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By: **Delegates Hubbard, Shriver, Hurson, Hixson, Owings, Hammen, D. Davis, Oaks, Billings, Nathan-Pulliam, Boutin, Stull, Elliott, Schisler, Morhaim, Klausmeier, Mohorovic, Sher, Stern, Love, Rzepkowski, Sophocleus, Benson, R. Baker, Grosfeld, Cryor, Leopold, Pitkin, Bobo, and Dypski Dypski, Marriott, Frush, Cane, and Baldwin**

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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted with floor amendments  
Read second time: March 23, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Community Attendant Services and Supports Program**

3 FOR the purpose of requiring the Department of Human Resources to administer a  
4 home- and community-based attendant services and supports program;  
5 requiring the Department to adopt regulations to implement the program;  
6 ~~requiring the Department to establish a certain committee~~; requiring the  
7 Department of Human Resources and the Department of Health and Mental  
8 Hygiene to determine certain payments for certain consumers; authorizing  
9 certain disabled individuals to select, manage, and control certain services;  
10 requiring that certain attendant services and supports be provided in certain  
11 places and available at certain times; requiring certain consumer service plans  
12 to be developed by certain persons; authorizing a consumer to select a personal  
13 assistant; requiring certain attendant care service providers to assure that a  
14 consumer is informed of certain information; providing a means of appeal for  
15 certain consumers; requiring that certain individuals ~~under a certain age~~  
16 between certain ages be eligible for the program; requiring certain support plans  
17 to be developed for certain consumers; requiring the Department of Human  
18 Resources and the Department of Health and Mental Hygiene to ~~modify~~ adopt a  
19 certain quality assurance programs under certain circumstances system;  
20 requiring that ~~certain~~ the quality assurance ~~systems~~ system include certain  
21 consumer input; requiring the Department of Health and Mental Hygiene to  
22 apply for certain waiver programs; defining certain terms; requiring the  
23 Department of Health and Mental Hygiene and the Department of Human  
24 Resources to submit certain reports to the General Assembly; and generally

1 relating to the community-based attendant services and supports program.

2 BY adding to

3 Article 41 - Governor - Executive and Administrative Departments  
 4 Section 6-7A-01 through 6-7A-06, inclusive, to be under the new subtitle  
 5 "Subtitle 7A. Community Attendant Services and Supports Program"  
 6 Annotated Code of Maryland  
 7 (1997 Replacement Volume and 2000 Supplement)

8 BY adding to

9 Article - Health - General  
 10 Section 15-133  
 11 Annotated Code of Maryland  
 12 (2000 Replacement Volume)

13 **Preamble**

14 ~~WHEREAS, Many studies have found that an overwhelming majority of~~  
 15 ~~individuals with disabilities needing long-term services and supports would prefer to~~  
 16 ~~receive them in home and community-based settings rather than in institutions and~~  
 17 ~~nursing homes; and~~

18 ~~WHEREAS, Research on the provision of long-term attendant services and~~  
 19 ~~supports under the Medicaid program has revealed a significant bias toward funding~~  
 20 ~~these services in institutional rather than home and community-based settings; and~~

21 ~~WHEREAS, Because of this funding bias, significant numbers of individuals~~  
 22 ~~with disabilities who would prefer to live in the community and could do so with~~  
 23 ~~community attendant services and supports are forced to live in unnecessarily~~  
 24 ~~segregated institutional settings if they want to receive needed services and supports;~~  
 25 ~~and~~

26 ~~WHEREAS, Decisions regarding the provision of attendant services and~~  
 27 ~~supports are often influenced by what is reimbursable rather than what individuals~~  
 28 ~~need and want; and~~

29 ~~WHEREAS, There is a growing recognition that disability is a natural part of~~  
 30 ~~the human experience that in no way diminishes a person's right to live~~  
 31 ~~independently or with supports in the most integrated setting, enjoy~~  
 32 ~~self-determination and consumer-directed services, make choices, contribute to~~  
 33 ~~society, and enjoy full inclusion and integration in the mainstream of American~~  
 34 ~~society; and~~

35 ~~WHEREAS, The United States Supreme Court ruled in Olmstead v. L.C. that~~  
 36 ~~persons with disabilities have the right to live in the most integrated setting~~  
 37 ~~appropriate to each person's needs and each state must ensure this basic civil right to~~  
 38 ~~citizens with disabilities; and~~

1       WHEREAS, ~~Long term services and supports provided under the Medicaid~~  
 2 ~~program must meet the evolving and changing needs and preferences of individuals~~  
 3 ~~with disabilities; and~~

4       WHEREAS, ~~The goals of the nation and State properly include providing~~  
 5 ~~individuals with disabilities with meaningful choices of receiving long term services~~  
 6 ~~and supports in the most integrated setting appropriate, the greatest possible control~~  
 7 ~~over the services received, and quality services that maximize social functioning in~~  
 8 ~~the home and community; and~~

