

HOUSE BILL 630

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O3

2003 Regular Session  
(31r2108)

*ENROLLED BILL*

-- Health and Government Operations/Finance --

Introduced by **Delegates Frush, Healey, Barve, Bobo, Branch, Conroy,  
Conway, Eckardt, Goldwater, Gordon, Mandel, Moe, Oaks, Pendergrass,  
and Taylor Taylor, Kach, V. Turner, Hubbard, and Nathan-Pulliam**

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 315

1 AN ACT concerning

2 **Medical Assistance Program - Employed Persons with Disabilities Program**

3 FOR the purpose of ~~requiring that the Medical Assistance Program include a certain~~  
4 ~~Employed Persons with Disabilities Program; specifying certain purposes for the~~  
5 ~~Employed Persons with Disabilities Program; establishing certain criteria for~~  
6 ~~eligibility to participate; establishing income levels for participation in the~~  
7 ~~Program; authorizing the Department to adopt certain regulations; requiring~~  
8 ~~the Department to establish a premium structure; specifying that failure to pay~~  
9 ~~a certain premium results in termination of eligibility, except under a certain~~  
10 ~~circumstance; authorizing the Department of Health and Mental Hygiene to~~  
11 ~~utilize certain collection procedures; requiring the Department of Health and~~  
12 ~~Mental Hygiene to make certain reports on or before a certain date each year;~~  
13 ~~requiring the Department to enroll participants by a certain date; requiring the~~  
14 ~~Department of Health and Mental Hygiene to submit a certain application by a~~  
15 ~~certain date and to provide a certain notice within a certain time; providing for~~

1 ~~the effective date of a certain portion of this Act, subject to a certain contingency;~~  
 2 ~~requiring the Department of Health and Mental Hygiene, subject to a certain~~  
 3 ~~contingency, to adopt certain regulations by a certain time and in consultation~~  
 4 ~~with certain individuals; providing for the termination of this Act under a~~  
 5 ~~certain circumstance; and generally relating to the inclusion of the Employed~~  
 6 ~~Persons with Disabilities Program under the Medical Assistance Program~~  
 7 ~~requiring the Department of Health and Mental Hygiene to implement the~~  
 8 ~~Employed Persons with Disabilities Program by a certain date, subject to~~  
 9 ~~certain limitations; requiring the Department to consult with a certain coalition~~  
 10 ~~prior to adopting regulations that develop the eligibility criteria for the~~  
 11 ~~Program; requiring the Department, in consultation with a certain coalition, to~~  
 12 ~~review certain regulations at least every 3 three years; requiring the~~  
 13 ~~Department to submit certain reports to the Governor and certain legislative~~  
 14 ~~committees by certain dates; and generally relating to the Employed Persons~~  
 15 ~~with Disabilities Program.~~

16 ~~BY repealing and reenacting, without amendments,~~  
 17 ~~Article Health General~~  
 18 ~~Section 15-101(a) and (i)~~  
 19 ~~Annotated Code of Maryland~~  
 20 ~~(2000 Replacement Volume and 2002 Supplement)~~

21 BY adding to  
 22 Article - Health - General  
 23 Section 15-136  
 24 Annotated Code of Maryland  
 25 (2000 Replacement Volume and 2002 Supplement)

26 Preamble

27 WHEREAS, Many individuals with disabilities would like to work but cannot  
 28 afford to enter the workforce because that would mean losing the necessary medical  
 29 services they receive through Medicaid; and

30 WHEREAS, The federal Ticket to Work and Work Incentives Improvement Act  
 31 allows states to establish new Medicaid eligibility categories for working people with  
 32 disabilities whose income or resources would otherwise make them ineligible for  
 33 Medicaid; now, therefore,

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

36 **Article - Health - General**

37 ~~15-101.~~

38 ~~(a) In this title the following words have the meanings indicated.~~

1       (i)       ~~"Program" means the Maryland Medical Assistance Program.~~

2 15-136.

