

HOUSE BILL 702

Unofficial Copy  
O3

2001 Regular Session  
(11r1391)

**ENROLLED BILL**  
*-- Environmental Matters/Finance --*

Introduced by **Delegates Hubbard, Shriver, Hurson, Hixson, Owings, Hammen, D. Davis, Oaks, Billings, Nathan-Pulliam, Boutin, Stull, Elliott, Schisler, Morhaim, Klausmeier, Mohorovic, Sher, Stern, Love, Rzepkowski, Sophocleus, Benson, R. Baker, Grosfeld, Cryor, Leopold, Pitkin, Bobo, and ~~Dypski~~ Dvpski, Marriott, Frush, Cane, and Baldwin**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER 495

1 AN ACT concerning

2 **Community Attendant Services and Supports Program**

3 FOR the purpose of requiring the Department of Human Resources to administer a  
4 home- and community-based attendant services and supports program;  
5 requiring the Department to adopt regulations to implement the program;  
6 ~~requiring the Department to establish a certain committee~~; requiring the  
7 Department of Human Resources and the Department of Health and Mental  
8 Hygiene to determine certain payments for certain consumers; authorizing  
9 certain disabled individuals to select, manage, and control certain services;  
10 requiring that certain attendant services and supports be provided in certain  
11 places and available at certain times; requiring certain consumer service plans  
12 to be developed by certain persons; authorizing a consumer to select a personal  
13 assistant; requiring certain attendant care service providers to assure that a

1 consumer is informed of certain information; providing a means of appeal for  
 2 certain consumers; requiring that certain individuals ~~under a certain age~~  
 3 ~~between certain ages~~ be eligible for the program; requiring certain support plans  
 4 to be developed for certain consumers; requiring the Department of Human  
 5 Resources and the Department of Health and Mental Hygiene to ~~modify~~ adopt a  
 6 certain quality assurance ~~programs under certain circumstances~~ system;  
 7 requiring that ~~certain~~ the quality assurance ~~systems~~ system include certain  
 8 consumer input; requiring the Department of Health and Mental Hygiene to  
 9 apply for certain waiver programs; defining certain terms; requiring the  
 10 Department of Health and Mental Hygiene and the Department of Human  
 11 Resources to submit certain reports to the General Assembly; and generally  
 12 relating to the community-based attendant services and supports program.

13 BY adding to

14 Article 41 - Governor - Executive and Administrative Departments  
 15 Section 6-7A-01 through 6-7A-06, inclusive, to be under the new subtitle  
 16 "Subtitle 7A. Community Attendant Services and Supports Program"  
 17 Annotated Code of Maryland  
 18 (1997 Replacement Volume and 2000 Supplement)

19 BY adding to

20 Article - Health - General  
 21 Section 15-133  
 22 Annotated Code of Maryland  
 23 (2000 Replacement Volume)

24

#### Preamble

25 ~~WHEREAS, Many studies have found that an overwhelming majority of~~  
 26 ~~individuals with disabilities needing long term services and supports would prefer to~~  
 27 ~~receive them in home and community based settings rather than in institutions and~~  
 28 ~~nursing homes; and~~

29 ~~WHEREAS, Research on the provision of long term attendant services and~~  
 30 ~~supports under the Medicaid program has revealed a significant bias toward funding~~  
 31 ~~these services in institutional rather than home and community based settings; and~~

32 ~~WHEREAS, Because of this funding bias, significant numbers of individuals~~  
 33 ~~with disabilities who would prefer to live in the community and could do so with~~  
 34 ~~community attendant services and supports are forced to live in unnecessarily~~  
 35 ~~segregated institutional settings if they want to receive needed services and supports;~~  
 36 ~~and~~

37 ~~WHEREAS, Decisions regarding the provision of attendant services and~~  
 38 ~~supports are often influenced by what is reimbursable rather than what individuals~~  
 39 ~~need and want; and~~

1       WHEREAS, There is a growing recognition that disability is a natural part of  
2 the human experience that in no way diminishes a person's right to live  
3 independently or with supports in the most integrated setting, enjoy  
4 self-determination and consumer-directed services, make choices, contribute to  
5 society, and enjoy full inclusion and integration in the mainstream of American  
6 society; and

7       WHEREAS, The United States Supreme Court ruled in *Olmstead v. L.C.* that  
8 persons with disabilities have the right to live in the most integrated setting  
9 appropriate to each person's needs and each state must ensure this basic civil right to  
10 citizens with disabilities; and

11       WHEREAS, Long-term services and supports provided under the Medicaid  
12 program must meet the evolving and changing needs and preferences of individuals  
13 with disabilities; and

