
By: **Senator Hollinger**

Introduced and read first time: February 7, 2003

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Assistance Programs - Long-Term Care Services**

3 FOR the purpose of establishing certain tests to determine if an individual is eligible
4 for nursing facility services; requiring the Department of Health and Mental
5 Hygiene to adopt certain regulations; requiring certain individuals eligible for
6 certain waivers to make a certain election; requiring the Department to solely
7 administer a certain waiver program; requiring the Department to make a
8 certain designation in each county and Baltimore City; requiring the
9 Department to develop certain systems to provide certain services; requiring the
10 Department to implement a certain licensure and inspection system; requiring
11 the Department to authorize certain providers to directly bill the Department
12 for certain services; requiring the Department to develop a certain waiver to
13 provide certain home- and community-based long-term care services to certain
14 individuals; requiring that a certain waiver include the coordination of
15 long-term care services through a managed care organization; requiring the
16 Department to apply on or before a certain date to the federal government for
17 approval of a certain waiver; requiring that a certain waiver include certain
18 goals and objectives; authorizing the Department to offer certain waiver services
19 statewide or in certain geographical areas that include certain jurisdictions;
20 requiring the Department to provide certain waiver services to a certain number
21 of individuals; authorizing the Secretary of the Department to permit certain
22 assisted living facilities to participate in the senior assisted living subsidy;
23 requiring the Department to conduct certain studies and to make a report of the
24 results of the studies; repealing an obsolete provision of law; defining certain
25 terms; making a certain technical correction; and generally relating to
26 long-term care eligibility requirements for medical assistance programs.

27 BY adding to
28 Article - Health - General
29 Section 15-115.1 and 15-136
30 Annotated Code of Maryland
31 (2000 Replacement Volume and 2002 Supplement)

32 BY repealing and reenacting, with amendments,
33 Article - Health - General

1 Section 15-132(b), (f), (g), (h), and (i)
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2002 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article 70B - Department of Aging
6 Section 1(a)
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 2002 Supplement)

9 BY adding to
10 Article 70B - Department of Aging
11 Section 1(h) and 4(d)(8)
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2002 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article 70B - Department of Aging
16 Section 4(d)(2), (6), and (7)
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2002 Supplement)

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

21 **Article - Health - General**

22 15-115.1.

23 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
24 INDICATED.

25 (2) "HANDS-ON ASSISTANCE" MEANS THE PHYSICAL ASSISTANCE OF
26 ANOTHER PERSON WITHOUT WHICH AN INDIVIDUAL WOULD BE UNABLE TO
27 PERFORM THE ACTIVITY OF DAILY LIVING.

28 (3) "SEVERE COGNITIVE IMPAIRMENT" MEANS A LOSS OR
29 DETERIORATION IN AN INDIVIDUAL'S INTELLECTUAL CAPACITY THAT IS:

30 (I) COMPARABLE TO AND INCLUDES ALZHEIMER'S DISEASE AND
31 SIMILAR FORMS OF IRREVERSIBLE DEMENTIA; AND

32 (II) MEASURED BY CLINICAL EVIDENCE AND STANDARDIZED TESTS
33 THAT RELIABLY MEASURE IMPAIRMENT IN AN INDIVIDUAL'S:

34 1. SHORT-TERM OR LONG-TERM MEMORY;

1 waiver services received by eligible medically and functionally impaired individuals
2 participating in the waiver.

3 (f) (1) If a person determined to be eligible to receive waiver services under
4 this section desires to receive waiver services and an appropriate placement is
5 available, the Department shall authorize the placement.

6 (2) EACH INDIVIDUAL ELIGIBLE FOR SERVICES UNDER THE WAIVER
7 DEVELOPED UNDER THIS SECTION AND THE HOME- AND COMMUNITY-BASED
8 LONG-TERM CARE SERVICES WAIVER UNDER § 15-136 OF THIS SUBTITLE, OR ANY
9 OTHER STATE WAIVER APPROVED BY THE CENTERS FOR MEDICARE AND MEDICAID
10 SERVICES, SHALL HAVE THE RIGHT TO ELECT THE WAIVER UNDER WHICH THE
11 SERVICES WILL BE RECEIVED.