3       (A)       ~~THE PROGRAM SHALL INCLUDE AN EMPLOYED PERSONS WITH~~  
4 ~~DISABILITIES PROGRAM.~~

5       (B)       ~~THE PURPOSE OF THE EMPLOYED PERSONS WITH DISABILITIES PROGRAM~~  
6 ~~IS TO PROVIDE THE OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES TO BE~~  
7 ~~EMPLOYED AND TO QUALIFY FOR PROGRAM BENEFITS.~~

8       (C)       ~~AN INDIVIDUAL IS ELIGIBLE TO PARTICIPATE IN THE EMPLOYED PERSONS~~  
9 ~~WITH DISABILITIES PROGRAM IF THE INDIVIDUAL:~~

10               (1)       ~~IS BETWEEN THE AGES OF 16 AND 64 YEARS OLD, INCLUSIVE;~~

11               (2)       (i)       ~~IS DISABLED UNDER TITLE II OR TITLE XVI OF THE SOCIAL~~  
12 ~~SECURITY ACT; OR~~

13                       (ii)       ~~EXCEPT FOR PROVISIONS RELATING TO SUBSTANTIAL GAINFUL~~  
14 ~~ACTIVITY, WOULD QUALIFY FOR SUPPLEMENTAL SECURITY INCOME OR SOCIAL~~  
15 ~~SECURITY DISABILITY INSURANCE;~~

16               (3)       ~~RECEIVES FINANCIAL COMPENSATION FOR EMPLOYMENT, WITH~~  
17 ~~APPLICABLE PAYROLL WITHHOLDINGS FOR PAYMENT OF FEDERAL, STATE, AND~~  
18 ~~LOCAL TAXES;~~

19               (4)       ~~MEETS THE ASSET LIMITATIONS UNDER SUBSECTION (E) OF THIS~~  
20 ~~SECTION;~~

21               (5)       ~~MEETS THE FINANCIAL LIMITATIONS REQUIRED UNDER~~  
22 ~~SUBSECTION (F) OF THIS SECTION; AND~~

23               (6)       ~~IF APPLICABLE, PAYS THE PREMIUM REQUIRED UNDER SUBSECTION~~  
24 ~~(G) OF THIS SECTION.~~

25       (D)       ~~IN DETERMINING AN INDIVIDUAL'S INCOME UNDER SUBSECTION (F) OF~~  
26 ~~THIS SECTION, THE DEPARTMENT MAY NOT CONSIDER THE FOLLOWING:~~

27               (1)       ~~INCOME DISREGARDED FOR THE PURPOSE OF DETERMINING~~  
28 ~~ELIGIBILITY FOR THE MEDICAL ASSISTANCE, AGED, BLIND, AND DISABLED~~  
29 ~~CATEGORY UNDER COMAR 10.09.24; OR~~

30               (2)       ~~INCOME USED TO PAY FOR IMPAIRMENT-RELATED WORK EXPENSES.~~

31       (E)       (1)       ~~AN INDIVIDUAL IS NOT ELIGIBLE FOR THE EMPLOYED PERSONS~~  
32 ~~WITH DISABILITIES PROGRAM IF THE INDIVIDUAL'S ASSETS EXCEED \$10,000.~~

33               (2)       ~~IN DETERMINING AN INDIVIDUAL'S ASSETS UNDER PARAGRAPH (1)~~  
34 ~~OF THIS SUBSECTION, THE DEPARTMENT MAY NOT CONSIDER THE FOLLOWING:~~

1                   (I)     ~~ASSETS DISREGARDED FOR THE PURPOSE OF DETERMINING~~  
2 ~~ELIGIBILITY FOR THE MEDICAL ASSISTANCE, AGED, BLIND, AND DISABLED~~  
3 ~~CATEGORY UNDER COMAR 10.09.24;~~

4                   (II)    ~~MEDICAL SAVINGS ACCOUNTS AS DEFINED UNDER 26 U.S.C.~~  
5 ~~220;~~

6                   (III)   ~~RETIREMENT ACCOUNTS, INCLUDING AN INDIVIDUAL~~  
7 ~~RETIREMENT ACCOUNT, A 401(K) PLAN, A 403(B) PLAN, A KEOGH PLAN, AND A~~  
8 ~~PENSION PLAN; OR~~