14       WHEREAS, The goals of the nation and State properly include providing  
15 individuals with disabilities with meaningful choices of receiving long-term services  
16 and supports in the most integrated setting appropriate, the greatest possible control  
17 over the services received, and quality services that maximize social functioning in  
18 the home and community; and

19       WHEREAS, The United States Congress, through the Health Care Financing  
20 Administration, is offering \$50 million for states to use to change the institutional  
21 bias in their service systems—called "Olmstead or MiCASSA grants"; and

22       WHEREAS, The United States Congress, through the Health Care Financing  
23 Administration, is offering \$20 million for states to use as nursing home transition  
24 grants to identify ways to get and keep people with disabilities out of nursing homes  
25 with the intent that this program, now used in eight states, can be expanded to every  
26 state in the country; and

27       WHEREAS, Many individuals with disabilities are benefitting from the State's  
28 current home- or community-based services waiver program, however, more than  
29 3,000 persons with disabilities are still confined to inappropriate segregation in  
30 nursing homes who, if given the choice, would choose to receive necessary treatment  
31 and services in the most integrated home and community setting; now, therefore,

32       SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
33 MARYLAND, That the Laws of Maryland read as follows:

34                       **Article 41 - Governor - Executive and Administrative Departments**

35                       SUBTITLE 7A. COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROGRAM.

36 6-7A-01.

37       (A)       IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
38 INDICATED.

1 (B) "~~AGENCY-PROVIDER SERVICE OPTION MODEL~~" MEANS A SERVICE OPTION  
2 METHOD OF PROVIDING COMMUNITY ATTENDANT SERVICES AND SUPPORTS FOR AN  
3 ELIGIBLE INDIVIDUAL WHERE THE PERSONAL ASSISTANT IS EMPLOYED BY A  
4 PROVIDER AGENCY, SUPERVISED AND EVALUATED BY THE CONSUMER, AND THE  
5 AGENCY IS THE PERSONAL ASSISTANT'S EMPLOYER OF RECORD.

6 (C) (1) "ATTENDANT SERVICES AND SUPPORTS" MEANS THE FOLLOWING  
7 SERVICES FOR THE DISABLED INDIVIDUAL, WHICH ARE CERTIFIED AS NECESSARY  
8 BY A HEALTH CARE PROFESSIONAL:

9 (I) DRESSING;

10 (II) PREPARING FOOD AND ASSISTING THE DISABLED INDIVIDUAL  
11 WITH EATING;

12 (III) BATHING AND PERSONAL HYGIENE;

13 (IV) ASSISTING WITH ROUTINE BODILY FUNCTIONS, INCLUDING  
14 BOWEL OR URINARY CARE;

15 (V) MOVING INTO, OUT OF, OR TURNING IN BED;

16 (VI) LAUNDERING AND PROVIDING OTHER CLOTHING CARE; AND

17 (VII) CLEANING HOUSE AND PERFORMING OTHER SERVICES OF  
18 DAILY CARE, INCLUDING SHOPPING AND TRANSPORTATION, AS REQUESTED BY THE  
19 DISABLED INDIVIDUAL AND THE DEPARTMENT.

20 (2) "ATTENDANT SERVICES AND SUPPORTS" ARE DESIGNED TO ASSIST  
21 THE CONSUMER IN ACCOMPLISHING ACTIVITIES OF DAILY LIVING AND  
22 HEALTH-RELATED FUNCTIONS THROUGH:

23 (I) HANDS ON ASSISTANCE;

24 (II) SUPERVISION; OR

25 (III) CUING, PROMPTING, OR REMINDING THE CONSUMER ABOUT  
26 AN ACTIVITY.

27 (D) "COMMUNITY ATTENDANT SERVICES AND SUPPORTS" MEANS ATTENDANT  
28 SERVICES AND SUPPORTS FURNISHED TO AN INDIVIDUAL:

29 (1) UNDER A PLAN OF SERVICES THAT IS BASED ON AN ASSESSMENT OF  
30 FUNCTIONAL NEED AND THAT IS AGREED TO BY THE INDIVIDUAL OR THE  
31 INDIVIDUAL'S REPRESENTATIVE; AND

32 (2) UNDER AN AGENCY-PROVIDER MODEL, A CONSUMER-DIRECTED  
33 MODEL, OR OTHER MODEL AS DEFINED IN THIS SECTION.

1 (E) "CONSUMER" MEANS AN ELIGIBLE INDIVIDUAL WHO IS A RECIPIENT OF  
 2 ATTENDANT SERVICES AND SUPPORTS OR COMMUNITY-BASED ATTENDANT  
 3 SERVICES AND SUPPORTS.