9       WHEREAS, ~~The United States Congress, through the Health Care Financing~~  
 10 ~~Administration, is offering \$50 million for states to use to change the institutional~~  
 11 ~~bias in their service systems—called "Olmstead or MiCASSA grants"; and~~

12       WHEREAS, ~~The United States Congress, through the Health Care Financing~~  
 13 ~~Administration, is offering \$20 million for states to use as nursing home transition~~  
 14 ~~grants to identify ways to get and keep people with disabilities out of nursing homes~~  
 15 ~~with the intent that this program, now used in eight states, can be expanded to every~~  
 16 ~~state in the country; and~~

17       WHEREAS, ~~Many individuals with disabilities are benefitting from the State's~~  
 18 ~~current home or community-based services waiver program, however, more than~~  
 19 ~~3,000 persons with disabilities are still confined to inappropriate segregation in~~  
 20 ~~nursing homes who, if given the choice, would choose to receive necessary treatment~~  
 21 ~~and services in the most integrated home and community setting; now, therefore,~~

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

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

25                               SUBTITLE 7A. COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROGRAM.

26 6-7A-01.

27       (A)       IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
 28 INDICATED.

29       (B)       "AGENCY-PROVIDER SERVICE OPTION MODEL" MEANS A SERVICE OPTION  
 30 METHOD OF PROVIDING COMMUNITY ATTENDANT SERVICES AND SUPPORTS FOR AN  
 31 ELIGIBLE INDIVIDUAL WHERE THE PERSONAL ASSISTANT IS EMPLOYED BY A  
 32 PROVIDER AGENCY, SUPERVISED AND EVALUATED BY THE CONSUMER, AND THE  
 33 AGENCY IS THE PERSONAL ASSISTANT'S EMPLOYER OF RECORD.

34       (C)       (1)       "ATTENDANT SERVICES AND SUPPORTS" MEANS THE FOLLOWING  
 35 SERVICES FOR THE DISABLED INDIVIDUAL, WHICH ARE CERTIFIED AS NECESSARY  
 36 BY A HEALTH CARE PROFESSIONAL:

37                               (I)       DRESSING;

- 1 (II) PREPARING FOOD AND ASSISTING THE DISABLED INDIVIDUAL  
 2 WITH EATING;
- 3 (III) BATHING AND PERSONAL HYGIENE;
- 4 (IV) ASSISTING WITH ROUTINE BODILY FUNCTIONS, INCLUDING  
 5 BOWEL OR URINARY CARE;
- 6 (V) MOVING INTO, OUT OF, OR TURNING IN BED;
- 7 (VI) LAUNDERING AND PROVIDING OTHER CLOTHING CARE; AND
- 8 (VII) CLEANING HOUSE AND PERFORMING OTHER SERVICES OF  
 9 DAILY CARE, INCLUDING SHOPPING AND TRANSPORTATION, AS REQUESTED BY THE  
 10 DISABLED INDIVIDUAL AND THE DEPARTMENT.

11 (2) "ATTENDANT SERVICES AND SUPPORTS" ARE DESIGNED TO ASSIST  
 12 THE CONSUMER IN ACCOMPLISHING ACTIVITIES OF DAILY LIVING AND  
 13 HEALTH-RELATED FUNCTIONS THROUGH:

- 14 (I) HANDS ON ASSISTANCE;
- 15 (II) SUPERVISION; OR
- 16 (III) CUING, PROMPTING, OR REMINDING THE CONSUMER ABOUT  
 17 AN ACTIVITY.

18 (D) "COMMUNITY ATTENDANT SERVICES AND SUPPORTS" MEANS ATTENDANT  
 19 SERVICES AND SUPPORTS FURNISHED TO AN INDIVIDUAL:

20 (1) UNDER A PLAN OF SERVICES THAT IS BASED ON AN ASSESSMENT OF  
 21 FUNCTIONAL NEED AND THAT IS AGREED TO BY THE INDIVIDUAL OR THE  
 22 INDIVIDUAL'S REPRESENTATIVE; AND

23 (2) UNDER AN AGENCY-PROVIDER MODEL, A CONSUMER-DIRECTED  
 24 MODEL, OR OTHER MODEL AS DEFINED IN THIS SECTION.

25 (E) "CONSUMER" MEANS AN ELIGIBLE INDIVIDUAL WHO IS A RECIPIENT OF  
 26 ATTENDANT SERVICES AND SUPPORTS OR COMMUNITY-BASED ATTENDANT  
 27 SERVICES AND SUPPORTS.

