

# HOUSE BILL 594

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By: **Delegates Hubbard, Benson, Costa, Elliott, Kullen, Mizeur, Montgomery, Pena-Melnyk, and Riley**

Introduced and read first time: February 8, 2007

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Long–Term Care Services for**  
3 **Cognitive and Functional Impairments**

4 FOR the purpose of requiring certain conditions under which an individual shall be  
5 determined medically eligible to receive certain services under the Maryland  
6 Medical Assistance Program; requiring certain physicians to make a certain  
7 certification; defining certain terms; and generally relating to the Maryland  
8 Medical Assistance Program and long–term care services for cognitive and  
9 functionally impaired individuals.

10 BY repealing and reenacting, without amendments,  
11 Article – Health – General  
12 Section 15–101(a) and (h)  
13 Annotated Code of Maryland  
14 (2005 Replacement Volume and 2006 Supplement)

15 BY adding to  
16 Article – Health – General  
17 Section 15–115.1  
18 Annotated Code of Maryland  
19 (2005 Replacement Volume and 2006 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article - Health - General**

15-101.

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

(h) "Program" means the Maryland Medical Assistance Program.

**15-115.1.**

**(A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.**

**(2) "HANDS-ON ASSISTANCE" MEANS THE PHYSICAL ASSISTANCE OF ANOTHER INDIVIDUAL WITHOUT WHICH AN INDIVIDUAL WOULD BE UNABLE TO PERFORM THE ACTIVITIES OF DAILY LIVING.**

**(3) "SEVERE COGNITIVE IMPAIRMENT" MEANS A LOSS OR DETERIORATION IN AN INDIVIDUAL'S INTELLECTUAL CAPACITY THAT IS:**

**(I) COMPARABLE TO AND INCLUDES ALZHEIMER'S DISEASE AND SIMILAR FORMS OF IRREVERSIBLE DEMENTIA; AND**

**(II) MEASURED BY CLINICAL EVIDENCE AND STANDARDIZED TESTS THAT RELIABLY MEASURE IMPAIRMENT IN AN INDIVIDUAL'S:**

**1. SHORT-TERM OR LONG-TERM MEMORY;**

**2. ORIENTATION AS TO PEOPLE, PLACES, AND TIME;**

**AND**

**3. DEDUCTIVE OR ABSTRACT REASONING.**

**(4) "STANDBY ASSISTANCE" MEANS THE PRESENCE OF ANOTHER INDIVIDUAL WITHIN ARM'S REACH OF AN INDIVIDUAL THAT IS NECESSARY TO PREVENT, BY PHYSICAL INTERVENTION, INJURY TO THE INDIVIDUAL WHILE THE INDIVIDUAL IS PERFORMING AN ACTIVITY OF DAILY LIVING.**

1           (5) (I) **“SUBSTANTIAL SUPERVISION” MEANS CONTINUAL**  
2 **SUPERVISION BY ANOTHER INDIVIDUAL THAT IS NECESSARY TO PROTECT AN**  
3 **INDIVIDUAL WITH SEVERE COGNITIVE IMPAIRMENT FROM THREATS TO HEALTH**  
4 **OR SAFETY.**

5                       (II) **“SUBSTANTIAL SUPERVISION” INCLUDES CUING BY**  
6 **VERBAL PROMPTING, GESTURING, OR OTHER DEMONSTRATIONS OR 24-HOUR**  
7 **SUPERVISION.**

8           (B) **AN INDIVIDUAL SHALL BE DETERMINED MEDICALLY ELIGIBLE TO**  
9 **RECEIVE HOME- AND COMMUNITY-BASED LONG-TERM CARE SERVICES UNDER**  
10 **THE PROGRAM IF THE INDIVIDUAL REQUIRES HEALTH-RELATED SERVICES**  
11 **ABOVE THE LEVEL OF ROOM AND BOARD THAT ARE AVAILABLE OUTSIDE OF A**  
12 **NURSING FACILITY, INCLUDING INDIVIDUALS WHO, BECAUSE OF SEVERE**  
13 **COGNITIVE IMPAIRMENT, MENTAL ILLNESS, OR OTHER CONDITIONS:**

14                       (1) (I) **ARE CURRENTLY UNABLE TO PERFORM AT LEAST TWO**  
15 **ACTIVITIES OF DAILY LIVING WITHOUT HANDS-ON ASSISTANCE OR STANDBY**  
16 **ASSISTANCE FROM ANOTHER INDIVIDUAL; AND**

17                               (II) **HAVE BEEN OR WILL BE UNABLE TO PERFORM AT LEAST**  
18 **TWO ACTIVITIES OF DAILY LIVING FOR A PERIOD OF AT LEAST 90 DAYS DUE TO A**  
19 **LOSS OF FUNCTIONAL CAPACITY; OR**

20                       (2) **NEED SUBSTANTIAL SUPERVISION FOR PROTECTION AGAINST**  
21 **THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT OR**  
22 **MENTAL ILLNESS.**

23           (C) **THE INDIVIDUAL’S PHYSICIAN, TO THE EXTENT FEASIBLE, SHALL**  
24 **CERTIFY THAT THE INDIVIDUAL REQUIRES THE SERVICES DESCRIBED IN**  
25 **SUBSECTION (B) OF THIS SECTION.**

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 June 1, 2007.