4 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

5 (G) ~~(H)~~ "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WITH A COGNITIVE,  
 6 SENSORY, OR PHYSICAL DISABILITY WHO:

7 ~~(H)~~ (1) IS AN ADULT ~~UNDER THE AGE OF 60~~ BETWEEN THE AGES  
 8 OF 21 AND 59 YEARS; ~~AND~~

9 ~~(H)~~ (2) HAS A SEVERE CHRONIC OR PERMANENT DISABILITY THAT  
 10 PRECLUDES OR SIGNIFICANTLY IMPAIRS THE INDIVIDUAL'S INDEPENDENT  
 11 PERFORMANCE OF ESSENTIAL ACTIVITIES OF DAILY LIVING, SELF CARE, OR  
 12 MOBILITY

13 (2) REQUIRES THE LEVEL OF CARE PROVIDED IN A NURSING FACILITY;  
 14 AND

15 (3) QUALIFIES FOR THE MEDICAID WAIVER FOR ADULTS WITH  
 16 PHYSICAL DISABILITIES.

17 ~~(2)~~ "ELIGIBLE INDIVIDUAL" INCLUDES AN INDIVIDUAL WITH A  
 18 ~~COGNITIVE, SENSORY, OR PHYSICAL DISABILITY WHO:~~

19 ~~(I)~~ (1) HAS A FUNCTIONAL NEED THAT LIMITS THE INDIVIDUAL'S  
 20 ABILITY TO PERFORM ONE OR MORE ACTIVITIES OF DAILY LIVING;

21 ~~(H)~~ (2) REQUIRES SUBSTANTIAL SUPERVISION OR EPISODIC OR  
 22 SHORT TERM CRISIS ASSISTANCE; OR

23 ~~(H)~~ (3) NEEDS ASSISTANCE WITH THE PERFORMANCE OF  
 24 HEALTH RELATED TASKS.

25 (H) "FUNCTIONAL NEED" MEANS THE NEED FOR PERSONAL ASSISTANCE  
 26 BASED ON ABILITIES AND LIMITATIONS OF THE CONSUMER, REGARDLESS OF  
 27 MEDICAL DIAGNOSIS OR OTHER CATEGORY OF DISABILITY.

28 (I) "INSTITUTION" MEANS AN ESTABLISHMENT THAT, IN SINGLE OR  
 29 MULTIPLE FACILITIES, FURNISHES FOOD, SHELTER, AND SOME TREATMENT  
 30 SERVICES TO FOUR OR MORE PERSONS UNRELATED TO THE PROPRIETOR.

31 ~~(H)~~ (J) "NURSING HOME TRANSITION GRANT" MEANS THE GRANTS  
 32 AVAILABLE TO STATES THROUGH THE HEALTH CARE FINANCING ADMINISTRATION,  
 33 ~~AS INCLUDED IN THE FEDERAL BUDGET TO ALLOW STATES TO IDENTIFY WAYS TO~~  
 34 ~~GET OR KEEP PEOPLE WITH DISABILITIES OUT OF NURSING HOMES.~~

1 ~~(J)~~ (K) ~~(I)~~ "OTHER SERVICE OPTIONS" MEANS METHODS OTHER THAN AN  
2 AGENCY-PROVIDER MODEL. AND MAY INCLUDE THE USE OF A FISCAL AGENT TO  
3 ASSIST IN OBTAINING SERVICES.

4 ~~(2)~~ "OTHER SERVICE OPTIONS" ~~INCLUDES VOUCHERS, DIRECT CASH~~  
5 ~~PAYMENTS, OR USE OF A FISCAL AGENT TO ASSIST IN OBTAINING SERVICES.~~

6 ~~(K)~~ (L) "PERSONAL ASSISTANT" MEANS THE INDIVIDUAL WHO DIRECTLY  
7 PROVIDES ATTENDANT SERVICES AND SUPPORTS.

8 ~~(L)~~ (M) "PROGRAM" MEANS ~~THE COMMUNITY BASED ATTENDANT CARE~~  
9 ~~PROGRAM THE COMMUNITY AND ATTENDANT SERVICES AND SUPPORT PROGRAM.~~  
10 PROGRAM.

11 ~~(M)~~ (N) "REPRESENTATIVE" MEANS A PARENT, FAMILY MEMBER, GUARDIAN,  
12 ADVOCATE, OR AUTHORIZED REPRESENTATIVE OF AN ELIGIBLE INDIVIDUAL.

13 6-7A-02.