28 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

29 (G) ~~(H)~~ "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WITH A COGNITIVE,  
 30 SENSORY, OR PHYSICAL DISABILITY WHO:

31 ~~(H)~~ (1) IS AN ADULT ~~UNDER THE AGE OF 60~~ BETWEEN THE AGES  
 32 OF 21 AND 59 YEARS; AND

33 ~~(H)~~ (II) ~~HAS A SEVERE CHRONIC OR PERMANENT DISABILITY THAT~~  
 34 ~~PRECLUDES OR SIGNIFICANTLY IMPAIRS THE INDIVIDUAL'S INDEPENDENT~~

1 ~~PERFORMANCE OF ESSENTIAL ACTIVITIES OF DAILY LIVING, SELF CARE, OR~~  
 2 ~~MOBILITY~~

3           (2)     ~~REQUIRES THE LEVEL OF CARE PROVIDED IN A NURSING FACILITY;~~  
 4 ~~AND~~

5           (3)     ~~QUALIFIES FOR THE MEDICAID WAIVER FOR ADULTS WITH~~  
 6 ~~PHYSICAL DISABILITIES.~~

7           (2)     ~~"ELIGIBLE INDIVIDUAL" INCLUDES AN INDIVIDUAL WITH A~~  
 8 ~~COGNITIVE, SENSORY, OR PHYSICAL DISABILITY WHO:~~

9                   (1)     ~~HAS A FUNCTIONAL NEED THAT LIMITS THE INDIVIDUAL'S~~  
 10 ~~ABILITY TO PERFORM ONE OR MORE ACTIVITIES OF DAILY LIVING;~~

11                   (II)    ~~REQUIRES SUBSTANTIAL SUPERVISION OR EPISODIC OR~~  
 12 ~~SHORT TERM CRISIS ASSISTANCE; OR~~

13                   (III)   ~~NEEDS ASSISTANCE WITH THE PERFORMANCE OF~~  
 14 ~~HEALTH RELATED TASKS.~~

15           (H)     "FUNCTIONAL NEED" MEANS THE NEED FOR PERSONAL ASSISTANCE  
 16 BASED ON ABILITIES AND LIMITATIONS OF THE CONSUMER, REGARDLESS OF  
 17 MEDICAL DIAGNOSIS OR OTHER CATEGORY OF DISABILITY.

18           (I)     ~~"INSTITUTION" MEANS AN ESTABLISHMENT THAT, IN SINGLE OR~~  
 19 ~~MULTIPLE FACILITIES, FURNISHES FOOD, SHELTER, AND SOME TREATMENT~~  
 20 ~~SERVICES TO FOUR OR MORE PERSONS UNRELATED TO THE PROPRIETOR.~~

21           (1)     (1)     ~~"NURSING HOME TRANSITION GRANT" MEANS THE GRANTS~~  
 22 ~~AVAILABLE TO STATES THROUGH THE HEALTH CARE FINANCING ADMINISTRATION,~~  
 23 ~~AS INCLUDED IN THE FEDERAL BUDGET TO ALLOW STATES TO IDENTIFY WAYS TO~~  
 24 ~~GET OR KEEP PEOPLE WITH DISABILITIES OUT OF NURSING HOMES.~~

25           (1)     (1)     (1)     ~~"OTHER SERVICE OPTIONS" MEANS METHODS OTHER THAN AN~~  
 26 ~~AGENCY-PROVIDER MODEL; AND MAY INCLUDE THE USE OF A FISCAL AGENT TO~~  
 27 ~~ASSIST IN OBTAINING SERVICES.~~

28                   (2)     ~~"OTHER SERVICE OPTIONS" INCLUDES VOUCHERS, DIRECT CASH~~  
 29 ~~PAYMENTS, OR USE OF A FISCAL AGENT TO ASSIST IN OBTAINING SERVICES.~~

30           (1)     (1)     ~~"PERSONAL ASSISTANT" MEANS THE INDIVIDUAL WHO DIRECTLY~~  
 31 ~~PROVIDES ATTENDANT SERVICES AND SUPPORTS.~~

32           (1)     (1)     ~~"PROGRAM" MEANS THE COMMUNITY BASED ATTENDANT CARE~~  
 33 ~~PROGRAM THE COMMUNITY AND ATTENDANT SERVICES AND SUPPORT PROGRAM.~~  
 34 ~~PROGRAM.~~

35           (1)     (1)     ~~"REPRESENTATIVE" MEANS A PARENT, FAMILY MEMBER, GUARDIAN,~~  
 36 ~~ADVOCATE, OR AUTHORIZED REPRESENTATIVE OF AN ELIGIBLE INDIVIDUAL.~~

1 6-7A-02.

