

HOUSE BILL 1360

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2004 Regular Session
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By: **Delegate Goldwater**

Introduced and read first time: February 19, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Olmstead Compliance Act of 2004**

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 the Department to develop a
6 certain program on or before a certain date to reduce the number of medical
7 assistance recipients in nursing facility beds in each county and Baltimore City;
8 requiring the Department to develop a certain program that includes certain
9 services for certain individuals to participate in certain settings; prohibiting the
10 Department from developing a certain program that diminishes or reduces the
11 quality of certain services, that requires a nursing facility resident to
12 involuntarily accept certain services, or that requires a nursing facility resident
13 to be transferred or discharged under certain circumstances; requiring that
14 certain savings generated under the program be used for certain purposes;
15 requiring the Department to apply to the United States Centers for Medicare
16 and Medicaid Services to amend a certain waiver to receive federal matching
17 funds for services to assist dually eligible nursing facility residents in obtaining
18 certain health care services; requiring a certain waiver to include certain goals
19 and objectives; requiring that certain financial eligibility criteria include certain
20 individuals whose countable income falls between certain limits; requiring the
21 Department and the Department of Aging to administer certain waiver
22 programs; requiring the Department and the Department of Aging to make a
23 certain designation in each county and Baltimore City; requiring the
24 Department and the Department of Aging to develop certain systems to provide
25 certain services; requiring the Department and the Department of Aging to
26 implement a certain licensure and inspection system; requiring the Department
27 and the Department of Aging to authorize certain providers to directly bill the
28 Department for certain services; requiring the total yearly cost of environmental
29 modifications be equal to or less than the total current monthly benefit available
30 under the Maryland Medical Assistance Program multiplied by 12; requiring the
31 Department, in consultation with certain representatives, and with the approval
32 of the Department of Aging to adopt certain regulations; requiring the
33 Department of Aging to make a certain report on or before a certain date and
34 annually thereafter; requiring the Department and the Department of Aging to
35 develop a certain plan to assist local area agencies on aging in developing a

1 single point of entry system; defining certain terms; and generally relating to
2 long-term care eligibility requirements and waiver services in the Maryland
3 Medical Assistance Program.

4 BY adding to
5 Article - Health - General
6 Section 15-115.1 and 15-141
7 Annotated Code of Maryland
8 (2000 Replacement Volume and 2003 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Health - General
11 Section 15-132
12 Annotated Code of Maryland
13 (2000 Replacement Volume and 2003 Supplement)

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

16 **Article - Health - General**

17 15-115.1.

18 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
19 INDICATED.

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

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

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

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

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

30 2. ORIENTATION AS TO PEOPLE, PLACES, AND TIME; AND

31 3. DEDUCTIVE OR ABSTRACT REASONING.

32 (4) "STANDBY ASSISTANCE" MEANS THE PRESENCE OF ANOTHER
33 PERSON WITHIN ARM'S REACH OF AN INDIVIDUAL THAT IS NECESSARY TO PREVENT,

1 BY PHYSICAL INTERVENTION, INJURY TO THE INDIVIDUAL WHILE THE INDIVIDUAL
2 IS PERFORMING AN ACTIVITY OF DAILY LIVING.

3 (5) (I) "SUBSTANTIAL SUPERVISION" MEANS CONTINUAL
4 SUPERVISION BY ANOTHER PERSON THAT IS NECESSARY TO PROTECT AN
5 INDIVIDUAL WITH SEVERE COGNITIVE IMPAIRMENT FROM THREATS TO HEALTH OR
6 SAFETY.

7 (II) "SUBSTANTIAL SUPERVISION" INCLUDES CUEING BY VERBAL
8 PROMPTING, GESTURING, OR OTHER DEMONSTRATIONS OR 24-HOUR SUPERVISION.

