

# SENATE BILL 796

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CF HB 984

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By: **Senator Guzzone**

Introduced and read first time: February 3, 2020

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Developmental Disabilities Administration – Program Changes and Required**  
3 **Reports**

4 FOR the purpose of requiring the Maryland Department of Health to ensure that providers  
5 of and individuals who receive certain services are not negatively impacted when  
6 using a certain software system or function; requiring that an individual receiving  
7 certain services who receives a certain notice have a certain time period to appeal a  
8 certain eligibility determination; requiring certain services to continue  
9 uninterrupted under certain circumstances until the outcome of a certain appeal is  
10 complete; requiring the Department to ensure that certain providers are notified of  
11 a certain eligibility determination; ~~prohibiting the Department from implementing~~  
12 ~~certain changes to Developmental Disabilities Administration programs and billing~~  
13 ~~system requirements before a certain date; requiring the Department to ensure that~~  
14 providers are able to exchange electronic data with the Department through an  
15 application program interface with the Department's Long Term Services and  
16 Supports software system; requiring the Department to meet certain requirements  
17 at least a certain number of days before requiring providers to use a certain software  
18 system for certain individuals; requiring the Department to develop and distribute  
19 certain materials to certain users and individuals; requiring the Department to  
20 ensure that certain numbers are approved and entered into a certain software  
21 system, that certain individuals have a certain plan in a certain software system,  
22 that individuals have certain authorization, that certain rates are finalized and  
23 certain analyses are completed, and that certain errors are corrected in a certain  
24 manner; requiring the Department to delay the implementation of certain changes  
25 to a certain electronic visit verification function until a certain date; requiring the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Department, on or before a certain date, to ensure that certain devices are  
 2 distributed, that a certain plan has been developed, that certain providers receive a  
 3 certain guide, and that a certain pilot program is completed; requiring the  
 4 Department to conduct a certain pilot program for at least a certain period of time;  
 5 requiring the Department to include certain participation and allow each provider to  
 6 make a certain selection in conducting a certain pilot program; requiring the  
 7 Department to ensure that an individual's choice of provider or service is not  
 8 restricted by the Developmental Disabilities Administration as the result of certain  
 9 actions; requiring the Department to submit certain reports to the General Assembly  
 10 on or before a certain date; and generally relating to developmental disabilities  
 11 services.

12 BY adding to

13 Article – Health – General  
 14 Section 7–309  
 15 Annotated Code of Maryland  
 16 (2019 Replacement Volume)

17 Preamble

18 WHEREAS, Over 24,000 Marylanders who rely on Developmental Disabilities  
 19 Administration (DDA) services, and over 4,000 people with intellectual and developmental  
 20 disabilities on the DDA Waiting List, and their families, need a strong, stable system of  
 21 supports and services; and

22 WHEREAS, There are over 1,000 people with intellectual and developmental  
 23 disabilities who currently self-direct their supports, and rely on the DDA for funding,  
 24 policies, and procedures to use support; and

25 WHEREAS, There are over 200 community-based provider agencies, employing  
 26 thousands of direct support professionals working in the State, that rely on the DDA for  
 27 funding, policies, and procedures to provide quality supports; and

28 WHEREAS, There are hundreds of family members of people with intellectual and  
 29 developmental disabilities who depend on reliable DDA services and supports for their  
 30 family members in order to continue to work in Maryland; and

31 WHEREAS, The DDA has a budget of over \$1.3 billion, representing a significant  
 32 investment of federal and State resources; and

33 WHEREAS, The DDA is engaging in complete systems change involving all aspects  
 34 of the provision of supports and services to over 24,000 Marylanders with intellectual and  
 35 developmental disabilities and their families; and

36 WHEREAS, The total systems change effort will affect all parts of community  
 37 supports, and has created system instability that will jeopardize community supports and

1 services if allowed to continue in the current manner and pace to meet the Department's  
2 implementation goal of July 1, 2020; now, therefore,

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

5 **Article – Health – General**

6 **7-309.**

7 (A) THE DEPARTMENT SHALL ENSURE THAT PROVIDERS OF AND  
8 INDIVIDUALS WHO RECEIVE ADMINISTRATION SERVICES ARE NOT ADVERSELY  
9 IMPACTED WHEN USING THE LONG TERM SERVICES AND SUPPORTS SOFTWARE  
10 SYSTEM OR THE ELECTRONIC VISIT VERIFICATION FUNCTION.

11 (B) (1) AN INDIVIDUAL RECEIVING ADMINISTRATION SERVICES WHO  
12 RECEIVES NOTICE FROM THE DEPARTMENT THAT THE INDIVIDUAL HAS LOST  
13 ELIGIBILITY TO RECEIVE MARYLAND MEDICAL ASSISTANCE PROGRAM SERVICES  
14 SHALL HAVE ~~30~~ 90 DAYS AFTER THE DATE ON WHICH THE NOTIFICATION LETTER  
15 WAS MAILED TO APPEAL THE DETERMINATION.

