
By: **Delegates Hubbard, Benson, Boutin, Donoghue, Elliott, Goldwater, Hammen, Morhaim, Nathan-Pulliam, Oaks, Pendergrass, Redmer, Rosenberg, and V. Turner V. Turner, Hurson, Bromwell, Costa, Haynes, Mandel, McDonough, Murray, Rudolph, Smigiel, Weldon, Eckardt, Niemann, DeBoy, Mitchell, Frank, and Leopold**

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House action: Adopted
Read second time: March 21, 2003

CHAPTER 303

1 AN ACT concerning

2 **Money Follows the Individual ~~Fund~~ Act**

3 FOR the purpose of ~~establishing a Money Follows the Individual Fund consisting of~~
4 ~~certain money in the Department of Health and Mental Hygiene to be used for~~
5 ~~certain purposes; providing that the Fund shall be used to provide home- and~~
6 ~~community-based services to certain individuals; requiring the Department to~~
7 ~~adopt certain regulations; requiring the Department to submit a certain annual~~
8 ~~report to the General Assembly and the Department of Legislative Services;~~
9 ~~providing that any unspent portion of the Fund may not be transferred or may~~
10 ~~not revert to the General Fund of the State; and generally relating to a Money~~
11 ~~Follows the Individual Fund prohibiting the Department of Health and Mental~~
12 ~~Hygiene from denying an individual access to a home- and community-based~~
13 ~~services waiver due to a lack of funding for waiver services under certain~~
14 ~~circumstances; providing that nothing in this Act is intended to result in a~~
15 ~~certain reduction of federal funds; requiring the Department, on or before a~~
16 ~~certain date, to notify certain nursing home residents about the opportunity to~~
17 ~~apply for participation in a certain waiver; requiring the Secretary of Health~~
18 ~~and Mental Hygiene to submit a certain annual report to the General Assembly~~
19 ~~and the Department of Legislative Services; and generally relating to access to~~
20 ~~home- and community-based waiver services.~~

21 BY adding to

1 Article - Health - General
2 Section 15-136
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2002 Supplement)

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

7 **Article - Health - General**

8 15-136.

9 ~~(A) THERE IS A CONTINUING, NONLAPSING MONEY FOLLOWS THE~~
10 ~~INDIVIDUAL FUND.~~

11 ~~(B) THE PURPOSE OF THE MONEY FOLLOWS THE INDIVIDUAL FUND IS TO~~
12 ~~ENSURE THAT WHEN AN INDIVIDUAL LEAVES A NURSING FACILITY UNDER A HOME-~~
13 ~~AND COMMUNITY-BASED SERVICES WAIVER, THE NET AVERAGE COST OF SERVING~~
14 ~~THE INDIVIDUAL IN THE NURSING FACILITY FOLLOWS THE INDIVIDUAL TO THE~~
15 ~~HOME OR COMMUNITY-BASED SERVICE TO COVER THE COSTS OF THE INDIVIDUAL'S~~
16 ~~CARE.~~

17 ~~(C) SUBJECT TO THE APPROPRIATIONS PROCESS, THE DEPARTMENT SHALL~~
18 ~~USE THE MONEY FOLLOWS THE INDIVIDUAL FUND TO PROVIDE HOME AND~~
19 ~~COMMUNITY-BASED SERVICES TO INDIVIDUALS WHO ARE RELOCATED FROM~~
20 ~~FACILITIES UNDER A HOME AND COMMUNITY-BASED SERVICES WAIVER.~~

21 ~~(D) SUBJECT TO THE APPROPRIATIONS PROCESS, THE MONEY FOLLOWS THE~~
22 ~~INDIVIDUAL FUND SHALL CONSIST OF FUNDS THAT ARE EQUAL TO THE NET~~
23 ~~AVERAGE COST OF PROVIDING SERVICES TO AN INDIVIDUAL IN A NURSING FACILITY~~
24 ~~FOR EACH FISCAL YEAR, OR PART OF A FISCAL YEAR, THAT THE INDIVIDUAL IS NO~~
25 ~~LONGER SERVED IN A NURSING FACILITY AND IS PROVIDED HOME OR~~
26 ~~COMMUNITY-BASED SERVICES.~~

