



Wes Moore | Governor

Aruna Miller | Lt. Governor

Carmel Roques | Secretary

Date: February 7, 2024

Bill Number: **SB197**

Bill Title: Residential Service Agencies - Reimbursement - Personal Assistance Services (Homecare Worker Rights Act of 2024)

Committee: Senate Finance

MDOA Position: FAVORABLE

The Department of Aging (MDOA) thanks the Chair and Committee members for the opportunity to testify in support of Senate Bill (SB) 197 - Residential Service Agencies - Reimbursement - Personal Assistance Services (Homecare Worker Rights Act of 2024).

The Maryland Department of Aging (MDOA) serves as Maryland's State Unit of Aging, administering federal funding for core programs, overseeing the Area Agency on Aging (AAA) network at the local level that provides services, and planning for Maryland's older adult population. Pursuant to a recent Executive Order, in January 2024, MDOA launched the Longevity-Ready Maryland Initiative,¹ which will build upon existing efforts across state agencies, private and philanthropic sectors and other stakeholders to tackle real-life challenges throughout the lifespan, taking a whole-of-life and whole-of-government approach. Key goals of Longevity-Ready Maryland are for all Marylanders to afford their longer lives by investing in a multigenerational workforce and improving access to healthcare and retirement needs. The Governor's Longevity-Ready Maryland Executive Order confirmed explicitly that the workforce in Maryland that cares for older adults is disproportionately women and people of color who earn below a living wage.

According to the Public Justice Center and other groups representing these workers directly, Maryland's home care workforce is about 90% women and about 70% Black, and earn on average \$14-15 per hour. The Public Justice Center asserts that a significant number of home

¹ More on Longevity-Ready MD Initiative available at: <https://aging.maryland.gov/Pages/LRM.aspx>



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care workers in Maryland who provide direct care services that are reimbursed by Medicaid² are misclassified as independent contractors by residential service agencies.

Prior state legislation requires Residential Service Agencies getting reimbursed by Medicaid to acknowledge and sign off on plain-language guidance reinforcing when home care workers must be classified as employees from the Maryland Attorney General, Departments of Labor and Health;³ clarifying for any reluctant or confused business operators their actual obligations under federal and state law. When workers are misclassified as contractors, they lose access to sick leave, health insurance, workers' compensation and unemployment insurance - while the state loses out on required employer contributions to unemployment insurance. The majority of law-abiding home care businesses in Maryland that classify workers as employees are also harmed, reducing our statewide economic competitiveness. Home care workers and the services they provide are the backbone to aging in community and vital to the long term care infrastructure for older adults. Maintaining the status quo, allowing some homecare agencies to continue to misclassify workers with public funds, will continue to perpetuate systemic racism against the large number of women of color who work as home care aides and contribute to high worker turnover. Failing to lift home care workers out of poverty and into financial self-sufficiency will increase harm to the homecare businesses classifying workers correctly and jeopardize publicly-funded, community-based care for older Marylanders. For Maryland to be longevity-ready, we must swiftly and permanently improve job quality for home care workers.

SB197's approach aligns with the recently published National Strategy on Caregivers and President Biden's subsequent Executive Order on Increasing Access to High-Quality Care and Supporting Caregivers, in April, 2023. Both underscore the need for comprehensive government action to support and enhance job quality for all types of care workers. The National Strategy on Caregivers recommends numerous specific tactics to states, including "increas[ing] wages, benefits and training for direct care workers under Medicaid that provides for a livable income."⁴

² Maryland Medical Assistance Program (Medicaid) pays for a significant amount of direct care for older Marylanders, both in skilled nursing facilities and home-based settings.

³ MD Attorney General, Department of Labor, Department of Health Guidance Document: "Understanding how Maryland's employee protection laws apply to residential service agencies and personal care aides," *available at*: <https://health.maryland.gov/ohcq/docs/Residential%20Service%20Agency%20Documents/2022-11-01%20RSA-PCA%20Guidance%20Document%20%281%29.pdf>

⁴ "2022 National Strategy to Support Family Caregivers: Actions for States, Communities and Others," Developed by: The Recognize, Assist, Include, Support, and Engage (RAISE) Act Family Caregiving Advisory Council & The



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For these reasons, the Department of Aging respectfully urges a favorable report for SB197. If you have any questions, please contact Andrea Nunez, Legislative Director, at andrea.nunez@maryland.gov or (443) 414-8183.

Sincerely,

Carmel Roques
Secretary
Maryland Department of Aging

Advisory Council to Support Grandparents Raising Grandchildren, with technical assistance provided by the Administration for Community Living, Sept. 21, 2022, p. 19, *available at*: https://acl.gov/sites/default/files/RAISE_SGRG/NatlStrategyFamCaregivers_ActionsSCO.pdf (accessed Jan. 21, 2024).



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