2 (A) SUBJECT TO FUNDING IN THE STATE BUDGET, THE DEPARTMENT, IN  
3 COLLABORATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,  
4 SHALL DEVELOP AND ADMINISTER A COMPREHENSIVE PROGRAM OF HOME AND  
5 COMMUNITY ATTENDANT SERVICES AND SUPPORTS THAT ~~PROVIDE~~ PROVIDES  
6 ATTENDANT SERVICES AND SUPPORTS TO AN INDIVIDUAL WITH DISABILITIES  
7 ~~RESIDING IN A NURSING HOME OR AT RISK OF PLACEMENT IN A NURSING HOME~~  
8 ~~WHO CAN RETURN OR REMAIN IN A HOME OR COMMUNITY BASED SETTING WHO~~  
9 WILL BE DISCHARGED OR DIVERTED FROM A NURSING FACILITY WITH THE  
10 PROVISION OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS THROUGH A  
11 MEDICAID HOME AND COMMUNITY SERVICES BASED WAIVER.

12 (B) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT  
13 REGULATIONS NECESSARY TO IMPLEMENT THIS SUBTITLE WITH SIGNIFICANT  
14 CONSUMER PARTICIPATION AND INVOLVEMENT.

15 (C) THE DEPARTMENT SHALL SEEK INPUT FROM ELIGIBLE INDIVIDUALS, THE  
16 INDIVIDUALS' REPRESENTATIVES, AND SERVICE PROVIDERS RELATING TO THE  
17 PROGRAM. ESTABLISH A PLANNING AND OVERSIGHT COMMITTEE TO INCLUDE  
18 ELIGIBLE INDIVIDUALS, THE INDIVIDUALS' REPRESENTATIVES, AND AGENCY  
19 SERVICE PROVIDERS TO ASSIST IN THE DEVELOPMENT AND IMPLEMENTATION OF  
20 ALL ASPECTS OF A COMPREHENSIVE PROGRAM OF COMMUNITY ATTENDANT  
21 SERVICES AND SUPPORTS, INCLUDING PROGRAM STANDARDS, THE ELIGIBILITY  
22 DETERMINATION INSTRUMENT AND PROTOCOL, AND QUALITY ASSURANCE  
23 PROGRAM.

24 (D) (1) THE DEPARTMENT, IN COORDINATION WITH THE DEPARTMENT OF  
25 HEALTH AND MENTAL HYGIENE, SHALL AMEND THE EXISTING WAIVER FOR ADULTS  
26 WITH PHYSICAL DISABILITIES TO INCLUDE INDIVIDUALS WITH INCOMES AT OR  
27 BELOW 300% OF SUPPLEMENTAL SECURITY INCOME. ~~DETERMINE CO-PAYMENTS~~  
28 ~~AND COST SHARING FOR A CONSUMER WHO HAS AN ADJUSTED GROSS INCOME THAT~~  
29 ~~EXCEEDS 225% OF THE FEDERAL POVERTY LEVEL.~~

30 (2) THE DEPARTMENT SHALL GIVE PRIORITY TO SERVING A CONSUMER  
31 WHO HAS AN INCOME AT OR BELOW 225% OF THE FEDERAL POVERTY LEVEL.

32 (3) NOTWITHSTANDING THE PROVISION OF PARAGRAPH (1) OF THIS  
33 SUBSECTION, THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND MENTAL  
34 HYGIENE MAY NOT STRUCTURE THE CO-PAYMENT AND COST SHARING  
35 REQUIREMENTS TO BE A DISINCENTIVE TO EMPLOYMENT.

36 6-7A-03.

37 (A) TO THE EXTENT POSSIBLE, AN ELIGIBLE INDIVIDUAL WHO IS A  
38 PARTICIPANT IN THE PROGRAM MAY SELECT, MANAGE, AND CONTROL THE  
39 INDIVIDUAL'S COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

40 (B) (1) ATTENDANT SERVICES AND SUPPORTS SHALL BE PROVIDED IN A  
41 CONSUMER'S HOME OR OTHER INDEPENDENT OR SUPPORTED LIVING

1 ENVIRONMENT, INCLUDING BUT NOT LIMITED TO SCHOOL, WORK, RECREATIONAL,  
2 AND RELIGIOUS SETTINGS.

3 (2) ATTENDANT SERVICES AND SUPPORTS MAY NOT BE PROVIDED IN A  
4 NURSING FACILITY, INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED,  
5 OR OTHER ~~LARGE CONGREGATE SETTING~~ INSTITUTION.

6 (C) A CONSUMER RECEIVING SERVICES AND SUPPORTS UNDER THIS  
7 PROGRAM SHALL BE ELIGIBLE FOR MEDICAL ASSISTANCE IF THE CONSUMER:

8 (1) WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE IN A MEDICAL  
9 INSTITUTION OR NURSING HOME; AND

10 (2) NEEDS HOME AND COMMUNITY SERVICES AND SUPPORTS IN ORDER  
11 TO REMAIN IN OR TRANSITION TO THE COMMUNITY.

12 (D) THE COMMUNITY ATTENDANT SERVICES AND SUPPORTS SHALL BE  
13 ~~CAPABLE OF PROVIDING PERSONAL ASSISTANCE AVAILABLE~~ 24 HOURS A DAY, 7 DAYS  
14 A WEEK, AND, WHEN NECESSARY, PROVIDE BACKUP AND EMERGENCY PERSONAL  
15 ASSISTANCE SERVICES.