9 (B) AN INDIVIDUAL SHALL BE DETERMINED MEDICALLY ELIGIBLE TO
10 RECEIVE NURSING FACILITY SERVICES UNDER THE MARYLAND MEDICAL
11 ASSISTANCE PROGRAM IF THE INDIVIDUAL REQUIRES:

12 (1) SKILLED NURSING FACILITY CARE OR OTHER RELATED SERVICES;

13 (2) REHABILITATION SERVICES; OR

14 (3) HEALTH-RELATED SERVICES ABOVE THE LEVEL OF ROOM AND
15 BOARD THAT ARE AVAILABLE ONLY THROUGH INSTITUTIONAL FACILITIES
16 INCLUDING, BUT NOT LIMITED TO, INDIVIDUALS WHO EITHER BECAUSE OF SEVERE
17 COGNITIVE IMPAIRMENTS OR OTHER CONDITIONS:

18 (I) 1. ARE CURRENTLY UNABLE TO PERFORM AT LEAST TWO
19 ACTIVITIES OF DAILY LIVING WITHOUT HANDS-ON ASSISTANCE OR STANDBY
20 ASSISTANCE FROM ANOTHER INDIVIDUAL; AND

21 2. HAVE BEEN OR WILL BE UNABLE TO PERFORM AT LEAST
22 TWO ACTIVITIES OF DAILY LIVING FOR A PERIOD OF AT LEAST 90 DAYS DUE TO A
23 LOSS OF FUNCTIONAL CAPACITY; OR

24 (II) NEED SUBSTANTIAL SUPERVISION FOR PROTECTION AGAINST
25 THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT.

26 (C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE
27 PROVISIONS OF THIS SECTION.

28 15-132.

29 (a) (1) In this section the following terms have the meanings indicated.

30 (2) "Assisted living program" has the meaning stated in § 19-1801 of this
31 article.

32 (3) "Assisted living services" means services provided by an assisted
33 living program as defined in regulations adopted by the Department.

34 (4) "Case management services" means services that assist waiver
35 eligible individuals in gaining access to needed waiver services and other needed
36 medical, social, housing, and other supportive services.

1 (5) "DUAL ELIGIBILITY" MEANS SIMULTANEOUS ELIGIBILITY FOR
2 HEALTH INSURANCE COVERAGE UNDER BOTH THE PROGRAM AND MEDICARE AND
3 FOR WHICH THE DEPARTMENT MAY OBTAIN FEDERAL MATCHING FUNDS.

4 (6) (I) "Environmental modifications" [has the meaning stated in
5 regulations adopted by the Department and includes those physical adaptations to
6 the home or residence which are necessary to ensure the health, welfare, and safety of
7 the individual or which enable the individual to function with greater independence
8 and without which, the individual would require admission to or continued stay in a
9 nursing facility] MEANS THE PHYSICAL ADAPTATIONS MADE TO AN INDIVIDUAL'S
10 HOME OR PLACE OF RESIDENCE TO ENSURE THE INDIVIDUAL'S HEALTH, WELFARE,
11 AND SAFETY, OR TO ENSURE THE INDIVIDUAL'S ABILITY TO FUNCTION WITH
12 GREATER INDEPENDENCE AND ACCESS IN THE RESIDENCE, AND THAT ARE:

13 1. APPROVED IN THE INDIVIDUAL'S PLAN OF CARE;

14 2. PREAUTHORIZED BY THE DEPARTMENT OF AGING;

15 3. APPROVED BY THE OWNER OF THE HOME OR BUILDING,
16 IF NOT THE INDIVIDUAL, WHO AGREES THAT THE INDIVIDUAL WILL BE ALLOWED TO
17 REMAIN IN THE RESIDENCE FOR AT LEAST 1 YEAR;

18 4. PROVIDED FOR A INDIVIDUAL WHO DOES NOT LIVE IN A
19 LICENSED ASSISTED LIVING FACILITY;

20 5. REQUIRED BECAUSE OF THE RESIDENCE'S PHYSICAL
21 STRUCTURE AND THE INDIVIDUAL'S SPECIAL FUNCTIONAL NEEDS; AND

22 6. REASONABLE AND NECESSARY TO PREVENT THE
23 INDIVIDUAL'S INSTITUTIONALIZATION OR HOSPITALIZATION.

