently approximately 70 individuals who are waiting for other services under the BSW. DPHHS assumes these 70 individuals would backfill the open slots created by the transfer of assisted living individuals to CFC. This would result in an additional cost to the Big Sky Waiver program. The department assumes caseload growth of 3.53% in FY 2024 and 2.59% in FY 2025, FY 2026, and FY 2027.

TABLE 3

Individuals backfilling waiver slots	2023	2024	2025	2026	2027
# individuals	70	72	74	76	78
Caseload growth		3.53%	2.59%	2.59%	2.59%
Inflation Factor		0.00%	2.60%	2.60%	2.60%
Average slot cost/year	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,650	\$ 26,317
Additonal Cost to Waiver		\$ 905,888	\$ 1,858,700	\$ 1,956,418	\$ 2,059,274
SFY24 only 1/2 of year					
Standard FMAP	2023	2024	2025	2026	2027
State Share		36.09%	35.88%	35.92%	35.92%
Federal Share		63.91%	64.12%	64.08%	64.08%
Standard FMAP					
State Share		\$ 326,935	\$ 666,902	\$ 702,745	\$ 739,691
Federal Share		\$ 578,953	\$ 1,191,798	\$ 1,253,673	\$ 1,319,583
Additional Cost to Waiver		\$ 905,888	\$ 1,858,700	\$ 1,956,418	\$ 2,059,274

8. Under CFC State Plan, Case Management Services, currently provided under the HCBS BSW, would no longer be available. This would result in a general fund savings.

TABLE 4

Reduction for Waiver Case Management Services					
	2023	2024	2025	2026	2027
ALF Case management - Current	856	886	909	933	957
Caseload Growth		3.53%	2.59%	2.59%	2.59%
CM Daily Rate	\$ 11.38	\$ 11.38	\$ 11.38	\$ 11.68	\$ 11.98
Inflation Factor				2.60%	2.60%
# days per year		183	365	365	365
Annual cost of CM services for ALF individuals		1,840,539	3,775,713	3,976,163	4,184,483
Regular FMAP	2023	2024	2025	2026	2027
State Share	35.88%	36.09%	35.88%	35.92%	35.92%
Federal Share	64.12%	63.91%	64.12%	64.08%	64.08%
Case management savings					
State Share		(664,251)	(1,354,726)	(1,428,238)	(1,503,066)
Federal Share		(1,176,289)	(2,420,987)	(2,547,925)	(2,681,417)

9. Benefit calculations are as follows:

- FY 2024 Table 2 + Table 3 + Table 4 (\$5,031,570 + \$905,888 - \$1,840,539 = \$4,096,918
- FY 2025 Table 2 + Table 3 + Table 4 (\$10,352,137 + \$1,858,700 - \$3,775,713 = \$8,435,125
- FY 2026 Table 1 + Table 2 + Table 3 + Table 4 (\$3,863,559 + \$10,896,384 + \$1,956,418 - \$3,976,163 = \$12,740,199
- FY 2027 Table 1 + Table 2 + Table 3 + Table 4 (\$7,827,571 + \$11,469,244 + \$2,059,274 - \$4,184,483 = \$17,245,422

10. There are currently 20 individuals receiving assisted living services under the Money Follows the Person (MFP) grant. It is assumed these individuals would transition to CFC services; this would result in an additional state share cost due to the change in the MFP state share FMAP of 18.04% to the CFC state share FMAP of 30.09%.

11. Table 5 demonstrates the shift.

TABLE 5

MFP Current Individuals	2023	2024	2025	2026	2027
# Current Individuals on waiver in ALF	20	21	21	22	22
Caseload Growth		3.53%	2.59%	2.59%	2.59%
Service cost per day	\$ 104.31	\$ 104.31	\$ 104.31	\$ 107.02	\$ 109.80
Inflation Factor				2.60%	2.60%
# days per year		182	\$ 365	\$ 365	\$ 365
Annual cost for MFP individuals		\$ 393,091	\$ 808,761	\$ 851,280	\$ 896,035
MFP FMAP	2023	2024	2025	2026	2027
State Share	14.84%	18.04%	18.04%	18.04%	18.04%
Federal Share	84.56%	81.96%	81.96%	81.96%	81.96%
State Share		\$ 70,914	\$ 145,900	\$ 153,571	\$ 161,645
Federal Share		\$ 322,178	\$ 662,860	\$ 697,709	\$ 734,390
Total		\$ 393,091	\$ 808,761	\$ 851,280	\$ 896,035
CFC FMAP	2023	2024	2025	2026	2027
State Share	29.88%	30.09%	29.88%	29.92%	29.92%
Federal Share	70.12%	69.91%	70.12%	70.08%	70.08%
State Share			\$ 241,658	\$ 254,703	\$ 268,094
Federal Share		\$ 274,810	\$ 567,103	\$ 596,577	\$ 627,941
Total		\$ 393,091	\$ 808,761	\$ 851,280	\$ 896,035
State Share Impact		\$ 47,368	\$ 95,757	\$ 101,132	\$ 106,449
Federal Share Impact		\$ (47,368)	\$ (95,757)	\$ (101,132)	\$ (106,449)

