

Chapter 468

(Senate Bill 231)

AN ACT concerning

Individuals with Disabilities – Attendant Care Program

FOR the purpose of altering the method used by the Attendant Care Program in the Department of Disabilities to determine sliding payment scales for certain eligible individuals; altering the description of a certain category of eligible individuals who are at risk of placement in a nursing facility or similar institution; authorizing the Secretary of Disabilities to waive a certain proportional requirement if there is a waiting list for certain eligible individuals; authorizing the Secretary to adopt certain regulations; prohibiting the removal of certain eligible individuals from the Program under certain circumstances; altering a certain definition; and generally relating to the Attendant Care Program in the Department of Disabilities.

BY repealing and reenacting, without amendments,

Article – Human Services

Section 7–401(a) and 7–402(a)

Annotated Code of Maryland

(2007 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Human Services

Section 7–401(d), 7–402(b), and 7–404

Annotated Code of Maryland

(2007 Volume and 2011 Supplement)

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

Article – Human Services

7–401.

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

(d) “Eligible individual” means an individual who:

(1) is at least 18 years old and under the age of 65 years **AT THE TIME OF THE INITIAL ELIGIBILITY DETERMINATION**; and

(2) has a severe chronic or permanent physical disability that precludes or significantly impairs the individual's independent performance of essential activities of daily living, self-care, or mobility.

7-402.

(a) (1) There is an Attendant Care Program in the Department.

(2) The purpose of the Program is to provide financial assistance to eligible individuals for attendant care services.

(b) The Department shall provide financial assistance in accordance with a sliding payment scale that the Department establishes by regulation **FOR EACH CATEGORY OF ELIGIBLE INDIVIDUALS DESCRIBED IN § 7-404(A) OF THIS SUBTITLE.**

7-404.

(a) (1) The Department shall ensure that at any given time at least 50% of the eligible individuals receiving financial assistance under the Program are:

(i) gainfully employed;

(ii) actively seeking employment; or

(iii) attending an institution of postsecondary or higher education, as defined in § 10-101 of the Education Article.

(2) The remainder of the eligible individuals receiving financial assistance under the Program shall be individuals who:

(i) reside in a nursing [home] **FACILITY** or similar institution licensed to provide chronic or intermediate care and who will be deinstitutionalized as a result of the Program; or

(ii) are [on an approved waiting list for] **CERTIFIED BY AN ATTENDING PHYSICIAN OR CERTIFIED NURSE PRACTITIONER AS BEING AT RISK OF PLACEMENT IN** a nursing [home] **FACILITY** or similar institution licensed to provide chronic or intermediate care **IF ATTENDANT CARE SERVICES ARE NOT RECEIVED IN THE COMMUNITY.**

(b) **(1) SUBJECT TO THE AVAILABILITY OF FUNDS, THE SECRETARY MAY WAIVE THE PROPORTIONAL REQUIREMENT OF SUBSECTION (A)(1) OF THIS SECTION IN THE EVENT THERE IS A WAITING LIST OF ELIGIBLE INDIVIDUALS DESCRIBED IN SUBSECTION(A)(2) OF THIS SECTION.**

(2) THE SECRETARY MAY ADOPT REGULATIONS TO ESTABLISH PRIORITIES AND PROCEDURES FOR A WAITING LIST OF ELIGIBLE INDIVIDUALS.

(3) AN ELIGIBLE INDIVIDUAL RECEIVING FINANCIAL ASSISTANCE MAY NOT BE REMOVED FROM THE PROGRAM TO ACHIEVE THE PROPORTIONAL REQUIREMENT UNDER SUBSECTION (A)(1) OF THIS SECTION.

(C) Financial assistance provided under the Program may not duplicate any other State or federal assistance for attendant care services that an eligible individual receives.

[(c)] (D) The Department shall limit participation in the Program to the number of eligible individuals who can be served with the funds appropriated for the Program in the State budget.

[(d)] (E) Each year, the Department shall review the eligibility of each individual receiving financial assistance.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.