24 (II) "ENVIRONMENTAL ACCESSIBILITY MODIFICATION" INCLUDES
25 THE COST, INSTALLATION, MAINTENANCE, AND REPAIR OF:

26 1. RAMPS;

27 2. GRAB BARS OR HANDRAILS;

28 3. STAIR GLIDES;

29 4. WIDENING OF DOORWAYS;

30 5. MODIFICATION OF BATHROOM FACILITIES OR KITCHEN
31 FACILITIES TO MAKE THEM ACCESSIBLE TO A PHYSICALLY IMPAIRED INDIVIDUAL;

32 6. LOCK, BUZZER, OR OTHER DEVICE ON A DOOR TO
33 PREVENT OR STOP A COGNITIVELY IMPAIRED INDIVIDUAL FROM WANDERING;

34 7. HOME MODIFICATIONS TO HELP A COGNITIVELY
35 IMPAIRED INDIVIDUAL IDENTIFY THE PHYSICAL ENVIRONMENT AND FIND THE
36 BATHROOM; AND

1 8. SPECIALIZED ELECTRICAL AND PLUMBING SYSTEMS TO
 2 ACCOMMODATE THE MEDICAL EQUIPMENT AND SUPPLIES THAT ARE NECESSARY
 3 FOR AN INDIVIDUAL'S WELFARE.

4 (III) "ENVIRONMENTAL ACCESSIBILITY MODIFICATION" DOES NOT
 5 INCLUDE ADAPTATIONS OR IMPROVEMENTS TO AN INDIVIDUAL'S HOME OR PLACE
 6 OF RESIDENCE, SUCH AS CARPETING, ROOF REPAIR, AND CENTRAL AIR
 7 CONDITIONING, WHICH:

- 8 1. ARE OF GENERAL UTILITY;
 9 2. ARE NOT OF DIRECT MEDICAL OR REMEDIAL BENEFIT TO
 10 AN INDIVIDUAL; OR
 11 3. ADD TO THE HOME'S TOTAL SQUARE FOOTAGE.

12 [(6)] (7) "Health related care and services", for purposes of paragraph
 13 [(8)] (9) of this subsection, includes:

- 14 (i) 24-hour supervision and observation by a licensed care
 15 provider;
 16 (ii) Medication administration;
 17 (iii) Inhalation therapy;
 18 (iv) Bladder and catheter management;
 19 (v) Assistance with suctioning; or
 20 (vi) Assistance with treatment of skin disorders and dressings.

21 [(7)] (8) "Home health care services" means those services defined in §
 22 19-401 of this article and in 42 C.F.R. 440.70.

23 [(8)] (9) "Intermediate level of care", for purposes of paragraph
 24 [(10)(ii)] (11)(II) of this subsection, includes health related care and services provided
 25 to individuals who [do]:

26 (I) DO not require hospital or a skilled level of nursing facility care
 27 but whose mental, physical, functional, or cognitive condition requires health services
 28 that:

- 29 [(i)] 1. Are above the level of room and board;
 30 [(ii)] 2. Are provided [on a regular basis] AT LEAST 5 DAYS IN A
 31 7-DAY PERIOD; and
 32 [(iii)] 3. Can be made available to the individuals through
 33 institutional facilities; OR

1 (II) MEET THE STANDARDS UNDER § 15-115.1 OF THIS SUBTITLE.

2 [(9)] (10) "Medically and functionally impaired" means an individual
3 who is assessed by the Department to require services provided by a nursing facility
4 as defined in this section, and who, but for the receipt of these services, would require
5 admission to a nursing facility within 30 days.

6 [(10)] (11) (i) "Nursing facility" means a facility that provides skilled
7 nursing care and related services, rehabilitation services, and health related care and
8 services above the level of room and board needed on a regular basis in accordance
9 with § 1919 of the federal Social Security Act.

10 (ii) "Nursing facility" includes a facility that provides services to
11 individuals certified as requiring an intermediate level of care.

12 [(11)] (12) "Personal care services" means those services as defined in
13 accordance with 42 C.F.R. 440.167 and in regulations adopted by the Department.