16 (E) (1) EACH CONSUMER'S PROGRAM OF SERVICES SHALL BE BASED UPON  
17 A MUTUALLY-AGREED UPON INDIVIDUAL SERVICES PLAN, JOINTLY DEVELOPED BY  
18 THE CONSUMER AND THE DEPARTMENT OR ITS DESIGNEE.

19 (2) (I) A CONSUMER SHALL HAVE AN OPPORTUNITY TO CHOOSE  
20 BETWEEN DIFFERENT SERVICE DELIVERY OPTIONS, INCLUDING ~~VOUCHERS~~;  
21 CONSUMER-DIRECTED INDIVIDUAL PROVIDER MODELS; AND CONSUMER-DIRECTED  
22 AGENCY MODELS.

23 (II) 1. A CONSUMER MAY SELECT OR HIRE WHOMEVER THE  
24 CONSUMER CHOOSES AS A PERSONAL ASSISTANT, INCLUDING FAMILY MEMBERS.

25 2. BASED ON CONSUMER RECOMMENDATIONS, THE  
26 DEPARTMENT MAY WAIVE CERTAIN QUALIFICATIONS REQUIRED IN THE  
27 REGULATIONS FOR A PERSONAL ASSISTANTS ASSISTANT IF THE PERSONAL  
28 ASSISTANT IS A FAMILY MEMBER OR IS AN INDIVIDUAL KNOWN AND CHOSEN BY THE  
29 CONSUMER.

30 3. EXCEPT AS PROVIDED IN ~~ITEM~~ SUB-SUBPARAGRAPH  
31 4 OF THIS PARAGRAPH SUBPARAGRAPH, A FAMILY MEMBER MAY NOT BE BARRED  
32 FROM RECEIVING MEDICAL ASSISTANCE PAYMENTS FOR PROVIDING SERVICES.

33 4. THE CONSUMER'S SPOUSE SHALL BE BARRED FROM  
34 RECEIVING MEDICAL ASSISTANCE PAYMENTS FOR PROVIDING SERVICES.

35 (F) THE DEPARTMENT SHALL OFFER A CONSUMER THE FOLLOWING:  
36 ~~TRAINING:~~

1 (1) TRAINING ON HOW TO SELECT, MANAGE, AND DISMISS AN  
2 ATTENDANT OR PERSONAL ASSISTANT; AND

3 (2) ~~TRAINING ON FINANCIAL ASSISTANCE WITH THE EXPENSE OF~~  
4 ~~MANAGING~~ MANAGEMENT OF THE CONSUMER'S PERSONAL ASSISTANCE SERVICES.

5 (G) A PROVIDER OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS  
6 SHALL ASSURE THAT A CONSUMER IS INFORMED OF ~~AND ACCORDED~~ THE  
7 CONSUMER'S RIGHTS ~~AND OPTIONS~~ WITH RESPECT TO SELECTING, MANAGING, AND  
8 CHANGING THE CONSUMER'S PERSONAL ASSISTANCE SERVICES AND THE  
9 CONSUMER'S RIGHT TO PRIVACY AND CONFIDENTIALITY.

10 (H) THE DEPARTMENT SHALL LIMIT PARTICIPATION IN THE ~~COMMUNITY~~  
11 ~~ATTENDANT SERVICES AND SUPPORTS PROGRAM~~ TO AN ELIGIBLE INDIVIDUAL  
12 ~~UNDER THE AGE OF 60 YEARS WHO RESIDES IN A NURSING HOME OR IS AT RISK OF~~  
13 ~~PLACEMENT IN A NURSING HOME~~ BETWEEN THE AGES OF 21 AND 59 YEARS WHO  
14 WILL BE DISCHARGED OR DIVERTED FROM A NURSING FACILITY.

15 (I) ELIGIBILITY SHALL BE BASED ON FUNCTIONAL NEEDS OF THE  
16 CONSUMER BASED ON ABILITIES AND LIMITATIONS OF THE CONSUMER,  
17 ~~REGARDLESS OF THE MEDICAL DIAGNOSIS OR OTHER CATEGORY OF DISABILITY.~~

18 (J) A CONSUMER WHO IS DISSATISFIED WITH THE ~~ADMINISTRATION OR THE~~  
19 ~~CONSUMER'S COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS PROGRAM~~  
20 SHALL HAVE A RIGHT OF APPEAL TO THE DEPARTMENT.

21 6-7A-04.

22 (A) AN INITIAL INDIVIDUALIZED SUPPORT PLAN SHALL BE DEVELOPED FOR  
23 EACH CONSUMER OF ~~COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS AT~~  
24 ~~THE TIME OF ASSESSMENT.~~ THE PROGRAM.

