State of Rhode Island
Budget Office
Department of Administration

State Fiscal Note for Bill Number: 2022-H-8245

Date of State Budget Office Approval: **Thursday, May 26, 2022**

Date Requested: **Thursday, May 12, 2022**

Date Due: **Sunday, May 22, 2022**

Impact on Expenditures		*Impact on Revenues*	
FY 2022	N/A	FY 2022	N/A
FY 2023	Indeterminate	FY 2023	N/A
FY 2024	Indeterminate	FY 2024	N/A

Explanation by State Budget Office:

This is a joint resolution to The Rhode Island Medicaid Reform Act of 2008 approving a proposal for EOHHS to pursue Medicaid section 1115 demonstration waiver requests or state plan or category II or III changes as described in the demonstration in order to implement a behavioral health per diem add-on for particularly complex patients, with behavioral health conditions who: (a) Are hospitalized, are clinically appropriate for discharge to a nursing facility, and the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare; or (b) Reside in a nursing facility and are Medicaid recipients with medically-based mental health or behavioral disorders demonstrating significant behaviors as shown in a minimum of thirty (30) days of clinical behavioral documentation of behavioral health conditions, and the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare.

Comments on Sources of Funds:

Medicaid expenditures are jointly financed by general revenues and federal funds according to the prevailing (blended) Federal Medicaid Assistance Percentage (FMAP), which is 54.68 and 54.19 percent in FY 2022 and FY 2023, respectively. On March 18, 2020, the President signed into law the Families First Coronavirus Response Act (FFCRA), which provided a temporary 6.2 percentage point enhancement to each qualifying state's Federal Medical Assistance Percentage (FMAP) effective January 1, 2020 and extending through the last day of the calendar quarter in which the public health emergency declared by the Secretary of Health and Human Services for COVID-19 terminates. As of this writing, federal authorizations have signaled their intent for the PHE to remain in effect through the end of the first quarter of FY 23. The FMAP for FY 2024 utilized is the federal projected rate.

Summary of Facts and Assumptions:

As noted above, this legislation provides General Assembly approval to the Secretary of the Executive Office of Health and Human Services (EOHHS) to a Section 1115 Waver in pursuit of a more cost-effective consumer choice system of care that is fiscally sound and sustainable which would implement a behavioral health per diem add-on for particularly complex patients, with behavioral health conditions who (a) Are hospitalized, are clinically appropriate for discharge to a nursing facility, and the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare; or (b) Reside in a nursing facility and are Medicaid recipients with medically-based mental health or behavioral disorders demonstrating significant behaviors as shown in a minimum of thirty (30) days of clinical behavioral documentation of behavioral health conditions, and the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare. The Budget Office notes that as drafted, the resolution approves a Section 1115 Waiver

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for this initiative whereas the nursing facility payment is already included in the Medicaid State Plan and therefore, the correct required federal CMS request on the part of EOHHS would be for a State Plan Amendment and not a State Plan Waiver. The Budget Office deems the first component of the legislation: "(a) Are hospitalized, are clinically appropriate for discharge to a nursing facility, and the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare" as indeterminate.

The Budget Office does note that the first component of the policy drafted as follows, "(a) Are hospitalized, are clinically appropriate for discharge to a nursing facility, and the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare, and where the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare" is similar to a Medicaid initiative recently enacted and being implemented (delayed from FY 22 to now FY 23 due to certification standards finalization and State Plan Amendment submission delays) as a behavioral health per diem add-on for particularly complex patients, who have been hospitalized for six (6) months or more, and are clinically appropriate for discharge to a nursing facility and seemingly broader than the language provided in similar bill, H7930. This initiative was enacted in H6122 FY 22 Budget as Enacted under Article 12 Relating to Medical Assistance under Section 8. Rhode Island Medicaid Reform Act of 2008 Resolution. The enacted budget estimated the cost of this component to be $2,544,575 all funds and $1,074,319 general revenues. As part of the May 2022 Caseload Estimating Conference, EOHHS testified that they anticipate this initiative to now cost $2,778,526 all funds and $1,272,843 general revenue for 20 individuals in FY 23 coming out of a hospital and therefore at a nursing home per diem cost of $205.62 plus the per diem add on of $175 (please note that this initiative could be further refined in order to be based on the adopted FY 23 budget from the May 2022 Caseload Estimating Conference). Based on the most recent information available now, where the U.S. Office of Health and Human Services has suggested that the Public Health Emergency and relevant enhanced FMAP rate will be extended an additional quarter now impacting FY 23, this general revenue estimate would now be $1,229,776. In comparing this bill to H7930 which implements the component that has been enacted and which EOHHS will be implementing, this bill H8245 has much broader hospitalization language which may mean that more people would be eligible for the higher rates, but how many more would be indeterminate and could not be estimated with any more precision than the enacted initiative and the estimate provided in the fiscal note for H 7930 and implementation could result in similar estimates to the estimate provided above.