14 [(12)] (13) "Respite care services" has the meaning stated in regulations
15 adopted by the Department and includes those services provided to individuals
16 unable to care for themselves furnished on a short-term basis because of the absence
17 or need for relief of those persons normally providing the care.

18 [(13)] (14) "Waiver" means a home and community based services waiver
19 under § 1915(c) of the federal Social Security Act, submitted by the Department to the
20 [Health Care Financing Administration] CENTERS FOR MEDICARE AND MEDICAID
21 SERVICES, as required by subsections [(b) and (c)] (F) AND (G) of this section.

22 [(14)] (15) "Waiver services" means the services covered under an
23 approved waiver that:

24 (i) Are needed and chosen by an eligible waiver participant as an
25 alternative to admission to or continued stay in a nursing facility;

26 (ii) Are part of a plan of care approved by the program;

27 (iii) Assure the waiver participant's health and safety in the
28 community; and

29 (iv) Cost no more per capita to receive services in the community
30 than in a nursing facility.

31 (B) ON OR BEFORE JULY 1, 2004, THE DEPARTMENT SHALL DEVELOP A
32 PROGRAM DESIGNED TO REDUCE THE NUMBER OF NURSING FACILITY BEDS
33 OCCUPIED BY MEDICAL ASSISTANCE LONG-TERM CARE RECIPIENTS IN EACH
34 COUNTY AND BALTIMORE CITY AND TO ASSIST DUALY ELIGIBLE NURSING FACILITY
35 RESIDENTS WHO CHOOSE TO OBTAIN LONG-TERM CARE SERVICES IN THE
36 COMMUNITY.

1 (C) THE PROGRAM DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION
2 SHALL INCLUDE:

3 (1) PROVISION OF SUPPORT SERVICES THAT ARE NECESSARY FOR AN
4 INDIVIDUAL WHO IS DUALY ELIGIBLE FOR MEDICARE AND MEDICAID LONG-TERM
5 CARE BENEFITS TO ACHIEVE MAXIMUM PARTICIPATION IN THE MAINSTREAM IN THE
6 MOST INTEGRATED SETTING POSSIBLE AND, ON A STATEWIDE BASIS, IMPROVE THE
7 CAPACITY OF COMMUNITIES TO SUPPORT INDIVIDUALS WHO ARE DUALY ELIGIBLE
8 FOR MEDICARE AND MEDICAID LONG-TERM CARE BENEFITS WITH LONG-TERM
9 CARE OPTIONS THAT ARE SELF-DIRECTED; AND

10 (2) PROCEDURES OR PROGRAMS DESIGNED TO OFFSET THE LOSS OF
11 INCOME REALIZED BY A NURSING HOME ASSOCIATED WITH THE LOSS OF A DUALY
12 ELIGIBLE NURSING FACILITY RESIDENT TO THE COMMUNITY THAT MAY INCLUDE:

13 (I) TAX CREDITS;

14 (II) GRANTS TOWARD CONVERSION OF A LICENSED NURSING
15 HOME BED TO AN ASSISTED LIVING BED, RESPITE CARE BED, OR FOR MEDICAL DAY
16 CARE; OR

17 (III) FROM A PORTION OF THE SAVINGS GENERATED FROM MOVING
18 DUALY ELIGIBLE NURSING FACILITY RESIDENT TO THE COMMUNITY, AN
19 ADJUSTMENT IN MEDICAID REIMBURSEMENT FOR THE SICKEST RESIDENTS IN THE
20 FACILITY.

21 (D) THE PROGRAM DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION
22 MAY NOT:

23 (1) DIMINISH OR REDUCE THE QUALITY OF SERVICES AVAILABLE TO
24 NURSING HOME RESIDENTS;

25 (2) REQUIRE A NURSING FACILITY RESIDENT TO INVOLUNTARILY
26 ACCEPT HOME- AND COMMUNITY-BASED LONG-TERM CARE SERVICES;

27 (3) REQUIRE A NURSING FACILITY RESIDENT TO BE TRANSFERRED OR
28 DISCHARGED AS A RESULT OF A CHANGE IN THE RESIDENT'S METHOD OF PAYMENT
29 FOR NURSING FACILITY SERVICES OR EXHAUSTION OF THE RESIDENT'S PERSONAL
30 FINANCIAL RESOURCES.