25 (B) THE INDIVIDUALIZED SUPPORT PLAN SHALL:

26 (1) BE DEVELOPED WITH THE CONSUMER OR THE CONSUMER'S  
27 REPRESENTATIVE;

28 (2) BE APPROVED BY THE CONSUMER OR THE CONSUMER'S  
29 REPRESENTATIVE; AND

30 (3) BE GIVEN TO THE CONSUMER AND THE CONSUMER'S  
31 REPRESENTATIVE IN WRITING OR OTHER APPROPRIATE AND UNDERSTANDABLE  
32 FORMAT.

33 (C) THE INDIVIDUALIZED SUPPORT PLAN SHALL SPECIFY:

34 (1) THE SCOPE OF PERSONAL ASSISTANCE SERVICES TO BE PROVIDED;

35 (2) THE HOURS THAT PERSONAL ASSISTANCE SERVICES ARE TO BE  
36 PROVIDED;



1 (3) THE MEANS OF PROVIDING ALTERNATE SOURCES FOR ATTENDANT  
2 SERVICES AND SUPPORTS;

3 (4) THE MEANS OF ENSURING SUBSTITUTE AND EMERGENCY  
4 ATTENDANT SERVICES AND SUPPORTS;

5 (5) THE METHOD OF SERVICE DELIVERY;

6 (6) THE INITIAL ASSESSMENT AND FREQUENCY OF REASSESSMENT OF  
7 THE NEEDS OF THE CONSUMER;

8 (7) THE MEANS TO ADJUST SERVICES AND HOURS WHEN CHANGES ARE  
9 NEEDED;

10 (8) A MECHANISM TO COORDINATE ATTENDANT SERVICES AND  
11 SUPPORTS WITH OTHER HEALTH CARE SERVICES RECEIVED BY THE CONSUMER;

12 (9) THE DEGREE AND FREQUENCY OF SUPERVISION OF THE PERSONAL  
13 ASSISTANT NECESSARY FOR THE EFFECTIVE DELIVERY OF ATTENDANT SERVICES  
14 AND SUPPORTS; AND

15 ~~(10) THE AMOUNT OF CO-PAYMENTS OR COST SHARING, IF ANY;~~

16 ~~(11) OUTCOME MEASURES USED TO ASSESS THE QUALITY OF SERVICES;~~  
17 AND

18 ~~(12)~~ (10) COMPLAINT AND APPEAL PROCEDURES.

19 6-7A-05.

20 (A) THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND MENTAL  
21 HYGIENE SHALL ADOPT A QUALITY ASSURANCE SYSTEM FOR THE PROGRAM THAT IS  
22 CONSISTENT WITH FEDERAL REQUIREMENTS REGARDING QUALITY OF WAIVER  
23 SERVICES.:

24 ~~(1) MODIFY ITS QUALITY ASSURANCE PROGRAM TO MAXIMIZE~~  
25 ~~CONSUMER INDEPENDENCE AND CONSUMER DIRECTION IN AGENCY PROVIDED~~  
26 ~~AND OTHER SERVICE OPTIONS FOR COMMUNITY-BASED ATTENDANT SERVICES AND~~  
27 ~~SUPPORTS;~~

28 ~~(2) PROVIDE A SYSTEM THAT PROVIDES FOR THE EXTERNAL~~  
29 ~~MONITORING OF THE QUALITY OF SERVICES AND ENSURES ONGOING MONITORING~~  
30 ~~OF THE HEALTH AND WELL-BEING OF EACH RECIPIENT;~~

31 ~~(3) REQUIRE THAT QUALITY ASSURANCE MECHANISMS SHALL BE~~  
32 ~~INCLUDED IN THE INDIVIDUAL'S WRITTEN PLAN THAT ARE APPROPRIATE FOR THE~~  
33 ~~INDIVIDUAL AND THAT PROTECT THE CONSUMER TO THE MAXIMUM EXTENT~~  
34 ~~POSSIBLE FROM ABUSE, NEGLECT, AND EXPLOITATION;~~

35 (4) MAKE AVAILABLE TO THE PUBLIC THE FINDINGS OF THE QUALITY  
36 ASSURANCE PROGRAM;

1 (5) ESTABLISH AN ONGOING PUBLIC PROCESS FOR DEVELOPMENT,  
2 IMPLEMENTATION, AND REVIEW OF THE QUALITY ASSURANCE PROGRAM AS  
3 DESCRIBED IN THIS SECTION; AND

4 (6) DEVELOP SANCTIONS.

5 (B) THE SYSTEM FOR QUALITY ASSURANCE SHALL BE DEVELOPED WITH  
6 CONSUMERS AND THEIR REPRESENTATIVES, DISABILITY ORGANIZATIONS,  
7 PROVIDERS, AND OTHERS.

