

Updated to include appropriation to HCBS ARPA and amendments through 2/1/2022.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS			\$2,018,638	
CASH FUNDS				
FEDERAL FUNDS	\$500,000		\$16,004,510	
OTHER FUNDS				
TOTAL FUNDS	\$500,000		\$18,023,148	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 376, as amended by AM 1307, proposes that the Department of Health and Human Services (DHHS) apply for a waiver to administer a home and community-based services family support program for children with developmental disabilities who are currently on the DHHS Developmental Disability waiting list. The amendment also adds intent language that such funds that were distributed to Nebraska pursuant to section 9817, or any other applicable section, of the American Rescue Plan Act of 2021 be used to partially fund the family support program.

As amended by AM1707 requires the Department of Health and Human Services to engage a nationally recognized consultant to provide an independent evaluation of the state’s developmental disabilities system in order to examine how the State of Nebraska can better serve Nebraskans with developmental disabilities. DHHS has provided an estimate of such an evaluation to be \$500,000. The consultant is to deliver the report detailing the findings and recommendations to the Governor, DHHS, and the chairperson of the health and Human Services Committee on or before December 31, 2023. The funding for the consultant would be appropriated from the Home and Community Based Services section (9817) of the American Rescue Plan in FY 2022-23.

AM 1707 further stipulates that the program cannot be implemented until such time that the waiver is approved by the Centers for Medicare and Medicaid Services. The proposed legislation directs the DHHS to submit a new waiver application or seek other mechanisms for approval if the waiver application is denied.

This fiscal note assumes January 1st, 2023 as the implementation date due to the time needed to apply for and receive approval for the waiver from CMS. The waiver would be limited to 3 years. The American Rescue Plan Act funds within section 9817 for Home and Community Based Services are time limited and must be spent by 3/31/24 so only a portion of the pilot period for the first year and the cost of the evaluation would be eligible for these funds.

The proposed waiver program would provide waiver services to 850 children, including 400 children who are not currently eligible for Medicaid that are currently on the Developmental Disability waiting list. In the revised fiscal note provided by DHHS, it assumes that all 850 children on the registry/waiting list may be eligible for Medicaid due to the requirements of the Public Health Emergency (PHE) that prohibits the Department from conducting recertification for Medicaid eligibility during the PHE. However, reports from prior to the PHE show that the number of children on the registry/waitlist have historically been about 400 children thus the LFO fiscal note reflects this data. The total Medicaid cost for the 400 children on the waiting list is \$5,822,400 for FY 2023-24.

The program would offer an annual capped budget of \$10,000 per participant for long-term services and supports for 850 children. In FY 2023-24, the total cost is \$8,500,000.

Service Coordination includes the staff and corresponding benefits for the implementation of the waiver program. DHHS anticipate a need for 45 FTE to provide this service. Total staffing costs for service coordination

An additional cost for the new waiver is the case management system. There is an initial cost of \$104,625 for the technology cost and an annual cost of \$84 for each waiver participant for the case management software (Therap) for a total cost of \$71,400. Other operating costs total \$892,762.

Of the total costs of \$18,023,148 for FY2023-24, \$6,055,913 would be appropriated from the Home and Community Based Services section (9817) of the American Rescue Plan.

See the following for cost component breakdown:

Cost Component	# Eligible	Cost Base	Cost FY 22-23	Cost FY 23-24
1915 c waiver services	850	\$10,000		\$8,500,000
Services Coordination/Benefits	850	-		\$2,736,586
Operating/Indirect Costs	850	-		\$892,762
Case Management Software	850	\$84.00		\$71,400
Heritage Health Costs	400	\$14,136		\$5,822,400
DD System Evaluation		\$500,000	\$500,000	
		Total	\$500,000	\$18,023,148
		General Funds		\$2,018,638
		Federal Funds		\$9,948,597
		HCBS ARPA	\$500,000	\$6,055,913

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 376 AM: 1307,1707 AGENCY/POLT. SUB: Nebraska Department of Health and Human Services

REVIEWED BY: Ann Linneman DATE: 2-17-2022 PHONE: (402) 471-4180

COMMENTS: The Nebraska Department of Health and Human Services' analysis and estimate of fiscal impact to the department appears reasonable.

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) John Meals

Date Prepared 2-17-2022

Phone: (5) 471-6719

	<u>FY 2022-2023</u>		<u>FY 2023-2024</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$0	\$0	\$3,278,115	\$0
CASH FUNDS	\$0	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$16,775,291	\$0
OTHER FUNDS	\$0	\$0	\$9,834,342	\$0
TOTAL FUNDS	\$0	\$0	\$29,887,748	\$0

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

LB 376 as amended by AM1307 would require the development and implementation of a family support waiver, which would be offered to minors with disabilities to prevent institutionalization and allow children to remain in their family homes. This offers services needed by families and a pathway to Medicaid eligibility.

The bill requires the Department to apply for a new 1915(c) waiver that would need to be approved first in order to implement this and other changes proposed in this bill. The waiver would be limited to 3 years.

This fiscal note assumes July 1st, 2023 because of the time needed to implement a new waiver program.

The number of participants is capped at 850. Using the current Service Coordination workload ratios, 34 FTE Services Coordinators, 5 FTE SC Supervisors, and 1 FTE Service District Administrator will be needed. There will also be a need for 1 FTE for the policy team (program specialist), 2 FTE for the Quality team (2 Program Accuracy Specialists), and 2 FTE for the financial and data management team (2 Fiscal Project Analysts).

