
By: Senator Della

Introduced and read first time: February 23, 1996

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Medicaid - Transfer to Department of Human Resources**

3 FOR the purpose of transferring the Medical and Pharmacy Assistance Programs from
4 the Department of Health and Mental Hygiene to the Department of Human
5 Resources; providing that the Department of Human Resources and its Secretary
6 are the successors of the Department of Health and Mental Hygiene and its
7 Secretary for certain purposes; providing for the continuity of certain laws,
8 regulations, contracts, and transactions; making provisions of this Act severable;
9 requiring the publisher of the Annotated Code of Maryland to make certain
10 corrections necessitated by this Act; providing for a delayed effective date;
11 providing that a certain contingency applicable to certain sections of this Act
12 continue after the effective date of this Act; and generally relating to the Medical
13 and Pharmacy Assistance Programs.

14 BY transferring

15 Article - Health - General
16 Section 15-101 through 15-118 and 15-120 through 15-129 and the subtitle
17 "Subtitle 1. Medical and Pharmacy Assistance Programs", respectively
18 Annotated Code of Maryland
19 (1994 Replacement Volume and 1995 Supplement)
20 (As enacted by Chapter 500 of the Acts of the General Assembly of 1995)

21 to be

22 Article 41 - Governor - Executive and Administrative Departments
23 Section 6-801 through 6-835 and the subtitle "Subtitle 8. Medical and Pharmacy
24 Assistance Programs", respectively
25 Annotated Code of Maryland
26 (1993 Replacement Volume and 1995 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article 41 - Governor - Executive and Administrative Departments
29 Section 6-801(c)(3), 6-804(d)(1), 6-806, 6-810(b), 6-811(b) and (d), 6-812, 6-825,
30 and 6-834
31 Annotated Code of Maryland
32 (1993 Replacement Volume and 1995 Supplement)

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1 (As enacted by Section 1 of this Act)

2 BY repealing and reenacting, with amendments,
3 Article - Courts and Judicial Proceedings
4 Section 5-371
5 Annotated Code of Maryland
6 (1995 Replacement Volume and 1995 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That Section(s) 15-101 through 15-118 and 15-120 through 15-129 and
9 the subtitle "Subtitle 1. Medical and Pharmacy Assistance Programs", respectively, of
10 Article - Health - General of the Annotated Code of Maryland be transferred to be
11 Section(s) 6-801 through 6-835 and the subtitle "Subtitle 8. Medical and Pharmacy
12 Assistance Programs", respectively, of Article 41 - Governor - Executive and
13 Administrative Departments of the Annotated Code of Maryland.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article 41 - Governor - Executive and Administrative Departments**

17 6-801.

18 (c) "Managed care plan" means:

19 (3) A program that provides services to individuals under Title 7, Subtitle 3,
20 Title 7, Subtitle 7, § 8-204, Title 8, Subtitle 4, Title 10, Subtitle 9, or Title 10, Subtitle 12
21 of [this article] HEALTH - GENERAL ARTICLE.

22 6-804.

23 (d) (1) In this subsection, "alcohol abuse and drug abuse treatment program"
24 has the meaning stated in § 8-403(a) of [this article] THE HEALTH - GENERAL
25 ARTICLE.

26 6-806.

27 The Secretary may [contract with the Department of Human Resources to]
28 provide medical services to those individuals for whom:

29 (1) Funds are appropriated to the Department of Human Resources; and

30 (2) The Department of Human Resources is responsible under the
31 appropriation.

32 6-810.

33 (b) (1) The Secretary may:

34 (i) Establish one or more boards for purposes of this section; and

35 (ii) Designate the jurisdiction of a board.

36 (2) A board shall consist of 3 members.

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1 (3) Of the 3 board members:

2 (i) 2 shall be appointed by the Secretary; and

3 (ii) 1 shall be chosen by the appointed members.

4 (4) Of the 2 appointed members of a board:

5 (i) 1 shall be a representative of the industry affected who is an
6 individual knowledgeable in [Medicare and] Medicaid reimbursement principles; and

7 (ii) 1 shall be an individual who is employed by this State and
8 knowledgeable in [Medicare and] Medicaid reimbursement principles and who does not
9 participate directly in the field verifications.

10 6-811.

11 (b) Except as provided in [§ 15-103(a)(2)(ii)] § 6-804(A)(2)(II) of this subtitle, to
12 determine eligibility under the Program, the Department annually shall set the allowable
13 yearly income levels in amounts at least equal to the following:

14 (1) Family of 1 - \$2,500.

15 (2) Family of 2 - \$3,000.

16 (3) Family of 3 - \$3,500.

17 (4) Family of 4 - \$4,000.

18 (5) Family of 5 or more - \$4,500 plus an increase of \$500 for each family
19 member in excess of 5.

20 (d) As a condition of eligibility for medical assistance, a recipient is deemed to
21 have assigned to the Secretary [of Health and Mental Hygiene] or the Secretary's
22 designee any rights to payment for medical care services from any thirdparty who has the
23 legal liability to make payments for those services, to the extent of any payments made by
24 the Department on behalf of the recipient.

25 6-812.