12 (g) Waiver services shall be [jointly] administered by the [Departments of
13 Aging, Human Resources, and Health and Mental Hygiene] DEPARTMENT.

14 (H) THE DEPARTMENT SHALL:

15 (1) DESIGNATE AN ENTITY IN EACH COUNTY AND BALTIMORE CITY TO
16 SERVE AS THE SINGLE POINT OF ENTRY FOR INDIVIDUALS APPLYING FOR WAIVER
17 SERVICES;

18 (2) DEVELOP A STATEWIDE SINGLE POINT-OF-ENTRY SYSTEM TO:

19 (I) ACCEPT APPLICATIONS;

20 (II) MAKE ALL ELIGIBILITY DETERMINATIONS;

21 (III) ENROLL INDIVIDUALS IN THE WAIVER; AND

22 (IV) PROVIDE COORDINATED WAIVER SERVICES, INCLUDING:

23 1. LEVEL OF CARE DETERMINATION;

24 2. FINANCIAL DETERMINATION;

25 3. PLAN OF CARE DETERMINATION;

26 4. CASE MANAGEMENT SERVICES; AND

27 5. OTHER SERVICES AS NEEDED UNDER THE WAIVER;

28 (3) IMPLEMENT AN AUTOMATED PROVIDER LICENSURE AND
29 INSPECTION SYSTEM; AND

30 (4) AUTHORIZE PROVIDERS TO DIRECTLY BILL THE DEPARTMENT FOR
31 SERVICES PROVIDED UNDER THE WAIVER.

32 [(h)] (I) The Department, in consultation with representatives of the affected
33 industry and advocates for waiver candidates, [and with the approval of the

1 Department of Aging and the Department of Human Resources,] shall adopt
2 regulations to implement this section [within 180 days of receipt of approval of the
3 amended waiver application from the Health Care Financing Administration of the
4 United States Department of Health and Human Services].

5 [(i)] (J) Subject to § 2-1246 of the State Government Article, the Department
6 shall report to the General Assembly every 6 months concerning the status of the
7 Department's application under subsections (b) and (c) of this section.

8 15-136.

9 (A) (1) ON OR BEFORE JULY 1, 2004, THE DEPARTMENT SHALL DEVELOP A
10 PROGRAM DESIGNED TO INTEGRATE DELIVERY OF LONG-TERM CARE SERVICES
11 THROUGH A MANDATORY MANAGED CARE SYSTEM FOR COMMUNITY-BASED
12 INDIVIDUALS 60 YEARS OF AGE OR OLDER WHO ARE ELIGIBLE FOR BOTH MEDICARE
13 AND THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

14 (2) ON OR BEFORE AUGUST 1, 2003, THE DEPARTMENT SHALL APPLY FOR
15 A HOME- AND COMMUNITY-BASED LONG-TERM CARE SERVICES WAIVER UNDER §
16 1915(B) AND (C) OF THE FEDERAL SOCIAL SECURITY ACT.

17 (B) THE SERVICES COVERED UNDER THE WAIVER DEVELOPED UNDER THIS
18 SECTION SHALL INCLUDE THE COORDINATION OF LONG-TERM CARE SERVICES
19 THROUGH A MANAGED CARE ORGANIZATION.

20 (C) EACH INDIVIDUAL ELIGIBLE FOR SERVICES UNDER THE WAIVER
21 DEVELOPED UNDER THIS SECTION AND THE HOME- AND COMMUNITY-BASED
22 SERVICES WAIVER UNDER § 15-132 OF THIS SUBTITLE, OR ANY OTHER STATE WAIVER
23 APPROVED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, SHALL HAVE
24 THE RIGHT TO ELECT THE WAIVER UNDER WHICH THE SERVICES WILL BE
25 RECEIVED.

26 (D) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL INCLUDE THE
27 FOLLOWING GOALS AND OBJECTIVES:

28 (1) INCREASING PARTICIPANT SATISFACTION;

29 (2) FORESTALLING FUNCTIONAL DECLINE;

30 (3) REDUCING MEDICAID EXPENDITURES BY REDUCING UTILIZATION
31 OF SERVICES; AND

32 (4) ENHANCING COMPLIANCE WITH THE OLMSTEAD DECISION BY
33 OFFERING COST-EFFECTIVE COMMUNITY-BASED SERVICES IN THE MOST
34 APPROPRIATE SETTING.