31 (E) FOR EVERY MEDICAL ASSISTANCE LONG-TERM CARE RECIPIENT
32 DISCHARGED FROM A NURSING FACILITY BED TO A COMMUNITY-BASED WAIVER
33 SLOT, THE DEPARTMENT SHALL DETERMINE THE AVERAGE SAVINGS PER RECIPIENT
34 TRANSFERRED AND SHALL USE THE SAVINGS TO:

35 (1) FUND IMPLEMENTATION OF EXPANDED MEDICAL ELIGIBILITY
36 REQUIREMENTS FOR NURSING FACILITY SERVICES UNDER § 15-115.1 OF THIS
37 SUBTITLE;

1 (2) ASSIST MEDICALLY AND FUNCTIONALLY IMPAIRED INDIVIDUALS IN
2 THE COMMUNITY, OR WHEN DISCHARGED FROM A HOSPITAL, RECEIVE HOME- AND
3 COMMUNITY-BASED WAIVER SERVICES; AND

4 (3) MAKE ADJUSTMENTS IN MEDICAID REIMBURSEMENTS AS PROVIDED
5 IN SUBSECTION (C)(2)(III) OF THIS SECTION.

6 [(b)] (F) On or before [August 1, 1999] SEPTEMBER 1, 2004, the Department
7 shall apply to the [Health Care Financing Administration] CENTERS FOR MEDICARE
8 AND MEDICAID SERVICES of the United States Department of Health and Human
9 Services for an amendment to the existing home and community based services
10 waiver (Control Number 0265.90) under § 1915(c) of the federal Social Security Act to
11 receive federal matching funds for waiver services received by eligible medically and
12 functionally impaired individuals participating in the waiver AND TO RECEIVE
13 FEDERAL MATCHING FUNDS FOR WAIVER SERVICES TO ASSIST DUALY ELIGIBLE
14 NURSING FACILITY RESIDENTS IN OBTAINING LONG-TERM CARE SERVICES IN THE
15 COMMUNITY.

16 [(c)] (G) The Department's waiver application shall include the following
17 GOALS AND OBJECTIVES:

18 (1) (I) An initial cap on waiver participation at 7,500 individuals TO
19 ASSIST THE MEDICALLY AND FUNCTIONALLY IMPAIRED IN OBTAINING HOME- AND
20 COMMUNITY-BASED WAIVER SERVICES; AND

21 (II) AN INITIAL CAP ON WAIVER PARTICIPATION AT 7,500
22 INDIVIDUALS TO ASSIST DUALY ELIGIBLE NURSING FACILITY RESIDENTS IN
23 OBTAINING LONG-TERM CARE SERVICES IN THE COMMUNITY;

24 (2) A PROGRAM TO PERMIT:

25 (I) AN INDIVIDUAL, OR A PERSON LEGALLY AUTHORIZED TO
26 PROVIDE INFORMED CONSENT TO MEDICAL TREATMENT ON BEHALF OF AN
27 INDIVIDUAL, TO DIRECT, MANAGE, AND PAY FOR HOME- AND COMMUNITY-BASED
28 SERVICES, INCLUDING RECRUITING, SCREENING, HIRING, TRAINING, SCHEDULING,
29 SUPERVISING, AND TERMINATING A PERSONAL CARE ATTENDANT;

30 (II) THE HIRING OF AN INDIVIDUAL'S FAMILY MEMBER, INCLUDING
31 A SPOUSE OR FRIEND, AS A PERSONAL CARE ATTENDANT;

32 (III) THE DEPARTMENT TO SET THE WAGES FOR A PERSONAL CARE
33 ATTENDANT;

34 (IV) THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE LOCAL
35 AREA AGENCIES ON AGING TO ASSIST AN INDIVIDUAL IN OBTAINING PERSONAL
36 CARE ATTENDANTS; AND