26 The Department shall reimburse acute general and chronic care hospitals that
27 participate in the Program for care provided to Program recipients in accordance with
28 rates that the Health Services Cost Review Commission approves under Title 19, Subtitle
29 2 of [this article] THE HEALTH - GENERAL ARTICLE, if the United States Department
30 of Health and Human Services approves this method of reimbursement.

31 6-825.

32 The Department may assign its right of subrogation under [§§ 15-120,15-121.1,
33 and 15-121.2] §§ 6-821, 6-823, AND 6-824 of this article to a managed care plan.

34 6-834.

35 The Department may provide reimbursement, under the Maryland Medical
36 Assistance Program, for services provided by a hospice care program, asdefined in §
37 19-901 of [this article] THE HEALTH - GENERAL ARTICLE.

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1 **Article - Courts and Judicial Proceedings**

2 5-371.

3 (a) A member of an appointed committee of any professional organization whose
4 members provide health care under the Maryland Medical Assistance Program or an
5 appointed member of a committee of a medical staff of a licensed hospital who acts
6 without malice is not civilly liable for any functions that the member undertakes or
7 performs in the system of review under [§ 15-106 of the Health - General Article]
8 ARTICLE 41, § 6-808 OF THE CODE.

9 (b) This section does not affect the immunity of an officer or employee of a State
10 agency.

11 SECTION 3. AND BE IT FURTHER ENACTED, That with respect to functions
12 transferred by this Act, the Department of Human Resources is the successor of the
13 Department of Health and Mental Hygiene and the Secretary of Human Resources is the
14 successor of the Secretary of Health and Mental Hygiene. In every law, executive order,
15 regulation, policy, or document created by any official, employee, or unit of this State, the
16 names and titles of that department and official mean the name and term of the successor
17 agency or official.

18 SECTION 4. AND BE IT FURTHER ENACTED, That every person who as of
19 June 30, 1997, is employed by the Department of Health and Mental Hygiene in the
20 Medical and Pharmacy Assistance Programs in a position authorized by the State budget
21 is hereby transferred to the Department of Human Resources, effective July 1, 1997,
22 without any change or loss of rights or status, except as otherwise specifically provided in
23 this Act.

24 SECTION 5. AND BE IT FURTHER ENACTED, That, except as otherwise
25 provided in this Act, nothing in this Act affects the term of office of an appointed
26 member of any board, commission, committee, or other agency or unit. A person who is
27 a member of such a unit on the effective date of this Act shall remain a member for the
28 balance of the term to which the member was appointed, unless the member sooner dies,
29 resigns, or is removed pursuant to the provisions of law.

30 SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly
31 provided to the contrary in this Act, any transaction affected by or flowing from any
32 statute here amended, repealed, or transferred, and validly entered into before the
33 effective date of this Act and every right, duty, or interest flowing from it remains valid
34 after the effective date of this Act and may be terminated, completed, consummated, or
35 enforced pursuant to law.

36 SECTION 7. AND BE IT FURTHER ENACTED, That, except as otherwise
37 provided in this Act, all permits and licenses, applications for permits and licenses,
38 regulations, proposed regulations, standards and guidelines, proposed standards and
39 guidelines, orders and other directives, forms, plans, memberships, special funds,
40 appropriations, grants, applications for grants, contracts, properties, investigations,
41 administrative and judicial proceedings, rights to sue and be sued, and all other duties
42 and responsibilities associated with those functions transferred by this Act shall continue
43 in effect under the Department of Human Resources or the appropriate board,

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1 commission, or other unit within the Department of Human Resources, until completed,
2 withdrawn, canceled, modified, or otherwise changed pursuant to law.

3 SECTION 8. AND BE IT FURTHER ENACTED, That pursuant to the plan of
4 reorganization proposed by this Act, in coordination with the Director of Legislative
5 Reference, the publishers of the Annotated Code of Maryland are hereby directed to
6 correct any cross-references, agency names, and titles that are rendered incorrect by this
7 Act, in accordance with this section.

8 SECTION 9. AND BE IT FURTHER ENACTED, That if any provision of this Act
9 or the application thereof to any person or circumstance is held invalid for any reason in
10 a court of competent jurisdiction, the invalidity does not affect other provisions or any
11 other application of this Act which can be given effect without the invalid provision or
12 application, and for this purpose the provisions of this Act are declared severable.

13 SECTION 10. AND BE IT FURTHER ENACTED, That the contingency
14 provisions of Section 2 of Chapter 500 of the Acts of the General Assembly of 1995 that
15 apply to §§ 15-101, 15-102.1, 15-103, and 15-121.3, respectively, of the Health - General
16 Article and provide that the changes to those sections made by Chapter 500 of 1995 may
17 not take effect until the beginning of the period covered by a waiver approved by the U.S.
18 Department of Health and Human Services under § 1115 of the Social Security Act and
19 shall be effective only for as long as the period covered under the waiver shall continue
20 and apply to those sections of law when they are transferred or transferred and amended
21 by Sections 1 and 2 of this Act and become §§ 6-801, 6-802, 6-803, 6-804, and 6-825,
22 respectively, of Article 41 - Governor - Executive and Administrative Departments, of
23 the Annotated Code of Maryland on the effective date of this Act.

24 SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 1997.