14 (A) SUBJECT TO FUNDING IN THE STATE BUDGET, THE DEPARTMENT, IN  
15 COLLABORATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,  
16 ~~SHALL DEVELOP AND ADMINISTER A COMPREHENSIVE PROGRAM OF HOME AND~~  
17 ~~COMMUNITY ATTENDANT SERVICES AND SUPPORTS THAT PROVIDE PROVIDES~~  
18 ~~ATTENDANT SERVICES AND SUPPORTS TO AN INDIVIDUAL WITH DISABILITIES~~  
19 ~~RESIDING IN A NURSING HOME OR AT RISK OF PLACEMENT IN A NURSING HOME~~  
20 ~~WHO CAN RETURN OR REMAIN IN A HOME OR COMMUNITY BASED SETTING WHO~~  
21 ~~WILL BE DISCHARGED OR DIVERTED FROM A NURSING FACILITY WITH THE~~  
22 ~~PROVISION OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS THROUGH A~~  
23 MEDICAID HOME AND COMMUNITY SERVICES BASED WAIVER.

24 (B) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT  
25 REGULATIONS NECESSARY TO IMPLEMENT THIS SUBTITLE WITH SIGNIFICANT  
26 CONSUMER PARTICIPATION AND INVOLVEMENT.

27 (C) THE DEPARTMENT SHALL SEEK INPUT FROM ELIGIBLE INDIVIDUALS, THE  
28 INDIVIDUALS' REPRESENTATIVES, AND SERVICE PROVIDERS RELATING TO THE  
29 PROGRAM. ESTABLISH A PLANNING AND OVERSIGHT COMMITTEE TO INCLUDE  
30 ELIGIBLE INDIVIDUALS, THE INDIVIDUALS' REPRESENTATIVES, AND AGENCY  
31 SERVICE PROVIDERS TO ASSIST IN THE DEVELOPMENT AND IMPLEMENTATION OF  
32 ALL ASPECTS OF A COMPREHENSIVE PROGRAM OF COMMUNITY ATTENDANT  
33 SERVICES AND SUPPORTS, INCLUDING PROGRAM STANDARDS, THE ELIGIBILITY  
34 DETERMINATION INSTRUMENT AND PROTOCOL, AND QUALITY ASSURANCE  
35 PROGRAM.

36 (D) (1) THE DEPARTMENT, IN COORDINATION WITH THE DEPARTMENT OF  
37 HEALTH AND MENTAL HYGIENE, SHALL AMEND THE EXISTING WAIVER FOR ADULTS  
38 WITH PHYSICAL DISABILITIES TO INCLUDE INDIVIDUALS WITH INCOMES AT OR  
39 BELOW 300% OF SUPPLEMENTAL SECURITY INCOME. DETERMINE CO-PAYMENTS  
40 AND COST SHARING FOR A CONSUMER WHO HAS AN ADJUSTED GROSS INCOME THAT  
41 EXCEEDS 225% OF THE FEDERAL POVERTY LEVEL.

1           (2)     ~~THE DEPARTMENT SHALL GIVE PRIORITY TO SERVING A CONSUMER~~  
2 ~~WHO HAS AN INCOME AT OR BELOW 225% OF THE FEDERAL POVERTY LEVEL.~~

3           (3)     ~~NOTWITHSTANDING THE PROVISION OF PARAGRAPH (1) OF THIS~~  
4 ~~SUBSECTION, THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND MENTAL~~  
5 ~~HYGIENE MAY NOT STRUCTURE THE CO-PAYMENT AND COST SHARING~~  
6 ~~REQUIREMENTS TO BE A DISINCENTIVE TO EMPLOYMENT.~~

7 6-7A-03.

8       (A)     TO THE EXTENT POSSIBLE, AN ELIGIBLE INDIVIDUAL WHO IS A  
9 PARTICIPANT IN THE PROGRAM MAY SELECT, MANAGE, AND CONTROL THE  
10 INDIVIDUAL'S COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

11       (B)     (1)     ATTENDANT SERVICES AND SUPPORTS SHALL BE PROVIDED IN A  
12 CONSUMER'S HOME OR OTHER INDEPENDENT OR SUPPORTED LIVING  
13 ENVIRONMENT, INCLUDING BUT NOT LIMITED TO SCHOOL, WORK, RECREATIONAL,  
14 AND RELIGIOUS SETTINGS.

15       (2)     ATTENDANT SERVICES AND SUPPORTS MAY NOT BE PROVIDED IN A  
16 NURSING FACILITY, INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED,  
17 OR OTHER ~~LARGE CONGREGATE SETTING~~ INSTITUTION.

