

CHAPTER 308

(Senate Bill 761)

AN ACT concerning

**Department of Health and Mental Hygiene - ~~Federal Waiver~~ Waiver for
Medicaid Coordinated Long-Term Care Program Long-Term Care Supports
and Services - Report**

FOR the purpose of requiring the ~~Department~~ Secretary of Health and Mental Hygiene to ~~apply for a certain waiver under the federal Social Security Act on or before a certain date; requiring a certain waiver to include certain goals and objectives; requiring a certain waiver to include certain benefits and consumer protections regarding the choice of certain long-term care facilities; requiring certain coordinated care organizations to reimburse certain facilities at certain rates; requiring certain coordinated care organizations to meet certain certification requirements; requiring the Department to report annually on the status of a certain program; defining certain terms; and generally relating to long-term care eligibility requirements and waiver services in the Maryland Medical Assistance Program~~ submit certain reports to the General Assembly on or before certain dates; providing for the purpose of a certain program; requiring the Secretary to convene a certain stakeholder group and provide for a certain stakeholder process; providing for the membership of a certain stakeholder group; requiring the Department to submit a federal waiver on or before a certain date under certain circumstances; and generally relating to the Department of Health and Mental Hygiene and a report on long-term care supports and services.

~~BY adding to~~

~~Article Health General~~

~~Section 15-141.1~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) On or before September 1, 2009, the Secretary of Health and Mental Hygiene shall submit an interim report, and on or before December 1, 2010, shall submit a final report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the feasibility of creating a coordinated care program to reform the provision of long-term care services under the Medical Assistance program in a manner that improves and integrates the care of individuals, including health

care services, designed as necessary to meet the differing needs of seniors and adults with disabilities in the State.

(b) The purpose of the program created under subsection (a) of this section is to:

(1) deliver high-quality long-term care supports and services in a coordinated and integrated manner;

(2) deliver long-term care supports and services in the most appropriate care setting to meet the needs and preferences of eligible individuals;

(3) remove systemic and individual barriers to receiving care in home- and community-based settings, as preferred by the individual; and

(4) ensure that, if the State plans to manage long-term care through at-risk contracts, the carve-out of mental health services and hospice services are implemented as required by Chapter 4 of the Acts of the General Assembly of the 2004 Special Session.

(c) In developing the reports required under subsection (a) of this section, the Secretary shall convene a group of stakeholders both public and private and representatives of interested and affected parties, to evaluate and make recommendations consistent with the requirements of this section.

(d) The stakeholder group required under subsection (c) of this section shall include:

(1) legislators;

(2) affected State agencies;

(3) providers with experience in dementia, geriatrics, end-of-life care, ~~and~~ mental health, and disabilities in younger adults;

(4) long-term care providers;

(5) managed care organizations;

(6) acute care providers;

(7) lay care providers;

(8) advocates for individuals receiving long-term care or community services; and

(9) consumers.

(e) The stakeholder process to develop recommendations for a coordinated care program consistent with the purpose of this section shall include a review of:

(1) long-term plans, consensus reports, experiences, and best practices in the State and in other states, relating to the management and coordination of long-term care supports and services, including mental health and behavioral health supports and services for individuals outside of the public mental health system, under the Medical Assistance program, including programs that have carved out nursing home services, programs or plans that are administered within a State agency or by an independent entity, and the CommunityChoice Advisory Group's consensus recommendations; and

(2) the Department's plan for evaluating the existing home- and community-based services infrastructure, including:

(i) identifying the projected need and cost for additional services adequate to support the needs of the population, including strategies to encourage the development of the additional services;

(ii) utilizing funds from the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), to the extent practicable;

(iii) considering whether to pursue a pilot or statewide program;

(iv) identifying any other areas in which the service needs of seniors and adults with disabilities in the State that should be addressed, including streamlined electronic eligibility determinations and electronic billing components; and

(v) whether a federal waiver is necessary to create a coordinated care program and, if so, the type of waiver that should be sought.

(f) The Department shall:

(1) include in the interim report required under subsection (a) of this section a timeline and work plan for the stakeholder process required under subsection (e) of this section; and

(2) include in the final report required under subsection (a) of this section draft legislation for approval by the General Assembly that would enact the consensus recommendations developed through the stakeholder process.

(g) If the General Assembly enacts legislation that requires the submission of a federal waiver, the Department shall submit the waiver on or before June 1, 2011.

~~Preamble~~

~~WHEREAS, The General Assembly required the Department of Health and Mental Hygiene to submit to the Center for Medicare and Medicaid Services a waiver to implement the "Community Choice Program" by passage of Senate Bill 819 of 2004, which was vetoed by the Governor; and~~

~~WHEREAS, On December 28, 2004, the Governor called the General Assembly into Special Session and the General Assembly overrode the Governor's veto of Senate Bill 819 of 2004 to ensure the implementation of the Community Choice Program; and~~

~~WHEREAS, Some of the goals and objectives of the Community Choice Program were to enhance the quality of care and quality of life of recipients of long-term care services in the State and to utilize State health care dollars effectively; and~~

~~WHEREAS, There was significant stakeholder involvement in the development of the draft waiver authorized by Senate Bill 819 of 2004; and~~