16 (2) IF AN INDIVIDUAL APPEALS A LOSS OF ELIGIBILITY WITHIN THE  
17 TIME PERIOD REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION,  
18 ADMINISTRATION SERVICES FOR THE INDIVIDUAL SHALL CONTINUE  
19 UNINTERRUPTED UNTIL THE OUTCOME OF THE APPEAL IS COMPLETE.

20 (3) THE DEPARTMENT SHALL ENSURE THAT PROVIDERS OF  
21 ADMINISTRATION SERVICES TO AN INDIVIDUAL AFFECTED BY A LOSS OF  
22 ELIGIBILITY ARE NOTIFIED OF THE INDIVIDUAL'S LOSS OF ELIGIBILITY WHEN  
23 NOTICE IS SENT TO THE INDIVIDUAL.

24 (4) THE DEPARTMENT SHALL ENSURE THAT PROVIDERS, INCLUDING  
25 COORDINATORS OF COMMUNITY SERVICES, HAVE THE ABILITY TO AUTOMATICALLY  
26 EXCHANGE ELECTRONIC DATA WITH THE DEPARTMENT THROUGH AN APPLICATION  
27 PROGRAM INTERFACE WITH THE DEPARTMENT'S LONG TERM SERVICES AND  
28 SUPPORTS SOFTWARE SYSTEM.

29 SECTION 2. AND BE IT FURTHER ENACTED, That:

30 (a) ~~(1)~~ The Maryland Department of Health ~~may not, before July 1, 2021,~~  
31 ~~implement:~~

32 ~~(i) the transition to waiver service definitions planned to take effect~~  
33 ~~in fiscal 2021 under the current waiver application, as approved by the Centers for~~

1 ~~Medicare and Medicaid Services, or in any subsequent waiver application made by the~~  
2 ~~Department;~~

3 ~~(ii) new billing system requirements; or~~

4 ~~(iii) a transition to the Long Term Services and Supports software~~  
5 ~~system.~~

6 ~~(b)~~ shall meet the requirements established under subsection (b) of this section  
7 at least 90 days before requiring providers to use the Long Term Services and Supports  
8 software system for all individuals they serve.

9 (b) (1) The Department shall develop and distribute:

10 (i) to Long Term Services and Supports software system users  
11 related to Developmental Disabilities Administration services, a Long Term Services and  
12 Supports software system operations manual for Administration services;

13 (ii) to providers and individuals served by providers, written policies  
14 and procedures for all developmental disability waiver services;

15 (iii) to individuals supported by provider services, a comprehensive  
16 guide that describes the services available through the Developmental Disabilities  
17 Administration, including services available under family supports, community supports,  
18 and community pathways waivers, with the relevant funding parameters, definitions, and  
19 examples; and

20 (iv) to individuals determined to be eligible for Developmental  
21 Disabilities Administration services:

22 1. a list of providers authorized to provide services under  
23 each waiver, with contact information for each provider;

24 2. detailed information on self-directed services options; and

25 3. detailed information regarding:

26 A. how individuals can access specific services;

27 B. the eligibility requirements and process for determining  
28 eligibility for services; and

29 C. the anticipated time between the initial determination of  
30 an individual's eligibility and the individual's access to Administration services.

31 (2) The Department shall ensure that:

1                   (i) all base and site ePREP numbers are approved by all parties and  
2 entered into the Long Term Services and Supports software system;

3                   (ii) individuals receiving Developmental Disabilities Administration  
4 services have a current, approved person-centered plan in the Long Term Services and  
5 Supports software system;

6                   (iii) individuals receiving Developmental Disabilities Administration  
7 services have an accurate and current service authorization signed by the service provider  
8 and approved by the Developmental Disabilities Administration;

9                   (iv) rates for a provider are finalized and a provider impact analysis  
10 is completed for each provider;

11                   (v) all known Long Term Services and Supports software system  
12 functionality errors are corrected systematically.

13                   (3) The Department shall conduct an analysis of coordinator of community  
14 service job responsibilities to identify coordinator of community services capacity needed to  
15 implement the Long Term Services and Supports software system.

16                   (c) The Maryland Department of Health shall delay implementation of changes  
17 to the Electronic Visit Verification function until ~~January 1, 2021~~ December 1, 2020, in  
18 accordance with the extension requested by the Department and approved by the Centers  
19 for Medicare and Medicaid Services.

20                   (d) On or before October 31, 2020, the Department shall ensure:

21                   (1) all one-time password devices are distributed as necessary to  
22 implement electronic visit verification;

23                   (2) a plan has been developed for timely distribution of replacement  
24 one-time password devices; and

25                   (3) all providers of personal supports receive an operations guide for the  
26 implementation of electronic visit verification that includes procedures:

27                   (i) for documentation of services;

28                   (ii) for billing;

29                   (iii) for obtaining replacement one-time password devices; and

30                   (iv) to follow when electronic visit verification systems are not  
31 operational.