27 ~~(E) BY DECEMBER 1, 2003, THE DEPARTMENT SHALL ADOPT REGULATIONS:~~

28 ~~(1) ESTABLISHING A PROCESS FOR DETERMINING THE NET AVERAGE~~
29 ~~COST OF SERVING AN INDIVIDUAL IN A NURSING FACILITY; AND~~

30 ~~(2) FOR THE MANAGEMENT AND USE OF MONEY IN THE MONEY~~
31 ~~FOLLOWS THE INDIVIDUAL FUND.~~

32 ~~(F) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE SECRETARY SHALL~~
33 ~~PREPARE A REPORT TO BE SUBMITTED TO THE GENERAL ASSEMBLY AND THE~~
34 ~~DEPARTMENT OF LEGISLATIVE SERVICES ON THE MONEY FOLLOWS THE~~
35 ~~INDIVIDUAL FUND.~~

36 ~~(G) ANY UNSPENT PORTIONS OF THE MONEY FOLLOWS THE INDIVIDUAL~~
37 ~~FUND AND ANY INTEREST EARNED ON MONEY IN THE MONEY FOLLOWS THE~~

1 ~~INDIVIDUAL FUND MAY NOT BE TRANSFERRED TO THE GENERAL FUND OF THE~~
2 ~~STATE BUT SHALL REMAIN IN THE MONEY FOLLOWS THE INDIVIDUAL FUND TO BE~~
3 ~~USED FOR THE PURPOSES SPECIFIED IN THIS SECTION.~~

4 (A) THE DEPARTMENT MAY NOT DENY AN INDIVIDUAL ACCESS TO A HOME-
5 AND COMMUNITY-BASED SERVICES WAIVER DUE TO A LACK OF FUNDING FOR
6 WAIVER SERVICES IF:

7 (1) THE INDIVIDUAL IS LIVING IN A NURSING HOME AT THE TIME OF
8 THE APPLICATION FOR WAIVER SERVICES;

9 (2) THE NURSING HOME SERVICES FOR THE INDIVIDUAL WERE PAID BY
10 THE PROGRAM FOR AT LEAST 30 CONSECUTIVE DAYS IMMEDIATELY PRIOR TO THE
11 APPLICATION;

12 (3) THE INDIVIDUAL MEETS ALL OF THE ELIGIBILITY CRITERIA FOR
13 PARTICIPATION IN THE HOME- AND COMMUNITY-BASED SERVICES WAIVER; AND

14 (4) THE HOME- AND COMMUNITY-BASED SERVICES PROVIDED TO THE
15 INDIVIDUAL WOULD QUALIFY FOR FEDERAL MATCHING FUNDS.

16 (B) NOTHING IN THIS SECTION IS INTENDED TO RESULT IN A REDUCTION OF
17 FEDERAL FUNDS AVAILABLE TO THE DEPARTMENT.

18 SECTION 2. AND BE IT FURTHER ENACTED, That on or before September
19 1, 2003, the Department of Health and Mental Hygiene shall notify all nursing home
20 residents whose nursing home services were paid for by the Maryland Medical
21 Assistance Program for at least 30 consecutive days prior to the application for home-
22 and community-based services about the opportunity to apply for participation in a
23 home- and community-based services waiver.

24 SECTION 3. AND BE IT FURTHER ENACTED, That on or before January 1
25 of each year, the Secretary of Health and Mental Hygiene shall submit a report to the
26 General Assembly, in accordance with § 2-1246 of the State Government Article, and
27 to the Department of Legislative Services on:

28 (1) State efforts to promote home- and community-based services under
29 this Act; and

30 (2) the number of individuals who have transitioned from nursing homes
31 to home- and community-based waiver services.

32 SECTION 2-4. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect July 1, 2003.