9                   (IV)   ~~SUBJECT TO THE APPROVAL OF THE DEPARTMENT, ANY~~  
10 ~~SPECIAL FUND FOR THE PURCHASE OF GOODS OR SERVICES THAT SUBSTANTIALLY~~  
11 ~~INCREASE OR MAINTAIN THE INDIVIDUAL'S EMPLOYABILITY.~~

12 (F)     (1)     ~~TO PARTICIPATE IN THE PROGRAM, AN INDIVIDUAL SHALL HAVE AN~~  
13 ~~ANNUAL GROSS INCOME OF NO GREATER THAN 300% OF THE FEDERAL POVERTY~~  
14 ~~GUIDELINES.~~

15                   (2)     (I)     ~~IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH (1) OF~~  
16 ~~THIS SUBSECTION, THE DEPARTMENT MAY ADOPT REGULATIONS THAT ESTABLISH~~  
17 ~~ADDITIONAL ELIGIBILITY CRITERIA IN ORDER TO CONTROL THE COST OF THE~~  
18 ~~PROGRAM.~~

19                   (II)    ~~THE REGULATIONS ADOPTED UNDER SUBPARAGRAPH (I) OF~~  
20 ~~THIS PARAGRAPH MAY GIVE PRIORITY FOR ENROLLMENT TO INDIVIDUALS WITH:~~

21                             1.     ~~MONTHLY UNEARNED INCOME OF NO GREATER THAN~~  
22 ~~\$850; OR~~

23                             2.     ~~MONTHLY EARNED INCOME OF NO GREATER THAN \$400.~~

24                   (3)     ~~NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE~~  
25 ~~DEPARTMENT SHALL ACCELERATE MEASURES TO INCREASE PARTICIPATION IN THE~~  
26 ~~PROGRAM TO INDIVIDUALS WITH AN ANNUAL GROSS INCOME OF NO GREATER THAN~~  
27 ~~300% OF THE FEDERAL POVERTY GUIDELINES AS RESOURCES ALLOW.~~

28 (G)     ~~THE DEPARTMENT SHALL ESTABLISH A PREMIUM STRUCTURE.~~

29                   (1)     ~~FAILURE TO PAY A PREMIUM WHEN DUE SHALL RESULT IN~~  
30 ~~TERMINATION OF THE INDIVIDUAL'S ELIGIBILITY FOR PARTICIPATION IN THE~~  
31 ~~PROGRAM UNDER THIS SECTION, UNLESS THE INDIVIDUAL DEMONSTRATES GOOD~~  
32 ~~CAUSE FOR NONPAYMENT OR LATE PAYMENT.~~

33                   (2)     ~~THE DEPARTMENT MAY UTILIZE THE COLLECTION PROCEDURES~~  
34 ~~THAT THE DEPARTMENT DETERMINES TO BE APPROPRIATE.~~

35 (H)     ~~IF AN INDIVIDUAL HAS PRIVATE HEALTH INSURANCE, COVERAGE UNDER~~  
36 ~~THE PROGRAM IS SECONDARY.~~

1       (4)       ~~THE DEPARTMENT SHALL ENROLL PARTICIPANTS IN THE PROGRAM BY~~  
2 ~~JULY 2005.~~

3       (J)       ~~ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL~~  
4 ~~REPORT TO THE LEGISLATIVE POLICY COMMITTEE REGARDING THE DEVELOPMENT,~~  
5 ~~IMPLEMENTATION, AND EFFICACY OF THE EMPLOYED PERSONS WITH DISABILITIES~~  
6 ~~PROGRAM.~~

7       ~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,~~  
8 ~~2004, the Department of Health and Mental Hygiene shall submit to the Centers for~~  
9 ~~Medicare and Medicaid Services of the United States Department of Health and~~  
10 ~~Human Services an application to amend the State's existing Medical Assistance~~  
11 ~~Program so as to implement the Employed Persons with Disabilities Program.~~