18       (C)     A CONSUMER RECEIVING SERVICES AND SUPPORTS UNDER THIS  
19 PROGRAM SHALL BE ELIGIBLE FOR MEDICAL ASSISTANCE IF THE CONSUMER:

20           (1)     WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE IN A MEDICAL  
21 INSTITUTION OR NURSING HOME; AND

22           (2)     NEEDS HOME AND COMMUNITY SERVICES AND SUPPORTS IN ORDER  
23 TO REMAIN IN OR TRANSITION TO THE COMMUNITY.

24       (D)     THE COMMUNITY ATTENDANT SERVICES AND SUPPORTS SHALL BE  
25 ~~CAPABLE OF PROVIDING PERSONAL ASSISTANCE~~ AVAILABLE 24 HOURS A DAY, 7 DAYS  
26 A WEEK, AND, WHEN NECESSARY, PROVIDE BACKUP AND EMERGENCY PERSONAL  
27 ASSISTANCE SERVICES.

28       (E)     (1)     EACH CONSUMER'S PROGRAM OF SERVICES SHALL BE BASED UPON  
29 A MUTUALLY-AGREED UPON INDIVIDUAL SERVICES PLAN, JOINTLY DEVELOPED BY  
30 THE CONSUMER AND THE DEPARTMENT OR ITS DESIGNEE.

31           (2)     (I)     A CONSUMER SHALL HAVE AN OPPORTUNITY TO CHOOSE  
32 BETWEEN DIFFERENT SERVICE DELIVERY OPTIONS, INCLUDING ~~VOUCHERS,~~  
33 CONSUMER-DIRECTED INDIVIDUAL PROVIDER MODELS; AND CONSUMER-DIRECTED  
34 AGENCY MODELS.

35           (II)    1.     A CONSUMER MAY SELECT OR HIRE WHOMEVER THE  
36 CONSUMER CHOOSES AS A PERSONAL ASSISTANT, INCLUDING FAMILY MEMBERS.

1                                    ~~2.~~       3.       BASED ON CONSUMER RECOMMENDATIONS, THE  
 2 DEPARTMENT MAY WAIVE CERTAIN QUALIFICATIONS REQUIRED IN THE  
 3 REGULATIONS FOR A PERSONAL ASSISTANTS ASSISTANT IF THE PERSONAL  
 4 ASSISTANT IS A FAMILY MEMBER OR IS AN INDIVIDUAL KNOWN AND CHOSEN BY THE  
 5 CONSUMER.

6                                    ~~2-~~       3.       EXCEPT AS PROVIDED IN ITEM SUB-SUBPARAGRAPH  
 7 4 OF THIS PARAGRAPH SUBPARAGRAPH, A FAMILY MEMBER MAY NOT BE BARRED  
 8 FROM RECEIVING MEDICAL ASSISTANCE PAYMENTS FOR PROVIDING SERVICES.

9                                    ~~4.~~       THE CONSUMER'S SPOUSE SHALL BE BARRED FROM  
 10 RECEIVING MEDICAL ASSISTANCE PAYMENTS FOR PROVIDING SERVICES.

11       (F)       THE DEPARTMENT SHALL OFFER A CONSUMER THE FOLLOWING:  
 12 ~~TRAINING:~~

13                   (1)       TRAINING ON HOW TO SELECT, MANAGE, AND DISMISS AN  
 14 ATTENDANT OR PERSONAL ASSISTANT; AND

15                   (2)       TRAINING ON FINANCIAL ASSISTANCE WITH THE EXPENSE OF  
 16 MANAGING MANAGEMENT OF THE CONSUMER'S PERSONAL ASSISTANCE SERVICES.

17       (G)       A PROVIDER OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS  
 18 SHALL ASSURE THAT A CONSUMER IS INFORMED OF ~~AND ACCORDED~~ THE  
 19 CONSUMER'S RIGHTS ~~AND OPTIONS~~ WITH RESPECT TO SELECTING, MANAGING, AND  
 20 CHANGING THE CONSUMER'S PERSONAL ASSISTANCE SERVICES AND THE  
 21 CONSUMER'S RIGHT TO PRIVACY AND CONFIDENTIALITY.

22       (H)       THE DEPARTMENT SHALL LIMIT PARTICIPATION IN THE ~~COMMUNITY~~  
 23 ~~ATTENDANT SERVICES AND SUPPORTS PROGRAM~~ TO AN ELIGIBLE INDIVIDUAL  
 24 ~~UNDER THE AGE OF 60 YEARS WHO RESIDES IN A NURSING HOME OR IS AT RISK OF~~  
 25 ~~PLACEMENT IN A NURSING HOME~~ BETWEEN THE AGES OF 21 AND 59 YEARS WHO  
 26 WILL BE DISCHARGED OR DIVERTED FROM A NURSING FACILITY.

