

SENATE BILL 228

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2002 Regular Session
2r1130
CF 2r0379

By: **Senators Dorman and Currie**

Introduced and read first time: January 18, 2002

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Assistance Program - Employed Persons with Disabilities Program**

3 FOR the purpose of requiring that the Medical Assistance Program include a certain
4 Employed Persons with Disabilities Program; specifying certain purposes for the
5 Employed Persons with Disabilities Program; establishing certain criteria for
6 eligibility to participate; requiring certain individuals to pay certain premium
7 amounts in order to participate; specifying that failure to pay a certain premium
8 results in termination of eligibility, except under a certain circumstance;
9 authorizing the Department of Health and Mental Hygiene to utilize certain
10 collection procedures; requiring the Department of Health and Mental Hygiene
11 to make certain reports on or before a certain date each year; requiring the
12 Department of Health and Mental Hygiene to submit a certain application by a
13 certain date and to provide a certain notice within a certain time; providing for
14 the effective date of a certain portion of this Act, subject to a certain contingency;
15 requiring the Department of Health and Mental Hygiene, subject to a certain
16 contingency, to adopt certain regulations by a certain time and in consultation
17 with certain individuals; providing for the termination of this Act under a
18 certain circumstance; and generally relating to the inclusion of the Employed
19 Persons with Disabilities Program under the Medical Assistance Program.

20 BY repealing and reenacting, without amendments,
21 Article - Health - General
22 Section 15-101(a) and (i)
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2001 Supplement)

25 BY adding to
26 Article - Health - General
27 Section 15-134
28 Annotated Code of Maryland
29 (2000 Replacement Volume and 2001 Supplement)

1 Preamble

2 WHEREAS, Many individuals with disabilities would like to work but can not
3 afford to enter the workforce because that would mean losing the necessary medical
4 services they receive through Medicaid; and

5 WHEREAS, Those individuals with disabilities who do work do so at the peril of
6 their Medicaid coverage; and

7 WHEREAS, At the same time that these qualified potential workers face the
8 loss of their health insurance if they become part of the workforce, Maryland
9 employers are likewise hindered in that the current shortage of workers means that
10 many jobs must go unfilled; and

11 WHEREAS, The federal Ticket to Work and Work Incentives Improvement Act
12 allows states to establish new Medicaid eligibility categories for working people with
13 disabilities whose income or resources would otherwise make them ineligible for
14 Medicaid; now, therefore,

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

17 **Article - Health - General**

18 15-101.

19 (a) In this title the following words have the meanings indicated.

20 (i) "Program" means the Maryland Medical Assistance Program.

21 15-134.

22 (A) THE PROGRAM SHALL INCLUDE AN EMPLOYED PERSONS WITH
23 DISABILITIES PROGRAM.

24 (B) THE PURPOSE OF THE EMPLOYED PERSONS WITH DISABILITIES PROGRAM
25 IS TO PROVIDE THE OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES TO BE
26 CONTRIBUTING MEMBERS OF THE STATE'S WORKFORCE AND TO QUALIFY FOR
27 PROGRAM BENEFITS.

28 (C) AN INDIVIDUAL IS ELIGIBLE TO PARTICIPATE IN THE EMPLOYED PERSONS
29 WITH DISABILITIES PROGRAM IF THE INDIVIDUAL:

30 (1) IS BETWEEN THE AGES OF 16 AND 64 YEARS OLD, INCLUSIVE;

31 (2) (I) IS DISABLED UNDER TITLE II OR TITLE XVI OF THE SOCIAL
32 SECURITY ACT; OR

1 (II) BUT FOR PROVISIONS RELATING TO SUBSTANTIAL GAINFUL
2 ACTIVITY, WOULD QUALIFY FOR SUPPLEMENTAL SECURITY INCOME OR SOCIAL
3 SECURITY DISABILITY INSURANCE;

4 (3) RECEIVES FINANCIAL COMPENSATION FOR EMPLOYMENT, WITH
5 APPLICABLE PAYROLL WITHHOLDINGS FOR PAYMENT OF FEDERAL, STATE, AND
6 LOCAL TAXES;

7 (4) MEETS THE ASSET LIMITATIONS UNDER SUBSECTION (E) OF THIS
8 SECTION;

9 (5) HAS AN INDIVIDUAL ANNUAL GROSS INCOME UP TO 300 PERCENT OF
10 THE FEDERAL POVERTY GUIDELINES; AND

11 (6) IF APPLICABLE, PAYS THE PREMIUM REQUIRED UNDER SUBSECTION
12 (F) OF THIS SECTION.

13 (D) IN DETERMINING AN INDIVIDUAL'S INCOME UNDER SUBSECTION (C)(5) OF
14 THIS SECTION, THE DEPARTMENT MAY NOT CONSIDER THE FOLLOWING:

15 (1) INCOME DISREGARDED FOR THE PURPOSE OF DETERMINING
16 ELIGIBILITY FOR MEDICAL ASSISTANCE, AGED, BLIND, AND DISABLED CATEGORY,
17 UNDER COMAR 10.09.24; OR

18 (2) INCOME USED TO PAY FOR IMPAIRMENT-RELATED WORK EXPENSES.

19 (E) (1) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE EMPLOYED PERSONS
20 WITH DISABILITIES PROGRAM IF THE INDIVIDUAL'S ASSETS EXCEED \$10,000.