The second component of the initiative states that, (b) Reside in a nursing facility and are Medicaid recipients with medically-based mental health or behavioral disorders demonstrating significant behaviors as shown in a minimum of thirty (30) days of clinical behavioral documentation of behavioral health conditions, and the nursing facility is Medicaid certified to provide or facilitate enhanced levels of behavioral healthcare.

It is assumed that there is no material difference in the language between H8245 and H7930 for this second component resulting in similar conclusions in the fiscal note

provided for H 7930 and a similar indeterminate conclusion. This legislation, similarly to H7930, as drafted does not specify what the per diem amount would be for this Medicaid recipient population group. The Budget Office notes again this legislation for which this fiscal note is being submitted pertains to a Joint Resolution and therefore, only provides EOHHS with the authority to pursue this new per diem. If implemented, funding would need to be included in the EOHHS Medicaid budget for the benefit costs new initiative as well as other ancillary costs of implementation including system redesign. This resolution also does not define what "medically-based mental health or behavioral health disorder" is which would specify the criteria that EOHHS should utilize for determining the appropriate population data. This lack of explanation makes it difficult to determine how much of the existing nursing home population would be eligible. Another complexity of the legislation is that there would need to likely be a change to the MDS assessment (MDS assessment refers to the Minimum Data Set which is part of the federally mandated process for clinical assessment of all residents in Medicare and Medicaid certified nursing homes) and/or new daily assessment to document and track exhibition of new symptoms for 30 consecutive days as well as to document behavioral health issues for 30 consecutive days. There are likely MMIS system costs necessary to implement the increased payment and identify eligible patients. These costs are unknown and would likely delay any implementation due to the particular complexity of the nursing home payment schema.

Due to the aforementioned lack of information, the Budget Office renders this fiscal impact of the second component as indeterminate, but will utilize broad assumptions to provide a general estimate of magnitude and notes that this interpretation may vary from what the sponsors of this legislation intended. One such assumption is that the per diem is the same as the approved SFY 22 amount of $175 for residents meeting the hospitalization requirement. Other assumptions include a start date of July 1, 2022, SFY 23.

The fiscal impact uses a methodology based on MDS assessment conducted every 90 days that inform a resident's RUG category (RUG (Resource Utilization Groups – a classification system for skilled nursing patients categorizing patients into groups based on their care and resource needs). The estimate is based upon the current nursing home census and MDS assessments from May 2, 2022. The cost estimate utilizes a rate of a $175 add on for residents with length of stay greater than 30 days. It must be noted that the estimate could be grossly under or overstated due to the inability of knowing the defined behavioral health diagnosis. There is also an incompleteness factor in the data due to the lag in MDS assessments of approximately 3 weeks. There are likely to be more members with a BH-related diagnoses than those used in assessing eligible residents. Many members may not exhibit complex behavioral health needs.

The fiscal impact is determined by utilizing a $175 per diem for Medicaid members with dementia, complex BH, SPMI and I/DD diagnoses as follows: a total of 1,706 members with an LTSS authorization; 50% of Medicaid non-LTSS members totaling 93 (note that some percentage of these members are likely LTSS-eligible and are simply awaiting application and/or spend down period) and applying a10 percent increased utilization factor for FY 23 due to census remaining low due to pre-covid

era and an anticipation of increased utilization over the year. This results in a total of 1,979 members at $175 BH add on to per diem for a total of $126,408,625 all funds and $55,948,457 general revenue.

This results in a total estimate for both components of the resolution of $125.6 million all funds and $55.6 million general revenue. FY 24 utilizes the same estimate with a growth factor of 6.9% total which is a combination of utilization growth (5%) and the market basket rate increase (1.9%) resulting in estimates of $134.3 million all funds and $60.4 million general revenue. To account for resources needed for payment, as well as generating, maintaining, and updating the eligibility segments including interfaces with DHS and/or the nursing homes and/or BHDDH. These system needs are estimated to cost $750,000 all funds and $375,000 general revenue which would need to be added the fiscal impact of this initiative.

Summary of Fiscal Impact:

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As stated, discussed above, the fiscal impact of this bill is indeterminate due to incomplete information and therefore the inability of knowing the defined behavioral health diagnosis which is required to estimate the population impacted. For general information using certain specific assumptions which may not correspond to the interpretation of the sponsors of this bill possible estimate could be as much as $126.4 million all funds and $56.0 million in general revenue in FY 23.

Budget Office Signature:

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Fiscal Advisor Signature:

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