27       (I)       ELIGIBILITY SHALL BE BASED ON FUNCTIONAL NEEDS OF THE  
 28 CONSUMER BASED ON ABILITIES AND LIMITATIONS OF THE CONSUMER,  
 29 ~~REGARDLESS OF THE MEDICAL DIAGNOSIS OR OTHER CATEGORY OF DISABILITY.~~

30       (J)       A CONSUMER WHO IS DISSATISFIED WITH THE ~~ADMINISTRATION OR THE~~  
 31 ~~CONSUMER'S COMMUNITY BASED ATTENDANT SERVICES AND SUPPORTS PROGRAM~~  
 32 SHALL HAVE A RIGHT OF APPEAL TO THE DEPARTMENT.

33 6-7A-04.

34       (A)       AN INITIAL INDIVIDUALIZED SUPPORT PLAN SHALL BE DEVELOPED FOR  
 35 EACH CONSUMER OF ~~COMMUNITY BASED ATTENDANT SERVICES AND SUPPORTS AT~~  
 36 ~~THE TIME OF ASSESSMENT. THE PROGRAM.~~

37       (B)       THE INDIVIDUALIZED SUPPORT PLAN SHALL:

1 (1) BE DEVELOPED WITH THE CONSUMER OR THE CONSUMER'S  
2 REPRESENTATIVE;

3 (2) BE APPROVED BY THE CONSUMER OR THE CONSUMER'S  
4 REPRESENTATIVE; AND

5 (3) BE GIVEN TO THE CONSUMER AND THE CONSUMER'S  
6 REPRESENTATIVE IN WRITING OR OTHER APPROPRIATE AND UNDERSTANDABLE  
7 FORMAT.

8 (C) THE INDIVIDUALIZED SUPPORT PLAN SHALL SPECIFY:

9 (1) THE SCOPE OF PERSONAL ASSISTANCE SERVICES TO BE PROVIDED;

10 (2) THE HOURS THAT PERSONAL ASSISTANCE SERVICES ARE TO BE  
11 PROVIDED;

12 (3) THE MEANS OF PROVIDING ALTERNATE SOURCES FOR ATTENDANT  
13 SERVICES AND SUPPORTS;

14 (4) THE MEANS OF ENSURING SUBSTITUTE AND EMERGENCY  
15 ATTENDANT SERVICES AND SUPPORTS;

16 (5) THE METHOD OF SERVICE DELIVERY;

17 (6) THE INITIAL ASSESSMENT AND FREQUENCY OF REASSESSMENT OF  
18 THE NEEDS OF THE CONSUMER;

19 (7) THE MEANS TO ADJUST SERVICES AND HOURS WHEN CHANGES ARE  
20 NEEDED;

21 (8) A MECHANISM TO COORDINATE ATTENDANT SERVICES AND  
22 SUPPORTS WITH OTHER HEALTH CARE SERVICES RECEIVED BY THE CONSUMER;

23 (9) THE DEGREE AND FREQUENCY OF SUPERVISION OF THE PERSONAL  
24 ASSISTANT NECESSARY FOR THE EFFECTIVE DELIVERY OF ATTENDANT SERVICES  
25 AND SUPPORTS; AND

26 ~~(10) THE AMOUNT OF CO-PAYMENTS OR COST SHARING, IF ANY;~~

27 ~~(11) OUTCOME MEASURES USED TO ASSESS THE QUALITY OF SERVICES;~~  
28 ~~AND~~

29 ~~(12)~~ (10) COMPLAINT AND APPEAL PROCEDURES.

30 6-7A-05.

31 (A) THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND MENTAL  
32 HYGIENE SHALL ADOPT A QUALITY ASSURANCE SYSTEM FOR THE PROGRAM THAT IS  
33 CONSISTENT WITH FEDERAL REQUIREMENTS REGARDING QUALITY OF WAIVER  
34 SERVICES.;



1           (2)     " ~~NURSING HOME TRANSITION GRANT~~" MEANS A GRANT AVAILABLE  
 2 ~~TO THE DEPARTMENT FROM THE HEALTH CARE FINANCING ADMINISTRATION OF~~  
 3 ~~THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS INCLUDED~~  
 4 ~~IN THE FEDERAL BUDGET TO ALLOW STATES TO IDENTIFY WAYS TO GET OR KEEP~~  
 5 ~~ELIGIBLE INDIVIDUALS OUT OF NURSING HOMES.~~