There would be additional costs for the Therap case management system to add the new waiver and all components of case management for this new waiver population. The initial IS&T costs related to MMIS and NFOCUS is \$104,625. The contract for case management is structured on a per member rate of \$83.79/year. The ongoing additional cost of adding 850 participants is estimated at \$71,400 per year as part of operating costs. The administrative appropriation, both general fund and federal fund, would be within program 033.

The waiver would have a limited budget of up to \$10,000 per participant. The first year would require \$8,500,000; \$3,581,050 General Funds for program 424 and \$4,918,950 Federal Funds for program 348.

Additional Medicaid expenditures would be incurred by program 348 due to the pathway to Medicaid eligibility required in this bill. Fiscal year 2024 (FY24) would include 850 additional Heritage Health cases at a rate of \$1,685 per member per month. The total cost would be \$17,187,000; \$7,240,883 general funds and \$9,946,117 federal funds. The table below incorporates a 3.5% increase to the per member per month cost for both FY25 and FY26. The Department's fiscal note requests appropriations for the costs for the full number of individuals (850) that obtain Medicaid Eligibility through this new waiver. While the department acknowledges that there are some individuals that may be eligible today for Medicaid, that are on the current DD Waitlist, the department does not believe the funding for those individuals is in the current Medicaid appropriation. First, it is reasonable to assume some portion of the individuals that are currently on the DD Waitlist that have Medicaid eligibility, may only be eligible at this time due to the MOE requirements of the PHE. Meaning upon the end of the PHE, Medicaid will begin performing beneficiary eligibility redeterminations. The department has not processed redeterminations for two years, as a result of the pandemic. The temporary 6.2% FMAP increase is covering the additional costs for these members, and it is not appropriated today. Second, it is also reasonable to assume that some portion of the individuals that are on the DD Waitlist and have Medicaid Eligibility are eligible in a lower cost capitated PMPM Family Cohort, given that their current pathway to eligibility is not

based on the disregard of parental income under a waiver, but rather through family MAGI eligibility pathways. Eligibility obtained via waiver programs, such as what this waiver executes, will result in assignment of these members eligibility to higher cost AABD capitated PMPM cohorts.

LB376 as amended by AM1707 will not implement the pilot family support program as outlined in sections 2 and 4 of this act if the federal Centers for Medicare and Medicaid Services deny the requisite 1915(c) waiver.

AM1707 also requires the Department of Health and Human Services (DHHS) to hire a nationally recognized consultant to evaluate the developmental disabilities system. This evaluation will analyze the array of services and programs for persons with developmental disabilities and address potential areas for improvement with an emphasis on maximizing impact, effectiveness, and cost-efficiencies.

The electronic report of the findings and recommendations of the consultant will be due to the Governor, the DHHS, the Chairperson of the Health and Human Services Committee of the Legislature, and the Clerk of the Legislature on or before December 31, 2023.

Developmental Disabilities staff will be required to assist this consultant in the form of document and information compilation for accurate reporting. Extrapolating from previous similar contract studies, this consulting project will cost an estimated \$500,000 from the Administration Budget; \$250,000 federal funds and \$250,000 general funds.

Lastly, this amendment calls for the use of American Rescue Plan Act (ARPA) funds within section 9817 for Home and Community Based Services. The HCBS ARPA funds are time limited and must be spent by 3/31/24 so only a portion of the pilot period could be funded by this source. Assuming a start date of 7/1/23, \$9,834,342 of the projected FY24 cost could be funded via the section 9817 HCBS ARPA.

Based on a 57.87% Federal Medical Assistance Percentage (FMAP) rate, the overall impact to Medicaid in FY24 would be \$29,887,748 (\$3,278,114 general fund, \$16,775,291 federal fund, \$9,834,342 HCBS ARPA fund).

Additionally, if the intent of the legislature is to have this pilot program cover a three year period, 7/1/23 – 6/30/26, the stated cost would approximately triple for full waiver period. The fiscal note as written only covers FY24, but the pilot would continue during FY25 and FY26. As stated earlier, the HCBS ARPA funds will have expired on 3/31/24. A cost projection for all three years of the waiver period would be as follows:

Fiscal Year	Gen Fund	Fed Fund	HCBS ARPA	FY Total
FY24	\$ 3,278,115	\$ 16,775,291	\$ 9,834,342	\$ 29,887,748
FY25	\$ 13,070,116	\$ 16,814,551	\$ -	\$ 29,884,668
FY26	\$ 13,332,418	\$ 17,174,849	\$ -	\$ 30,507,267
Fund Total	\$ 29,680,649	\$ 50,764,691	\$ 9,834,342	\$ 90,279,682

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	POSITION TITLE	NUMBER OF POSITIONS		2022-2023 EXPENDITURES	2023-2024 EXPENDITURES
		22-23	23-24		
	50C72831 Developmental Disabilities Service Coordinator	17.0	34.0	\$0	\$ 1,507,256
	50V72832 Developmental Disabilities Service Coordinator Supervisor	2.5	5.0	\$0	\$234,738
	50G78601 Developmental Disabilities Services District Administrator	.5	1.0	\$0	\$62,700
	gC73210 DHHS Program Specialist	.5	1.0	\$0	\$47,540
	gK19850 DHHS Fiscal Project Analyst	1.0	2.0	\$0	\$104,062
	gC72180 Program Accuracy Specialist	1.0	2.0	\$0	\$88,442
	Benefits.....			\$0	\$691,848
	Operating.....			\$0	\$1,464,162
	Travel.....				
	Capital Outlay.....				
	Aid.....			\$0	\$25,687,000

Capital Improvements.....

TOTAL.....

	\$0	\$29,887,748
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