1 ~~(e)~~ (e) (1) The Department shall conduct a pilot program of the Long Term  
 2 Services and Supports software system for at least 6 months.

3 (2) In conducting the pilot program, the Department shall:

4 (i) include the participation of each Developmental Disabilities  
 5 Administration licensed provider and certified provider; and

6 (ii) allow each provider to select the number of individuals supported  
 7 by the provider that the provider wishes to be included in the pilot program.

8 (f) The Department shall ensure that an individual's choice of provider or service  
 9 is not restricted by the Developmental Disabilities Administration as a result of  
 10 implementation of the Long Term Services and Supports software system pilot program, or  
 11 any phase-in of waiver service definitions, billing processes, or operational changes.

12 (g) On or before December 1, 2020, the Maryland Department of Health shall  
 13 report to the General Assembly, in accordance with § 2-1257 of the State Government  
 14 Article, on the status of the pilot program ~~to transition Developmental Disabilities~~  
 15 ~~Administration services to the Long Term Services and Supports software system~~ required  
 16 under subsection (e) of this section, including:

17 (1) the status of all functions of the software system that are used to  
 18 provide supports for people using Administration services, including:

19 (i) the coordination of community services function;

20 (ii) the person-centered plan function;

21 (iii) the attendance and billing function;

22 (iv) the documentation function; ~~and~~

23 (v) the fiscal reconciliation report function; and

24 (vi) the ability of providers to automatically exchange electronic data  
 25 with the Department through an application program interface with the software system;  
 26 and

27 (2) the average amount of time required to process and complete payments  
 28 for services rendered.

29 ~~(d)~~ (h) On or before December 1, 2020, the Department shall submit a report  
 30 to the General Assembly, in accordance with § 2-1257 of the State Government Article,  
 31 that includes:

1 (1) the time, deadlines, and resources required for a provider, including a  
2 direct support professional, to complete the training and obtain equipment required to use  
3 the Long Term Services and Supports software system and to complete responsibilities for  
4 billing and documentation;

5 (2) actions taken by the Developmental Disabilities Administration to:

6 (i) ensure the transition to the Long Term Services and Supports  
7 software system does not limit a person's full use, in a timely manner, of services authorized  
8 through the person-centered plan; and

9 (ii) remove any barriers that may be presented by the  
10 Administration's monthly or more frequent service authorization requirements;

11 (3) actions taken by the Developmental Disabilities Administration to  
12 ensure that:

13 (i) supports for individuals with intellectual and developmental  
14 disabilities are not disrupted by a transition to the Long Term Services and Supports  
15 software system;

16 (ii) providers and vendors receive timely payment for approved  
17 services rendered; and

18 (iii) a plan is in place to ensure continuity of services and payment  
19 for services rendered in the event of system functionality issues, errors, or delays caused  
20 by the Administration or coordinators of community services;

21 (4) actions taken by the Developmental Disabilities Administration to  
22 ensure the system allows for flexibility in service start dates, including services started on  
23 a day other than the first of the month, and to ensure the ability of providers to bill for  
24 approved services rendered, regardless of start date;

25 (5) actions taken by the Maryland Department of Health to ensure that all  
26 licensed providers have base and site electronic provider revalidation and enrollment portal  
27 numbers with accurate service addresses;

28 (6) a description of the reporting and audit standards that will be required  
29 of providers, and the associated report templates;

30 (7) written policies, procedures, and guidelines for the transition to, and  
31 implementation of, the Long Term Services and Supports software system and all facets of  
32 service system change, including the transition to the use of the Electronic Visit  
33 Verification system;

1 (8) a comprehensive guide for individuals and the families of individuals  
2 that use Developmental Disabilities Administration supports that describes the services  
3 that are available through the Administration including:

4 (i) services available under each of the Family Supports,  
5 Community Supports, and Community Pathways waivers with funding parameters,  
6 definitions, and examples;

7 (ii) a list of providers who are licensed or certified to provide services  
8 in each waiver with contact information and detailed information on self-directed services  
9 options; and

10 (iii) information detailing:

11 1. how individuals may access needed services;

12 2. the eligibility requirements and the process for  
13 determining eligibility for services; and

14 3. the timelines from initial determination of eligibility to the  
15 access of Administration services;

16 (9) the status of delays on person-centered plan approvals or service  
17 authorizations and actions needed to eliminate the backlog of delayed plans;

18 (10) an impact analysis of the effect of a new rate system, service definitions,  
19 and eligibility guidelines for individuals who access Developmental Disabilities  
20 Administration services;

21 (11) an analysis of the impact of the implementation of new rates by  
22 individual provider and by service;

23 (12) how the Developmental Disabilities Administration will ensure that  
24 providers have sufficient working capital to transition successfully from a prospective  
25 payment system to a fee-for-service system; and

26 (13) the funding needed to enable community providers to successfully  
27 transition to:

28 (i) the Long Term Services and Support software system; and

29 (ii) any new rate and billing systems.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
31 1, 2020.



Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.