21 (2) IN DETERMINING AN INDIVIDUAL'S ASSETS UNDER PARAGRAPH (1)
22 OF THIS SUBSECTION, THE DEPARTMENT MAY NOT CONSIDER THE FOLLOWING:

23 (I) ASSETS DISREGARDED FOR THE PURPOSE OF DETERMINING
24 ELIGIBILITY FOR THE MEDICAL ASSISTANCE, AGED, BLIND, AND DISABLED
25 CATEGORY UNDER COMAR 10.09.24;

26 (II) A MEDICAL SAVINGS ACCOUNT AS DEFINED UNDER 26 U.S.C.
27 220;

28 (III) A RETIREMENT ACCOUNT, INCLUDING AN INDIVIDUAL
29 RETIREMENT ACCOUNT, A 401(K) PLAN, A 403(B) PLAN, A KEOGH PLAN, AND A
30 PENSION PLAN; OR

31 (IV) SUBJECT TO THE APPROVAL OF THE DEPARTMENT, ANY
32 SPECIAL FUND FOR THE PURCHASE OF GOODS OR SERVICES THAT SUBSTANTIALLY
33 INCREASE OR MAINTAIN THE INDIVIDUAL'S EMPLOYABILITY.

34 (F) (1) IN DETERMINING PREMIUMS UNDER THE EMPLOYED PERSONS WITH
35 DISABILITIES PROGRAM, INCOME MEANS ANNUAL GROSS INDIVIDUAL PERSONAL

1 INCOME PLUS ANY GROSS SPOUSAL PERSONAL INCOME OVER 200 PERCENT OF THE
2 FEDERAL POVERTY GUIDELINES.

3 (2) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AN INDIVIDUAL
4 WHOSE GROSS EARNED INCOME IS:

5 (I) GREATER THAN 100 PERCENT OF THE FEDERAL POVERTY
6 GUIDELINES BUT LESS THAN 200 PERCENT SHALL PAY A PREMIUM OF \$20 PER
7 MONTH, OR 5 PERCENT OF THE INDIVIDUAL'S GROSS INCOME BETWEEN 100 PERCENT
8 AND 200 PERCENT OF THE FEDERAL POVERTY GUIDELINES, WHICHEVER IS
9 GREATER; AND

10 (II) 200 PERCENT OR MORE OF THE FEDERAL POVERTY
11 GUIDELINES SHALL PAY A PREMIUM OF 10 PERCENT OF THE INDIVIDUAL'S GROSS
12 INCOME OVER 200 PERCENT.

13 (3) IF AN INDIVIDUAL HAS PRIVATE HEALTH INSURANCE, COVERAGE
14 UNDER THE PROGRAM IS SECONDARY.

15 (4) IF AN INDIVIDUAL'S INSURANCE IS COVERED BY PRIVATE HEALTH
16 INSURANCE, THE INDIVIDUAL SHALL PAY A PREMIUM OF 5 PERCENT OF ALL INCOME
17 OVER 200 PERCENT OF THE FEDERAL POVERTY GUIDELINES.

18 (5) FAILURE TO PAY A PREMIUM WHEN DUE SHALL RESULT IN
19 TERMINATION OF THE INDIVIDUAL'S ELIGIBILITY FOR PARTICIPATION IN THE
20 PROGRAM UNDER THIS SECTION, UNLESS THE INDIVIDUAL DEMONSTRATES GOOD
21 CAUSE FOR NONPAYMENT OR LATE PAYMENT.

22 (6) THE DEPARTMENT MAY UTILIZE THE COLLECTION PROCEDURES
23 APPLICABLE UNDER SUBTITLE 3 OF THIS TITLE FOR THE COLLECTION OF PREMIUM
24 PAYMENTS REQUIRED UNDER THIS SUBSECTION.

25 (G) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL
26 REPORT TO THE LEGISLATIVE POLICY COMMITTEE REGARDING THE DEVELOPMENT,
27 IMPLEMENTATION, AND EFFICACY OF THE EMPLOYED PERSONS WITH DISABILITIES
28 PROGRAM.

29 SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1,
30 2002, the Department of Health and Mental Hygiene shall submit to the Centers for
31 Medicare and Medicaid Services of the United States Department of Health and
32 Human Services an application to amend the State's existing Medical Assistance
33 Program so as to implement the Employed Persons with Disabilities Program.

34 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
35 Health and Mental Hygiene, within 5 days after receipt of approval or denial by the
36 Centers for Medicare and Medicaid Services of the application for the Employed
37 Persons with Disabilities Program, shall forward a copy of the approval or denial to
38 the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

39 SECTION 4. AND BE IT FURTHER ENACTED, That:

1 (1) If the Centers for Medicare and Medicaid Services approves the
2 application for implementation of the Employed Persons with Disabilities Program:

3 (i) Section 1 of this Act shall take effect 3 months after the date on
4 which the Centers for Medicare and Medicaid Services issues its approval; and

5 (ii) Within 7 months of the date on which the Centers for Medicare
6 and Medicaid Services issues its approval, the Department of Health and Mental
7 Hygiene, in consultation with the Maryland Coalition for Work Incentive Program,
8 shall adopt regulations to implement the Employed Persons with Disabilities
9 Program; or

10 (2) If the Centers for Medicare and Medicaid Services denies the
11 application for implementation of the Employed Persons with Disabilities Program,
12 this Act, with no further action required by the General Assembly, shall be null and
13 void and of no force and effect.

14 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
15 Section 4 of this Act, this Act shall take effect July 1, 2002.