35 (E) (1) THE DEPARTMENT MAY OFFER HOME- AND COMMUNITY-BASED
36 LONG-TERM CARE SERVICES UNDER THE WAIVER DEVELOPED UNDER THIS SECTION
37 ON A STATEWIDE BASIS OR THE DEPARTMENT MAY LIMIT THE GEOGRAPHICAL AREA

1 TO INCLUDE AT LEAST THE ENTIRE AREAS OF BALTIMORE CITY AND BALTIMORE
2 COUNTY.

3 (2) THE DEPARTMENT SHALL PROVIDE HOME- AND COMMUNITY-BASED
4 LONG-TERM CARE SERVICES UNDER THE WAIVER DEVELOPED UNDER THIS SECTION
5 TO NO LESS THAN 30,000 UNDUPLICATED INDIVIDUALS.

6 **Article 70B - Department of Aging**

7 1.

8 (a) In this article the following words have the meanings indicated.

9 (H) "SENIOR ASSISTED LIVING SUBSIDY" MEANS A SUBSIDY PROVIDED TO
10 ELIGIBLE SENIORS LIVING IN ANY ASSISTED LIVING FACILITY WHERE THE ASSISTED
11 LIVING FACILITY HAS ENTERED INTO AN AGREEMENT WITH THE STATE
12 DEPARTMENT OF AGING OR ITS DESIGNEE TO PARTICIPATE IN THE SENIOR ASSISTED
13 LIVING SUBSIDY PROGRAM AND IS LICENSED UNDER TITLE 19, SUBTITLE 18 OF THE
14 HEALTH - GENERAL ARTICLE.

15 4.

16 (d) With respect to assisted living programs, as defined under § 19-1801 of the
17 Health - General Article, the Secretary shall:

18 (2) Make maximum use of rent and other subsidies, INCLUDING THE
19 SENIOR ASSISTED LIVING SUBSIDY, available from federal and State sources and
20 provide for subsidies necessary from State general funds to assist low income elderly
21 individuals to reside in assisted living programs as an alternative to more costly, but
22 not required, institutional care, including, when necessary and in accordance with
23 available funds, monthly subsidies for residents of assisted living programs whose
24 adjusted gross annual income is less than their cost of care for assisted living services,
25 provided that the subsidies meet the gap between income and cost of care to a
26 maximum of \$650 per month;

27 (6) Adopt regulations governing eligibility requirements for subsidies;
28 [and]

29 (7) Review the compliance of assisted living programs with the
30 regulations adopted by the Secretary of Health and Mental Hygiene for licensing
31 these programs to operate in the State; AND

32 (8) REGARDLESS OF THE NUMBER OF BEDS AT AN ASSISTED LIVING
33 FACILITY, PERMIT ANY AND ALL ASSISTED LIVING FACILITIES, AT THE OPTION OF
34 THE ASSISTED LIVING FACILITY, TO PARTICIPATE IN THE SENIOR ASSISTED LIVING
35 SUBSIDY.

36 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
37 Health and Mental Hygiene, in consultation with the assisted living industry, shall
38 develop a methodology to establish an annual rate setting formula based on actual

1 costs for assisted living services under the Home- and Community-Based Services
2 Waiver for Older Adults. The Department shall report its findings and
3 recommendations to the Governor and, subject to § 2-1246 of the State Government
4 Article, to the Senate Finance Committee and the House Health and Government
5 Operations Committee on or before December 1, 2003.

6 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
7 Health and Mental Hygiene, shall develop a plan to assist local entities under §
8 15-132 (h) of the Health - General Article, as added by this Act, in recruiting staff,
9 assisting with enrollment services, and monitoring providers, and for updating the
10 provider system to account for differences in provider size and type. The Department
11 shall report its findings and recommendations to the Governor and, subject to §
12 2-1246 of the State Government Article, to the Senate Finance Committee and the
13 House Health and Government Operations Committee on or before December 1, 2003.

14 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect July 1, 2003.