

Chapter 143

(House Bill 278)

AN ACT concerning

Maryland Medical Assistance Program – Medical Eligibility for Nursing Facility Level of Care – Report

FOR the purpose of requiring the Department of Health and Mental Hygiene to ~~determine that certain individuals are medically eligible for certain services under certain circumstances; requiring the Department to allow individuals to submit certain information under certain circumstances~~ provide a certain report to certain committees of the General Assembly and the Medicaid Advisory Committee within a certain time period prior to making any change to medical eligibility for certain Medical Assistance Program long-term care services; requiring the Department to discuss certain reports submitted to the Medicaid Advisory Committee at a meeting of the Committee; defining a certain ~~terms~~ term; and generally relating to medical eligibility for nursing facility level of care under the Maryland Medical Assistance Program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 1–101(a) and (c) and 15–101(a) and (h)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health – General
Section 15–146
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

1–101.

- (a) In this article the following words have the meanings indicated.
- (c) “Department” means the Department of Health and Mental Hygiene.

15–101.

- (a) In this title the following words have the meanings indicated.
- (h) "Program" means the Maryland Medical Assistance Program.

15-146.

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

~~(2) "ACTIVITIES OF DAILY LIVING" MEANS BATHING, DRESSING, MOBILITY, TRANSFER, TOILETING OR CONTINENCE, AND EATING.~~

~~(3) "HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD" MEANS:~~

~~(i) CARE OF AN INDIVIDUAL WHO REQUIRES HANDS ON ASSISTANCE TO PERFORM ADEQUATELY AND SAFELY TWO OR MORE ACTIVITIES OF DAILY LIVING AS A RESULT OF A CURRENT MEDICAL CONDITION OR DISABILITY;~~

~~(ii) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING FOR AN INDIVIDUAL:~~

~~1. WITH COGNITIVE DEFICITS, AS INDICATED BY A SCORE OF 15 OR LESS ON THE FOLSTEIN MINI-MENTAL STATUS EVALUATION OR AN EQUIVALENT DETERMINATION MADE BY A LICENSED PHYSICIAN, PSYCHOLOGIST, OR CERTIFIED SOCIAL WORKER CLINICAL; AND~~

~~2. WHO IS IN NEED OF ASSISTANCE WITH AT LEAST THREE INSTRUMENTAL ACTIVITIES OF DAILY LIVING; OR~~

~~(iii) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING COMBINED WITH THE NEED FOR SUPERVISION OF OR REDIRECTION FOR AN INDIVIDUAL WHO EXHIBITS AT LEAST TWO OF THE FOLLOWING BEHAVIORAL PROBLEMS:~~

~~1. WANDERING SEVERAL TIMES A DAY;~~

~~2. HALLUCINATIONS OR DELUSIONS AT LEAST WEEKLY;~~

~~3. AGGRESSIVE OR ABUSIVE BEHAVIOR SEVERAL TIMES A WEEK;~~

~~4. DISRUPTIVE OR SOCIALLY INAPPROPRIATE BEHAVIOR SEVERAL TIMES A WEEK; OR~~

~~5. SELF-INJURIOUS BEHAVIOR SEVERAL TIMES A MONTH.~~

~~(4) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS COMPLETING GROOMING, PREPARING A LIGHT MEAL, DOING LIGHT CHORES, GROCERY SHOPPING, TRAVELING BEYOND A WALKING DISTANCE, HANDLING MONEY AND MANAGING FINANCES, USING THE TELEPHONE, AND PLANNING AND MAKING DECISIONS.~~

~~(B) (1) THE DEPARTMENT SHALL DETERMINE THAT AN INDIVIDUAL IS MEDICALLY ELIGIBLE FOR NURSING FACILITY SERVICES OR FOR A NURSING FACILITY LEVEL OF CARE UNDER THE PROGRAM IF THE INDIVIDUAL REQUIRES, ON A REGULAR BASIS, HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD.~~

~~(2) IF AN INDIVIDUAL DOES NOT DEMONSTRATE THE CLINICAL NEED FOR HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD ON A REGULAR BASIS, THE DEPARTMENT SHALL PERMIT THE INDIVIDUAL TO SUBMIT ADDITIONAL INFORMATION FOR CLINICAL REVIEW TO DEMONSTRATE ELIGIBILITY UNDER APPLICABLE FEDERAL OR STATE REGULATIONS.~~

~~(A) IN THIS SECTION, "HOME- AND COMMUNITY-BASED WAIVER SERVICES" INCLUDE SERVICES PROVIDED UNDER THE LIVING AT HOME WAIVER, THE OLDER ADULTS WAIVER, AND THE MEDICAL DAY CARE WAIVER.~~

~~(B) AT LEAST 90 DAYS PRIOR TO MAKING ANY CHANGE TO MEDICAL ELIGIBILITY FOR PROGRAM LONG-TERM CARE SERVICES, INCLUDING NURSING FACILITY SERVICES, HOME- AND COMMUNITY-BASED WAIVER SERVICES, AND OTHER SERVICES THAT REQUIRE A NURSING FACILITY LEVEL OF CARE, THE DEPARTMENT SHALL PROVIDE A REPORT TO:~~

~~(1) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE; AND~~

~~(2) THE MEDICAID ADVISORY COMMITTEE.~~

~~(C) THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:~~

(1) THE DETAILS OF THE INTENDED CHANGE IN MEDICAL ELIGIBILITY;

(2) A DESCRIPTION OF HOW THE INTENDED CHANGE WILL AFFECT CURRENT MEDICAL ELIGIBILITY;

(3) THE INTENDED EFFECTIVE DATE OF THE CHANGE; AND

(4) WHETHER THE CHANGE WILL BE PURSUED THROUGH DEPARTMENTAL POLICY, BY REGULATION, OR BY STATUTE.

(D) THE DEPARTMENT SHALL DISCUSS ANY REPORT SUBMITTED TO THE MEDICAID ADVISORY COMMITTEE UNDER SUBSECTION (B) OF THIS SECTION AT A MEETING OF THE MEDICAID ADVISORY COMMITTEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.