6           (3)     " ~~OLMSTEAD OR MICASSA GRANT~~" MEANS A GRANT AVAILABLE TO  
 7 ~~THE DEPARTMENT FROM THE HEALTH CARE FINANCING ADMINISTRATION OF THE~~  
 8 ~~UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS INCLUDED IN~~  
 9 ~~THE FEDERAL BUDGET.~~

10        (B)     ~~ON OR BEFORE SEPTEMBER 1, 2001, THE DEPARTMENT SHALL APPLY FOR~~  
 11 ~~AN EXPANDED MEDICAID HOME AND COMMUNITY-BASED WAIVER PROGRAM THAT~~  
 12 ~~INCLUDES COVERAGE FOR ANY ELIGIBLE INDIVIDUAL UNDER THE AGE OF 60 YEARS~~  
 13 ~~WHO RESIDES IN A NURSING HOME OR AT RISK OF PLACEMENT IN A NURSING HOME.~~

14        (C)     (4)     (A)     THE DEPARTMENT *STATE* SHALL APPLY TO THE HEALTH CARE  
 15 FINANCING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF HEALTH  
 16 AND HUMAN SERVICES FOR AN OLMSTEAD OR MICASSA GRANT GRANTS TO PROVIDE  
 17 THE FULL RANGE OF ACTIVITIES ALLOWABLE TO CHANGE THE INSTITUTIONAL BIAS  
 18 IN THE STATE'S SERVICE SYSTEM ASSIST STATES IN IMPROVING HOME AND  
 19 COMMUNITY-BASED SERVICE SYSTEMS, INCLUDING:

20           (1)     REAL CHOICE SYSTEM CHANGE GRANTS;

21           (2)     NURSING FACILITY TRANSITION GRANTS AND 'ACCESS HOUSING'  
 22 "ACCESS HOUSING" GRANTS; AND

23           (3)     COMMUNITY-BASED ATTENDANT SERVICES WITH CONSUMER  
 24 CONTROL GRANTS FOR THE FULL RANGE OF ACTIVITIES ALLOWABLE TO CHANGE  
 25 THE INSTITUTIONAL BIAS IN THE STATE'S SERVICE SYSTEM.

26           (2)     ~~THE GRANT SHALL BE ADMINISTERED BY THE DEPARTMENT OF~~  
 27 ~~HUMAN RESOURCES IN COORDINATION WITH THE ELIGIBLE DISABLED HOME AND~~  
 28 ~~COMMUNITY-BASED WAIVER.~~

29           (3)     ~~THE FUNDS FROM THE OLMSTEAD OR MICASSA GRANT MAY BE USED~~  
 30 ~~TO IDENTIFY, DEVELOP, AND IMPLEMENT STRATEGIES FOR MODIFYING POLICIES,~~  
 31 ~~PRACTICES, AND PROCEDURES THAT BIAS THE PROVISION OF LONG-TERM SERVICES~~  
 32 ~~TOWARD INSTITUTIONAL SETTINGS AND AWAY FROM HOME AND~~  
 33 ~~COMMUNITY-BASED SETTINGS.~~

34        (D)     (4)     ~~THE DEPARTMENT SHALL APPLY TO THE HEALTH CARE FINANCING~~  
 35 ~~ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN~~  
 36 ~~SERVICES FOR A NURSING HOME TRANSITION GRANT TO ASSIST IN KEEPING~~  
 37 ~~ELIGIBLE INDIVIDUALS OUT OF NURSING HOMES.~~

38           (2)     ~~THE DEPARTMENT SHALL APPLY FOR ANY OTHER FUNDS THAT MAY~~  
 39 ~~BECOME AVAILABLE IN ORDER TO ASSIST THE STATE IN IMPLEMENTING~~  
 40 ~~PROVISIONS OF THIS SECTION.~~

1 ~~(E)~~ THE DEPARTMENT OF HUMAN RESOURCES SHALL:

2 ~~(1)~~ ADMINISTER THE GRANT PROGRAMS;

3 ~~(2)~~ INCLUDE COVERAGE OF COMMUNITY BASED ATTENDANT SERVICES  
4 AND SUPPORTS AS REQUIRED UNDER ARTICLE 41, § 6-7A-01 OF THE CODE; AND

5 ~~(3)~~ COORDINATE WITH ELIGIBLE INDIVIDUALS AND THE HOME OR  
6 COMMUNITY BASED SERVICES WAIVER PROGRAM UNDER THIS SECTION.