37 (V) THE DEPARTMENT TO CONTRACT WITH AN INTERMEDIARY
38 SERVICE ORGANIZATION TO PROVIDE PAYROLL, TAX, AND OTHER PAYROLL SUPPORT
39 SERVICES ON BEHALF OF AN INDIVIDUAL;

1 [(2)] (3) A limit on annual waiver participation based on State General
2 Fund support as provided in the budget bill;

3 [(3)] (4) Elimination of the current requirements that waiver
4 applicants be at least 62 years old and be eligible for or already receive a subsidy for
5 the senior assisted housing program;

6 [(4)] (5) Financial eligibility criteria which include:

7 (i) The current federal and State medical assistance long-term
8 care rules for using services provided by a nursing facility, per §§ 1902, 1919, and
9 1924 of the federal Social Security Act, and applicable regulations adopted by the
10 Department;

11 (ii) Medically needy individuals using services provided by a
12 nursing facility under the current federal and State medical assistance eligibility
13 criteria governed by regulations adopted by the Department and § 1919 of the federal
14 Social Security Act;

15 (III) MEDICALLY NEEDY INDIVIDUALS WHOSE COUNTABLE INCOME
16 EXCEEDS 300% OF THE APPLICABLE PAYMENT RATE FOR SUPPLEMENTAL SECURITY
17 INCOME BUT IS LESS THAN THE AVERAGE MEDICAID REIMBURSEMENT RATE FOR
18 LONG-TERM CARE AFTER ALL DEDUCTIONS INCLUDING THE PROTECTION FROM
19 SPOUSAL IMPOVERISHMENT PROVISIONS OF THE FEDERAL SOCIAL SECURITY ACT;
20 AND

21 [(iii)] (IV) Categorically needy individuals with income up to 300%
22 of the applicable payment rate for supplemental security income; [and]

23 [(5)] (6) Waiver services that include at least the following:

24 (i) Assisted living services;

25 (ii) Case management services;

26 (iii) Personal care services and homemaker services;

27 (iv) Home health care services;

28 (v) Respite care services;

29 (vi) Assistive technology;

30 (vii) Environmental modifications;

31 (viii) Medically necessary over-the-counter supplies ordered by a
32 physician and not otherwise covered by the program;

33 (ix) Environmental assessments;

34 (x) Family/consumer training;

1 (xi) Personal emergency response systems;

2 (xii) Home delivered meals and dietitian/nutrition services; [and]

3 (xiii) Ambulance or other transportation services for individuals
4 receiving assisted living services or home health care services for being transported to
5 and from health care providers and facilities for medical diagnosis or medically
6 necessary treatment or care; AND

7 (XIV) CASH PAYMENTS TO PERSONAL CARE ATTENDANTS BY AN
8 INDIVIDUAL RECEIVING WAIVER SERVICES;

9 (7) THE OPPORTUNITY TO PROVIDE ELIGIBLE INDIVIDUALS WITH
10 WAIVER SERVICES UNDER THIS SECTION AS SOON AS THEY ARE AVAILABLE
11 WITHOUT WAITING FOR PLACEMENT SLOTS TO OPEN IN THE NEXT FISCAL YEAR;

12 (8) AN INCREASE IN PARTICIPANT SATISFACTION;

13 (9) THE FORESTALLING OF FUNCTIONAL DECLINE;

14 (10) A REDUCTION IN MEDICAID EXPENDITURES BY REDUCING
15 UTILIZATION OF SERVICES; AND

16 (11) THE ENHANCEMENT OF COMPLIANCE WITH THE DECISION OF THE
17 UNITED STATES SUPREME COURT IN THE CASE OF OLMSTEAD V. L.C. (1999) BY
18 OFFERING COST-EFFECTIVE COMMUNITY-BASED SERVICES IN THE MOST
19 APPROPRIATE SETTING.

20 [(d)] (H) The Department shall work with the Maryland Health [Resource
21 Planning] CARE Commission to try to assure that 20% of assisted living program
22 waiver beds are nursing facility beds that have been converted to assisted living beds.