12       ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Department of~~  
13 ~~Health and Mental Hygiene, within 5 days after receipt of approval or denial by the~~  
14 ~~Centers for Medicare and Medicaid Services of the application for the Employed~~  
15 ~~Persons with Disabilities Program, shall forward a copy of the approval or denial to~~  
16 ~~the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.~~

17       ~~SECTION 4. AND BE IT FURTHER ENACTED, That:~~

18               (1)       ~~If the Centers for Medicare and Medicaid Services approves the~~  
19 ~~application for implementation of the Employed Persons with Disabilities Program:~~

20                       (i)       ~~Section 1 of this Act shall take effect 3 months after the date on~~  
21 ~~which the Centers for Medicare and Medicaid Services issues its approval; and~~

22                       (ii)       ~~Within 7 months of the date on which the Centers for Medicare~~  
23 ~~and Medicaid Services issues its approval, the Department of Health and Mental~~  
24 ~~Hygiene, in consultation with the Maryland Coalition for Work Incentive Program,~~  
25 ~~shall adopt regulations to implement the Employed Persons with Disabilities~~  
26 ~~Program; or~~

27               (2)       ~~If the Centers for Medicare and Medicaid Services denies the~~  
28 ~~application for implementation of the Employed Persons with Disabilities Program,~~  
29 ~~this Act, with no further action required by the General Assembly, shall be null and~~  
30 ~~void and of no further force and effect.~~

31       (A)       ~~TO THE EXTENT THAT FUNDING IS AVAILABLE IN THE STATE BUDGET,~~  
32 ~~THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL IMPLEMENT THE~~  
33 ~~EMPLOYED PERSONS WITH DISABILITIES PROGRAM BY JULY 1, 2005.~~

34       (B)       ~~THE PURPOSE OF THE EMPLOYED PERSONS WITH DISABILITIES PROGRAM~~  
35 ~~IS TO ENCOURAGE INDIVIDUALS WITH DISABILITIES TO SEEK OR MAINTAIN~~  
36 ~~EMPLOYMENT.~~

37       (C)       (1)       ~~THE SECRETARY SHALL ADOPT REGULATIONS THAT DEVELOP~~  
38 ~~SPECIFIC ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE EMPLOYED PERSONS~~  
39 ~~WITH DISABILITIES PROGRAM.~~

1           (2)     PRIOR TO ADOPTING THE REGULATIONS REQUIRED UNDER  
2 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

3                   (I)     CONSULT WITH THE COALITION FOR WORK INCENTIVES  
4 IMPROVEMENT; AND

5                   (II)    GIVE PREFERENCE TO THE RECOMMENDATIONS FOR  
6 ELIGIBILITY CRITERIA DEVELOPED BY THE COALITION.

7           (D)     AT LEAST EVERY 3 YEARS AFTER THE ADOPTION OF THE REGULATIONS  
8 REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL  
9 REVIEW THE REGULATIONS IN CONSULTATION WITH THE COALITION FOR WORK  
10 INCENTIVES IMPROVEMENT.

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

12     (a)     On or before January 1, 2004, the Department of Health and Mental  
13 Hygiene shall issue a preliminary report on the implementation of the Employed  
14 Persons with Disabilities Program and the use of the federal grant funds for  
15 implementation activities to the Governor, and, in accordance with § 2-1246 of the  
16 State Government Article, the Senate Budget and Taxation Committee, the Senate  
17 Finance Committee, the House Appropriations Committee, and the House Health and  
18 Government Operations Committee; and

19     (b)     On or before January 1, 2005, the Department of Health and Mental  
20 Hygiene shall issue a final report defining the specific eligibility criteria and the  
21 status of implementation of the Employed Persons with Disabilities Program to the  
22 Governor, and, in accordance with § 2-1246 of the State Government Article, the  
23 Senate Budget and Taxation Committee, the Senate Finance Committee, the House  
24 Appropriations Committee, and the House Health and Government Operations  
25 Committee.

26     SECTION 5-3. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~  
27 ~~Section 4 of this Act,~~ this Act shall take effect July 1, 2003.