8 (C) (B) THE SYSTEM FOR QUALITY ASSURANCE SHALL INCLUDE  
9 MEANINGFUL CONSUMER INPUT, INCLUDING CONSUMER SURVEYS, THAT MEASURE  
10 THE EXTENT TO WHICH PARTICIPANTS RECEIVE THE SERVICES DESCRIBED IN THE  
11 INDIVIDUAL PLAN AND PARTICIPANT SATISFACTION WITH SUCH SERVICES.

12 6-7A-06.

13 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT  
14 SHALL REPORT TO THE GENERAL ASSEMBLY EVERY 3 MONTHS CONCERNING THE  
15 STATUS AND DEVELOPMENT OF THE PROGRAM UNDER THIS SUBTITLE, INCLUDING  
16 THE NUMBER OF INDIVIDUALS BUDGETED FOR THE MEDICAID HOME- AND  
17 COMMUNITY-SERVICES BASED WAIVER. THE FIRST REPORT SHALL BE SUBMITTED  
18 ON OCTOBER 1, 2001. THE FIRST REPORT SHALL BE SUBMITTED ON ~~SEPTEMBER 1,~~  
19 ~~2001~~ OCTOBER 1, 2001.

20 **Article - Health - General**

21 15-133.

22 (A) (1) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
23 ~~INDICATED.~~

24 (2) ~~"NURSING HOME TRANSITION GRANT" MEANS A GRANT AVAILABLE~~  
25 ~~TO THE DEPARTMENT FROM THE HEALTH CARE FINANCING ADMINISTRATION OF~~  
26 ~~THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS INCLUDED~~  
27 ~~IN THE FEDERAL BUDGET TO ALLOW STATES TO IDENTIFY WAYS TO GET OR KEEP~~  
28 ~~ELIGIBLE INDIVIDUALS OUT OF NURSING HOMES.~~

29 (3) ~~"OLMSTEAD OR MICASSA GRANT" MEANS A GRANT AVAILABLE TO~~  
30 ~~THE DEPARTMENT FROM THE HEALTH CARE FINANCING ADMINISTRATION OF THE~~  
31 ~~UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS INCLUDED IN~~  
32 ~~THE FEDERAL BUDGET.~~

33 (B) ~~ON OR BEFORE SEPTEMBER 1, 2001, THE DEPARTMENT SHALL APPLY FOR~~  
34 ~~AN EXPANDED MEDICAID HOME AND COMMUNITY BASED WAIVER PROGRAM THAT~~  
35 ~~INCLUDES COVERAGE FOR ANY ELIGIBLE INDIVIDUAL UNDER THE AGE OF 60 YEARS~~  
36 ~~WHO RESIDES IN A NURSING HOME OR AT RISK OF PLACEMENT IN A NURSING HOME.~~

37 (C) (1) (A) THE DEPARTMENT SHALL APPLY TO THE HEALTH CARE  
38 FINANCING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF HEALTH

1 AND HUMAN SERVICES FOR ~~AN OLMSTEAD OR MICASSA GRANT~~ GRANTS TO PROVIDE  
 2 THE FULL RANGE OF ACTIVITIES ALLOWABLE TO CHANGE THE INSTITUTIONAL BIAS  
 3 IN THE STATE'S SERVICE SYSTEM, INCLUDING:

4 (1) REAL CHOICE SYSTEM CHANGE GRANTS;

5 (2) NURSING FACILITY TRANSITION GRANTS AND 'ACCESS HOUSING'  
 6 "ACCESS HOUSING" GRANTS; AND

7 (3) COMMUNITY-BASED ATTENDANT SERVICES WITH CONSUMER  
 8 CONTROL GRANTS FOR THE FULL RANGE OF ACTIVITIES ALLOWABLE TO CHANGE  
 9 THE INSTITUTIONAL BIAS IN THE STATE'S SERVICE SYSTEM.

10 (2) ~~THE GRANT SHALL BE ADMINISTERED BY THE DEPARTMENT OF~~  
 11 ~~HUMAN RESOURCES IN COORDINATION WITH THE ELIGIBLE DISABLED HOME AND~~  
 12 ~~COMMUNITY-BASED WAIVER.~~

13 (3) ~~THE FUNDS FROM THE OLMSTEAD OR MICASSA GRANT MAY BE USED~~  
 14 ~~TO IDENTIFY, DEVELOP, AND IMPLEMENT STRATEGIES FOR MODIFYING POLICIES,~~  
 15 ~~PRACTICES, AND PROCEDURES THAT BIAS THE PROVISION OF LONG TERM SERVICES~~  
 16 ~~TOWARD INSTITUTIONAL SETTINGS AND AWAY FROM HOME AND~~  
 17 ~~COMMUNITY-BASED SETTINGS.~~