7 ~~(F)~~ ~~(B)~~ ~~(4)~~ THE DEPARTMENT SHALL SEEK INPUT FROM ELIGIBLE  
8 INDIVIDUALS, THE INDIVIDUALS' REPRESENTATIVES, AND SERVICE PROVIDERS IN  
9 DEVELOPING AND IMPLEMENTING THE PROGRAM A CONSUMER ADVISORY PANEL OF  
10 PERSONS WITH DISABILITIES, FAMILY MEMBERS, ADVOCACY ORGANIZATIONS, AND  
11 SERVICE PROVIDERS SHALL BE ESTABLISHED BY JULY 1, 2001 TO PROVIDE INPUT  
12 AND REVIEW THE DEPARTMENT'S APPLICATION AND ONGOING INPUT AND  
13 OVERSIGHT TO ITS IMPLEMENTATION OF THE HOME OR COMMUNITY BASED  
14 WAIVER PROGRAM UNDER SUBSECTIONS (B), (C), AND (D) OF THIS SECTION.

15 ~~(2)~~ THE PANEL SHALL BE COMPRISED OF A MAJORITY OF PERSONS  
16 WITH DISABILITIES WHO ARE NOT SERVICE PROVIDERS.

17 ~~(G)~~ ~~(C)~~ ON OR BEFORE JULY 1, 2001, THE DEPARTMENT SHALL NOTIFY THE  
18 HEALTH CARE FINANCE FINANCING ADMINISTRATION OF THE UNITED STATES  
19 DEPARTMENT OF HEALTH AND HUMAN SERVICES OF MARYLAND'S INTENT TO  
20 EXPAND THE CURRENT MEDICAID HOME- AND COMMUNITY-BASED WAIVER AND  
21 NONELDER ATTENDANT SERVICES AND SUPPORTS WAIVER FOR ADULTS WITH  
22 PHYSICAL DISABILITIES, UNDER § 1915(C) OF THE FEDERAL SOCIAL SECURITY ACT TO  
23 REDIRECT FUNDS TO DEVELOP APPROPRIATE FUNDING FOR THIS ACT.

24 ~~(H)~~ ~~(D)~~ SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE  
25 DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY EVERY 3 MONTHS  
26 CONCERNING THE STATUS OF THE DEPARTMENT'S APPLICATIONS UNDER  
27 SUBSECTIONS ~~(B)~~ (A) AND (C) OF THIS SECTION, INCLUDING THE NUMBER OF  
28 INDIVIDUALS BUDGETED FOR THE MEDICAID HOME- AND COMMUNITY-SERVICES  
29 BASED WAIVER FOR ADULTS WITH PHYSICAL DISABILITIES.

30 SECTION 2. AND BE IT FURTHER ENACTED, That:

31 (a) It is the intent of the General Assembly, subject to funding in the State  
32 budget, that the Department of Health and Mental Hygiene and the Department of  
33 Human Resources shall expand the capacity of the Medicaid Home- and  
34 Community-Services Based Waiver for Adults with Physical Disabilities to include at  
35 least ~~350~~ 300 individuals by the end of fiscal year 2002. ~~The Department of Health~~  
36 ~~and Mental Hygiene and the Department of Human Resources shall develop a plan~~  
37 ~~for further expanding the capacity of the waiver according to the following schedule:~~

38 ~~(1)~~ to include a total capacity of at least 575 individuals by the end of fiscal  
39 year 2003;

1 ~~(2) to include a total capacity of at least 1,425 individuals by the end of fiscal~~  
2 ~~year 2004;~~

3 ~~(3) to include a total capacity of at least 2,625 individuals by the end of fiscal~~  
4 ~~year 2005; and~~

5 ~~(4) to include a total capacity of at least 4,625 individuals by the end of fiscal~~  
6 ~~year 2006.~~

7 *(b) (1) On or before January 1, 2002, the Department of Health and Mental*  
8 *Hygiene and the Department of Human Resources shall:*

9 *(i) determine the number of individuals residing in nursing homes*  
10 *who would be eligible for services under the waiver;*

11 *(ii) determine the number of individuals on medical assistance and*  
12 *residing in the community who would be eligible for services under the waiver;*

13 *(iii) develop the means to assess the number of individuals residing*  
14 *in the community who would be eligible for services under the waiver;*

15 *(iv) assess the capacity of the community to provide services to*  
16 *individuals eligible under the waiver; and*

17 *(v) develop a specific timeline for the implementation of further*  
18 *expansions in waiver capacity as appropriate to ensure that eligible individuals have*  
19 *access to services under the waiver.*

20 *(2) The Department of Health and Mental Hygiene and the Department of*  
21 *Human Resources shall report to the General Assembly on or before January 1, 2002,*  
22 *in accordance with § 2-1246 of the State Government Article, on the plan developed*  
23 *under paragraph (1) of this subsection.*

24 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
25 effect July 1, 2001.