23 [(e)] (I) This section may not be construed to affect, interfere with, or
24 interrupt any services reimbursed through the [Maryland Medical Assistance State]
25 Program under this title.

26 [(f)] (J) If a person determined to be eligible to receive waiver services
27 under this section desires to receive waiver services and an appropriate placement is
28 available, the Department shall authorize the placement.

29 [(g)] (K) Waiver services shall be jointly administered by the [Departments
30 of Aging, Human Resources, and Health and Mental Hygiene] DEPARTMENT AND
31 THE DEPARTMENT OF AGING.

32 (L) THE DEPARTMENT AND THE DEPARTMENT OF AGING SHALL:

33 (1) DESIGNATE THE LOCAL AREA AGENCIES ON AGING IN EACH COUNTY
34 AND BALTIMORE CITY TO SERVE AS THE SINGLE POINT OF ENTRY FOR INDIVIDUALS
35 APPLYING FOR WAIVER SERVICES;

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

- 1 (I) ACCEPT APPLICATIONS;
- 2 (II) MAKE ALL ELIGIBILITY DETERMINATIONS;
- 3 (III) ENROLL INDIVIDUALS IN THE WAIVER; AND
- 4 (IV) PROVIDE COORDINATED WAIVER SERVICES, INCLUDING:
- 5 1. LEVEL OF CARE DETERMINATION;
- 6 2. FINANCIAL DETERMINATION;
- 7 3. PLAN OF CARE DETERMINATION;
- 8 4. CASE MANAGEMENT SERVICES; AND
- 9 5. OTHER SERVICES AS NEEDED UNDER THE WAIVER; AND

10 (3) IMPLEMENT AN AUTOMATED PROVIDER LICENSURE AND
11 INSPECTION SYSTEM; AND

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

14 (M) THE TOTAL YEARLY COST OF ENVIRONMENTAL MODIFICATIONS SHALL
15 BE EQUAL TO OR LESS THAN THE TOTAL CURRENT MONTHLY ENVIRONMENTAL
16 MODIFICATION BENEFIT AVAILABLE UNDER THE PROGRAM MULTIPLIED BY 12.

17 [(h)] (N) The Department, in consultation with representatives of the
18 affected industry and advocates for waiver candidates, and with the approval of the
19 Department of Aging [and the Department of Human Resources], shall adopt
20 regulations to implement this section within 180 days of receipt of approval of the
21 amended waiver application from the [Health Care Financing Administration]
22 CENTERS FOR MEDICARE AND MEDICAID SERVICES of the United States Department
23 of Health and Human Services.

24 [(i)] (O) Subject to § 2-1246 of the State Government Article[.];

25 (1) [the] THE Department shall report to the General Assembly every 6
26 months concerning the status of the Department's application under subsections [(b)
27 and (c)] (F) AND (G) of this section; AND

28 (2) ON OR BEFORE DECEMBER 31, 2004, AND ANNUALLY THEREAFTER,
29 THE DEPARTMENT OF AGING SHALL REPORT TO THE GENERAL ASSEMBLY ON THE
30 STATUS OF THE IMPLEMENTATION AND CONTINUATION OF THE SINGLE
31 POINT-OF-ENTRY SYSTEM ESTABLISHED UNDER SUBSECTION (L) OF THIS SECTION.

1 15-141.

2 THE DEPARTMENT SHALL OBTAIN LEGISLATIVE APPROVAL PRIOR TO APPLYING
3 TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR ANY WAIVER UNDER
4 § 1115 OR § 1915(C) OF THE FEDERAL SOCIAL SECURITY ACT.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
6 Health and Mental Hygiene and the Department of Aging shall develop a plan to
7 assist local area agencies on aging under § 15-132(l) of the Health - General Article,
8 as added by this Act, in recruiting staff, assisting with enrollment services, and
9 monitoring providers, and for updating the provider system to account for differences
10 in provider size and type. The Department shall report its findings and
11 recommendations to the Governor and, subject to § 2-1246 of the State Government
12 Article, to the Senate Finance Committee and the House Health and Government
13 Operations Committee on or before December 1, 2004.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect June 1, 2004.