18 (D) (1) ~~THE DEPARTMENT SHALL APPLY TO THE HEALTH CARE FINANCING~~  
 19 ~~ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN~~  
 20 ~~SERVICES FOR A NURSING HOME TRANSITION GRANT TO ASSIST IN KEEPING~~  
 21 ~~ELIGIBLE INDIVIDUALS OUT OF NURSING HOMES.~~

22 (2) ~~THE DEPARTMENT SHALL APPLY FOR ANY OTHER FUNDS THAT MAY~~  
 23 ~~BECOME AVAILABLE IN ORDER TO ASSIST THE STATE IN IMPLEMENTING~~  
 24 ~~PROVISIONS OF THIS SECTION.~~

25 (E) ~~THE DEPARTMENT OF HUMAN RESOURCES SHALL:~~

26 (1) ~~ADMINISTER THE GRANT PROGRAMS;~~

27 (2) ~~INCLUDE COVERAGE OF COMMUNITY BASED ATTENDANT SERVICES~~  
 28 ~~AND SUPPORTS AS REQUIRED UNDER ARTICLE 41, § 6-7A-01 OF THE CODE; AND~~

29 (3) ~~COORDINATE WITH ELIGIBLE INDIVIDUALS AND THE HOME OR~~  
 30 ~~COMMUNITY-BASED SERVICES WAIVER PROGRAM UNDER THIS SECTION.~~

31 (F) (B) (1) THE DEPARTMENT SHALL SEEK INPUT FROM ELIGIBLE  
 32 INDIVIDUALS, THE INDIVIDUALS' REPRESENTATIVES, AND SERVICE PROVIDERS IN  
 33 DEVELOPING AND IMPLEMENTING THE PROGRAM A CONSUMER ADVISORY PANEL OF  
 34 PERSONS WITH DISABILITIES, FAMILY MEMBERS, ADVOCACY ORGANIZATIONS, AND  
 35 SERVICE PROVIDERS SHALL BE ESTABLISHED BY JULY 1, 2001 TO PROVIDE INPUT  
 36 AND REVIEW THE DEPARTMENT'S APPLICATION AND ONGOING INPUT AND  
 37 OVERSIGHT TO ITS IMPLEMENTATION OF THE HOME OR COMMUNITY BASED  
 38 WAIVER PROGRAM UNDER SUBSECTIONS (B), (C), AND (D) OF THIS SECTION.

1           ~~(2)~~        THE PANEL SHALL BE COMPRISED OF A MAJORITY OF PERSONS  
2 WITH DISABILITIES WHO ARE NOT SERVICE PROVIDERS.

3       ~~(G)~~    (C)       ON OR BEFORE JULY 1, 2001, THE DEPARTMENT SHALL NOTIFY THE  
4 HEALTH CARE FINANCE FINANCING ADMINISTRATION OF THE UNITED STATES  
5 DEPARTMENT OF HEALTH AND HUMAN SERVICES OF MARYLAND'S INTENT TO  
6 EXPAND THE CURRENT MEDICAID HOME- AND COMMUNITY-BASED WAIVER ~~AND~~  
7 ~~NONELDER ATTENDANT SERVICES AND SUPPORTS WAIVER FOR ADULTS WITH~~  
8 PHYSICAL DISABILITIES, UNDER § 1915(C) OF THE FEDERAL SOCIAL SECURITY ACT TO  
9 REDIRECT FUNDS TO DEVELOP APPROPRIATE FUNDING FOR THIS ACT.

10       ~~(H)~~    (D)       SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE  
11 DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY EVERY 3 MONTHS  
12 CONCERNING THE STATUS OF THE DEPARTMENT'S APPLICATIONS UNDER  
13 SUBSECTIONS ~~(B)~~ (A) AND (C) OF THIS SECTION, INCLUDING THE NUMBER OF  
14 INDIVIDUALS BUDGETED FOR THE MEDICAID HOME- AND COMMUNITY-SERVICES  
15 BASED WAIVER FOR ADULTS WITH PHYSICAL DISABILITIES.

16       SECTION 2. It is the intent of the General Assembly, subject to funding in the  
17 State budget, that the Department of Health and Mental Hygiene and the  
18 Department of Human Resources shall expand the capacity of the Medicaid Home-  
19 and Community-Services Based Waiver for Adults with Physical Disabilities to  
20 include at least 350 individuals by the end of fiscal year 2002. The Department of  
21 Health and Mental Hygiene and the Department of Human Resources shall develop a  
22 plan for further expanding the capacity of the waiver according to the following  
23 schedule:

24       (1)       to include a total capacity of at least 575 individuals by the end of fiscal  
25 year 2003;

26       (2)       to include a total capacity of at least 1,425 individuals by the end of fiscal  
27 year 2004;

28       (3)       to include a total capacity of at least 2,625 individuals by the end of fiscal  
29 year 2005; and

30       (4)       to include a total capacity of at least 4,625 individuals by the end of fiscal  
31 year 2006.

32       SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
33 effect July 1, 2001.