12. The department estimates an additional 1.0 FTE program specialist 1 position will be needed based on past workload experience in implementing and monitoring state plans as well as the additional workload associated with changes in the claim processes for BSW to CFC. CFC has a quality component that must be met to achieve Medicaid match. Assisted living services under CFC require the monitoring of federal setting requirements. Facilities must meet thresholds that are higher than current state assisted living licensing laws. Routine review of facilities, review of new providers, on-site evaluations, and preparations for emergent transfers of residents due to violations will require additional staff time. The program specialist 1 will be responsible for:

- drafting the state plan amendment
- collecting and analyzing data
- completing reporting requirements
- completing quarterly reporting
- routine review of facilities
- review of new providers

- on-site evaluations
- preparations for emergent transfer of residents due to violations

It is estimated that in FY 2024, the program specialist 1 position will cost \$73,248 of which \$68,396 is personal services, \$2,052 is operating and \$2,800 is OTO. New office equipment for the employee is \$2,800 in FY 2024. Operating costs associated with the FTE is estimated at 3% of personal service costs.

13. Additional staff time will also be needed to support setting rules and to ensure compliance with CMS regulations. It is assumed the nursing home section supervisor will be responsible for these duties and will be absorbed by the department.

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services	\$68,396	\$68,611	\$70,131	\$71,666
Operating Expenses	\$4,852	\$2,058	\$2,104	\$2,150
Benefits	\$4,096,918	\$8,435,125	\$12,740,199	\$17,171,606
TOTAL Expenditures	\$4,170,166	\$8,505,794	\$12,812,434	\$17,245,422

<u>Funding of Expenditures:</u>				
General Fund (01)	\$251,217	\$459,589	\$1,824,440	\$3,222,509
Federal Special Revenue (03)	\$3,918,949	\$8,046,205	\$10,987,994	\$14,022,913
TOTAL Funding of Exp.	\$4,170,166	\$8,505,794	\$12,812,434	\$17,245,422

<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$3,918,949	\$8,046,205	\$10,987,994	\$14,022,913
TOTAL Revenues	\$3,918,949	\$8,046,205	\$10,987,994	\$14,022,913

<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$251,217)	(\$459,589)	(\$1,824,440)	(\$3,222,509)
Federal Special Revenue (03)	\$0	\$0	\$0	\$0


Long-Term Impacts:

1. Sections 5 and 7 of this bill state the department shall conduct a comprehensive analysis beginning July 1, 2027 and every four years, thereafter. It is assumed the analysis would be a contracted service at a cost of approximately \$369,125 in FY 2028. These costs would be paid for at the Medicaid administration FMAP rate of 50% state share and 50% federal share. A change package for this would need to be added every other biennium to cover these costs.
2. Additionally, DPHHS estimates 720 hours of additional staff time for the assistance with the comprehensive analysis in FY 2028. Staff hours would include gathering data, communicating with the contractor on needed information, attending meetings, and reviewing completed data. These costs would be covered with existing staff.

Technical Notes:

1. Section 5 does not clearly articulate that the nursing home reimbursement rate be readjusted every year but that was the interpretation made by the department in its analysis.

2. Section 6 (b) states that if the actual caseload in a fiscal year is less than the projected caseload, the appropriation may be used to increase rates to close the gap between the weighted average Medicaid rate paid to nursing homes and the actual weighted average costs identified in facility cost reports, indexed forward for inflation. However, ARM 37.40.308 (2) states that except as specifically provided in these rules, per diem and interim rates are set no more than once a year, effective July 1 and remain in effect at least through June 30 of the following year. ARM 37.40.308 2 (a) states nothing in this subchapter shall be construed to require that the department apply any inflation adjustment, recalculate the Medicaid case mix index or the statewide price, or otherwise adjust or recalculate per diem rates or interim rates on July 1 of the rate year, unless the department adopts further rules or rule amendments providing specifically for a rate methodology for the rate year. ARM 37.40.308 (3) states a provider’s rate established July 1 of the rate year shall remain in effect throughout the rate year and throughout subsequent rate years, regardless of any other provision in the subchapter, until the effective date of a new rate established in accordance with a new rule or amendment to these rules, adopted after the establishment of the current rate, which specifically provides a rate methodology for the new or subsequent rate year.
3. Changing rates as indicated in Section 6 would require CMS approval, and without approval the department would lose federal match for the increased nursing home rates. The earliest the department would become aware of an actual caseload being less than a projected caseload is approximately halfway through a fiscal year. At that point, the department would begin the process to seek CMS approval of rate changes which is assumed to take a minimum of 90 days.
4. Section 10 directs DPHHS to apply for a state plan amendment no later than January 1, 2024 to make assisted living services currently covered under the Big Sky Waiver a service covered under the Community First Choice option available under the Medicaid program. However, including assisted living in CFC opens the service to any individual who is Medicaid eligible and meets nursing facility level of care. Additionally, individuals receiving waiver services or on the wait list for Severe Disabling Mental Illness (SDMI) or 0208 funded assisted living services would qualify for CFC reimbursement. These possible related costs are not included in this fiscal note.
5. CFC eligibility is to include spousal impoverishment. This would need to be added to the state plan amendment for all assisted living clients to successfully transfer from the Big Sky Waiver to CFC.
6. Current staffing shortages in nursing homes and assisted living facilities could impact costs and implementation.

NO SPONSOR SIGNATURE	2/24/23		2-23-23
<i>Sponsor's Initials</i>	<i>Date</i>	<i>Budget Director's Initials</i>	<i>Date</i>