~~WHEREAS, The Community Choice Program has not been implemented as required; and~~

~~WHEREAS, According to the Department of Health and Mental Hygiene the current system of delivering Medicaid benefits to recipients of long-term care services is not well coordinated, does not meet consumers' needs, and requires better coordination and integration to improve quality outcomes and save money at the same time; now, therefore,~~

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

~~Article Health General~~

~~15-141.1.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "COORDINATED CARE ORGANIZATION" MEANS AN ORGANIZATION APPROVED BY THE DEPARTMENT THAT ARRANGES FOR HEALTH CARE SERVICES WITH THE GOAL OF PROMOTING THE DELIVERY OF SERVICES IN THE MOST APPROPRIATE, COST-EFFECTIVE SETTING.~~

~~(3) "COORDINATED LONG TERM CARE PROGRAM" MEANS A PROGRAM THAT DELIVERS SERVICES IN ACCORDANCE WITH THE WAIVER DEVELOPED UNDER THIS SECTION.~~

~~(B) (1) ON OR BEFORE DECEMBER 1, 2009, THE DEPARTMENT SHALL APPLY FOR A WAIVER UNDER THE FEDERAL SOCIAL SECURITY ACT.~~

~~(2) AS PERMITTED BY FEDERAL LAW OR WAIVER, THE SECRETARY MAY ESTABLISH A PROGRAM UNDER WHICH MARYLAND MEDICAL ASSISTANCE PROGRAM RECIPIENTS ARE REQUIRED TO ENROLL IN A COORDINATED LONG TERM CARE PROGRAM.~~

~~(C) (1) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL INCLUDE THE SAME GOALS AND OBJECTIVES SET FORTH IN § 15-141(C) OF THIS SUBTITLE.~~

~~(2) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL INCLUDE THE SAME BENEFITS AND CONSUMER PROTECTIONS CONSISTENT WITH § 15-141 OF THIS SUBTITLE, INCLUDING:~~

~~(I) EACH ENROLLEE RECEIVING SERVICES IN A NURSING HOME, AN ASSISTED LIVING FACILITY, AN ADULT DAY CARE FACILITY, A PSYCHIATRIC REHABILITATION PROGRAM, OR A RESIDENTIAL REHABILITATION PROGRAM SHALL HAVE THE OPTION OF REMAINING IN THE NURSING HOME, AN ASSISTED LIVING FACILITY, AN ADULT DAY CARE FACILITY, A PSYCHIATRIC REHABILITATION PROGRAM, OR A RESIDENTIAL REHABILITATION PROGRAM; AND~~

~~(H) TO THE EXTENT PRACTICABLE, ALLOW WAIVER ENROLLEES WHO MEET THE NURSING HOME LEVEL OF CARE TO SELECT A NURSING HOME, AN ASSISTED LIVING FACILITY, OR AN ADULT DAY CARE FACILITY PROVIDED THAT:~~

~~1. THE NURSING HOME, ASSISTED LIVING FACILITY, OR ADULT DAY CARE FACILITY IS LICENSED BY THE DEPARTMENT; AND~~

~~2. THE PROVIDER MEETS THE DEPARTMENT APPROVED CREDENTIALING REQUIREMENTS OF THE LONG TERM CARE ENTITY.~~

~~(D) IN ARRANGING FOR THE BENEFITS REQUIRED UNDER THE WAIVER PROGRAM, THE COORDINATED CARE ORGANIZATION SHALL:~~

~~(1) (I) REIMBURSE NURSING HOMES NOT LESS THAN THE MEDICAID ESTABLISHED RATE BASED ON THE WAIVER RECIPIENT'S MEDICAL~~

~~CONDITION PLUS ALLOWABLE ANCILLARY SERVICES, AS ESTABLISHED BY THE DEPARTMENT BASED ON ITS NURSING HOME MEDICAID RATE SETTING METHODOLOGY; OR~~

~~(H) FOR WAIVER RECIPIENTS THAT WOULD HAVE BEEN PAID BY THE MEDICARE PROGRAM FOR SERVICES PROVIDED, REIMBURSE NURSING HOMES NOT LESS THAN THE APPLICABLE REIMBURSEMENT RATE PAYABLE BY MEDICARE FOR THAT WAIVER RECIPIENT;~~

~~(2) REIMBURSE NURSING HOMES IN ACCORDANCE WITH THE DEPARTMENT'S POLICY ON LEAVE OF ABSENCE AS PROVIDED UNDER § 15-117 OF THIS SUBTITLE; AND~~

~~(3) REIMBURSE ADULT DAY CARE FACILITIES NOT LESS THAN THE RATE DETERMINED BY THE DEPARTMENT FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM.~~

~~(E) EACH COORDINATED CARE ORGANIZATION SHALL MEET THE SAME REQUIREMENTS FOR CERTIFICATION AS SET FORTH IN § 15-141 OF THIS SUBTITLE.~~

~~(F) BEGINNING ON DECEMBER 1, 2009, THE DEPARTMENT SHALL ANNUALLY REPORT TO, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE STATUS OF THE PROGRAM DEVELOPED UNDER THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.