



## State Fiscal Note for Bill Number: 2023-H-5238

**Date of State Budget Office Approval:** Thursday, June 1, 2023

**Date Requested:** Monday, May 15, 2023

**Date Due:** Thursday, May 25, 2023

<i>Impact on Expenditures</i>		<i>Impact on Revenues</i>	
FY 2023	N/A	FY 2023	N/A
FY 2024	Indeterminate	FY 2024	N/A
FY 2025	Indeterminate	FY 2025	N/A

*Explanation by State  
Budget Office:*

This bill sets forth a new section of RIGL 40.1-1.1 entitled “Home and Community Based Services to Permit Payments for Family Caregivers and Legally Responsible Individuals”, by codifying in state law portions of the Emergency Preparedness Response Appendix K, which included actions the State could take relating to home and community-based waiver authority to respond to the COVID-19 Pandemic.

Specifically, this bill authorizes parents and legal guardians to receive payment for delivering home and community-based services to developmentally disabled dependents and children with special healthcare needs who have elected self-directed services.

Self-directed services allow participants, or their representatives if applicable, to have decision-making authority over certain services and to take direct responsibility to manage their services with the assistance of a system of available supports. The self-directed service delivery model is an alternative to traditionally delivered and managed services, such as an agency delivery model. Self-direction of services allows participants to have the responsibility for managing all aspects of service delivery in a person-centered planning process.

Additionally, the Executive Office of Health and Human Services (EOHHS) will ensure that the individuals receive the necessary services as authorized in the plan of care, by requiring the parents/legal guardians to document case notes reflecting the services they provide and submit an attestation that they have reviewed the plan of care and will provide the supports in the plan to the extent possible given the Public Health Emergency.

To ensure that payments are made for services rendered, EOHHS will retain a third party as a fiscal intermediary agency which will review employment paperwork and timesheets submitted by the parent/legal guardian.

Finally, this bill directs EOHHS to pursue a Medicaid section 1115 demonstration waiver request to maximize federal financial participation.

*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 54.19 percent in FY 2023 and 54.75 in FY 2024. These rates are further augmented by both the Families First Coronavirus Response Act (FFCRA)

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Thursday, June 1, 2023

Page 1 of 3

*Summary of Facts  
and Assumptions:*

and the Fiscal Year 2023 Omnibus Appropriations Bill resulting in an enhanced FMAP (eFMAP) of 60.09 percent and 55.75 in FY 2023 and FY 2024 respectively. For FY 2025, this fiscal note utilizes the FY 2024 blended FMAP, 54.75 percent, noting all eFMAP opportunities will conclude December 2023 (FY 2024).

During the COVID-19 Pandemic the Center for Medicare & Medicaid Services (CMS) granted the State of Rhode Island the temporary authority to allow parents and legal guardians to receive payment for delivering home and community-based services to developmentally disabled dependents and children with special healthcare needs. This temporary authority is set to lapse on November 11, 2023, six months after the end of the Federal COVID-19 Public Health Emergency (May 11, 2023).

The General Assembly, through the Medicaid Resolution in the FY 2023 Enacted Budget, granted the State the authority to continue these authorities for 14 months following the end of the public health emergency, extending the State authority to July 11, 2024.

This bill will codify the temporary authority in state law, making authority to allow parents and legal guardians to receive payment for delivering home and community-based services to developmentally disabled dependents permanent and children with special healthcare needs.

This bill requires EOHHS to pursue a Medicaid section 1115 demonstration waiver request to maximize federal financial participation. Without an approved Medicaid section 1115 demonstration waiver federal support of the authorities will expire on November 11, 2023

EOHHS has submitted a Medicaid section 1115 demonstration waiver request to CMS prior to this analysis, which once approved by CMS will be effective as of January 1, 2024. This would create a seven-week gap were federal authority would not be granted, which EOHHS and CMS are working to ensure would not happen and that the State will not experience a gap in federal authority.

The biannual Caseload Estimating Conference (CEC) included testimony by the Department of Behavioral Healthcare, Development Disabilities and Hospitals on the implementation of the Appendix K authority during the pandemic and the requested 1115 waiver renewal for continued implementation after the end of the PHE. Appendix K costs therefore are reflected in actual data to date since its inception during the pandemic, but the impact of a permanent Appendix K policy is indeterminate because it is unknown whether it would lead to increased costs from having new services or a substitution of services based on existing authority.

Similarly, EOHHS stated that the fiscal impact is dependent upon a variety of factors: 1) the volume of current members with a family caregiver interested in providing home and community based services; 2) the degree to which any services provided by a family caregiver represents a shift from services currently performed by home care agency staff and independent provider staff; and 3) the extent to which any services provided by family care givers represents an increase in services that the current providers are unable to fill. For theses reasons the fiscal impact on services provided to children with special healthcare needs is indeterminate.

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Thursday, June 1, 2023

Page 2 of 3





**State Fiscal Note for Bill  
Number: 2023-H-5238**

*Summary of Fiscal  
Impact:*

As stated above, the fiscal impact for this bill is indeterminate.

*Budget Office Signature:*

*Fiscal Advisor Signature:*

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Thursday, June 1, 2023

Page 3 of 3

