

## Chapter 414

**(Senate Bill 699)**

AN ACT concerning

**Maryland Medical Assistance Program – Home– and Community–Based Waiver Services – Prohibition on Denial**

FOR the purpose of prohibiting the Maryland Department of Health from denying an individual access to a home– and community–based services waiver due to a lack of funding for waiver services if the individual is living at home or in the community at a certain time, received certain services for a certain time period, will be or has been terminated from the Maryland Medical Assistance Program due to becoming entitled to or enrolled in a certain program, meets certain eligibility criteria within a certain time period, and certain services received by the individual would qualify for certain funds; and generally relating to home– and community–based services under the Maryland Medical Assistance Program.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 15–137  
 Annotated Code of Maryland  
 (2015 Replacement Volume and 2018 Supplement)

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

**Article – Health – General**

15–137.

(a) The Department may not deny an individual access to a home– and community–based services waiver due to a lack of funding for waiver services if:

(1) **(I)** The individual is living in a nursing facility at the time of the application for waiver services;

[(2)] **(II)** At least 30 consecutive days of the individual’s nursing facility stay are eligible to be paid for by the Program;

[(3)] **(III)** The individual meets all of the eligibility criteria for participation in the home– and community–based services waiver; and

[(4)] **(IV)** The home– and community–based services provided to the individual would qualify for federal matching funds; **OR**

**(2) (I) THE INDIVIDUAL IS LIVING AT HOME OR IN THE COMMUNITY AT THE TIME OF THE APPLICATION FOR WAIVER SERVICES;**

**(II) THE INDIVIDUAL RECEIVED HOME- AND COMMUNITY-BASED SERVICES THROUGH COMMUNITY FIRST CHOICE FOR AT LEAST 30 CONSECUTIVE DAYS;**

**(III) THE INDIVIDUAL WILL BE OR HAS BEEN TERMINATED FROM PARTICIPATION IN THE PROGRAM ON BECOMING ENTITLED TO OR ENROLLED IN MEDICARE PART A OR ENROLLED IN MEDICARE PART B;**

**(IV) THE INDIVIDUAL MEETS ALL OF THE ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE HOME- AND COMMUNITY-BASED SERVICES WAIVER WITHIN 6 MONTHS AFTER ~~BEING NOTIFIED OF ELIGIBILITY~~ THE COMPLETION OF THE APPLICATION; AND**

**(V) THE HOME- AND COMMUNITY-BASED SERVICES PROVIDED TO THE INDIVIDUAL WOULD QUALIFY FOR FEDERAL MATCHING FUNDS.**

(b) Nothing in this section is intended to result in a reduction of federal funds available to the Department.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

**Approved by the Governor, May 13, 2019.**