

SENATE BILL 819

Unofficial Copy
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2004 Regular Session
(4lr1361)

ENROLLED BILL
-- Finance/Health and Government Operations --

Introduced by **Senators Hollinger, Middleton, Green, Teitelbaum, Dyson,
Kelley, Lawlah, and Stone**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2
3
4

~~Olmstead Compliance Act of 2004~~
Department of Health and Mental Hygiene - Waiver for
Older Adults and Medicaid Managed Care Pilot Program

5 FOR the purpose of ~~establishing certain tests to determine if an individual is eligible~~
6 ~~for nursing facility services; requiring the Department of Health and Mental~~
7 ~~Hygiene to adopt certain regulations; requiring the Department to develop a~~
8 ~~certain program on or before a certain date to reduce the number of medical~~
9 ~~assistance recipients in nursing facility beds in each county and Baltimore City~~
10 ~~requiring the Department of Health and Mental Hygiene to apply for a certain~~
11 ~~waiver under the federal Social Security Act; requiring the Department to~~
12 ~~develop a certain program that includes certain services for certain individuals~~
13 ~~to participate in certain settings; prohibiting the Department from developing a~~
14 ~~certain program that diminishes or reduces the quality of certain services, that~~
15 ~~requires a nursing facility resident to involuntarily accept certain services, or~~

1 ~~that requires a nursing facility resident to be transferred or discharged under~~
 2 ~~certain circumstances requiring that certain services are not subject to a certain~~
 3 ~~program; requiring that certain savings generated under the program be used~~
 4 ~~for certain purposes; requiring the Department to apply to the United States~~
 5 ~~Centers for Medicare and Medicaid Services to amend a certain waiver to~~
 6 ~~receive federal matching funds for services to assist dually eligible nursing~~
 7 ~~facility residents in obtaining certain health care services; requiring a certain~~
 8 ~~waiver to include certain goals and objectives; requiring that certain financial~~
 9 ~~eligibility criteria include certain individuals whose countable income falls~~
 10 ~~between certain limits; requiring the Department and the Department of Aging~~
 11 ~~to administer certain waiver programs; requiring the Department and the~~
 12 ~~Department of Aging to make a certain designation in each county and~~
 13 ~~Baltimore City; requiring the Department and the Department of Aging to~~
 14 ~~develop certain systems to provide certain services; requiring the Department~~
 15 ~~and the Department of Aging to implement a certain licensure and inspection~~
 16 ~~system; requiring the Department and the Department of Aging to authorize~~
 17 ~~certain providers to directly bill the Department for certain services; requiring~~
 18 ~~the total yearly cost of environmental modifications be equal to or less than the~~
 19 ~~total current monthly benefit available under the Maryland Medical Assistance~~
 20 ~~Program multiplied by 12; requiring the Department, in consultation with~~
 21 ~~certain representatives, and with the approval of the Department of Aging to~~
 22 ~~adopt certain regulations; requiring the Department of Aging to make a certain~~
 23 ~~report on or before a certain date and annually thereafter; requiring the~~
 24 ~~Department and the Department of Aging to develop a certain plan to assist~~
 25 ~~local area agencies on aging in developing a single point of entry system~~
 26 ~~requiring the Department to submit the proposed waiver under this Act to the~~
 27 ~~Legislative Policy Committee for its review and comment; requiring the~~
 28 ~~Department to report on the status of a certain program; providing for the~~
 29 ~~termination of a certain program; requiring the Department to implement a~~
 30 ~~certain program initially by emergency regulation; defining certain terms; and~~
 31 ~~generally relating to long-term care eligibility requirements and waiver services~~
 32 ~~in the Maryland Medical Assistance Program.~~

33 BY adding to
 34 Article - Health - General
 35 Section ~~15-115.1~~ and 15-141
 36 Annotated Code of Maryland
 37 (2000 Replacement Volume and 2003 Supplement)

38 BY repealing and reenacting, with amendments,
 39 Article - Health - General
 40 Section 15-132
 41 Annotated Code of Maryland
 42 (2000 Replacement Volume and 2003 Supplement)

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

Article - Health - General

1
2 ~~15-115.1.~~

3 (A) (1) ~~IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS~~
4 ~~INDICATED.~~

5 (2) ~~"HANDS ON ASSISTANCE" MEANS THE PHYSICAL ASSISTANCE OF~~
6 ~~ANOTHER PERSON WITHOUT WHICH AN INDIVIDUAL WOULD BE UNABLE TO~~
7 ~~PERFORM THE ACTIVITY OF DAILY LIVING.~~

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

10 (I) ~~COMPARABLE TO AND INCLUDES ALZHEIMER'S DISEASE AND~~
11 ~~SIMILAR FORMS OF IRREVERSIBLE DEMENTIA; AND~~

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

14 1. ~~SHORT TERM OR LONG TERM MEMORY;~~

15 2. ~~ORIENTATION AS TO PEOPLE, PLACES, AND TIME; AND~~

16 3. ~~DEDUCTIVE OR ABSTRACT REASONING.~~

17 (4) ~~"STANDBY ASSISTANCE" MEANS THE PRESENCE OF ANOTHER~~
18 ~~PERSON WITHIN ARM'S REACH OF AN INDIVIDUAL THAT IS NECESSARY TO PREVENT,~~
19 ~~BY PHYSICAL INTERVENTION, INJURY TO THE INDIVIDUAL WHILE THE INDIVIDUAL~~
20 ~~IS PERFORMING AN ACTIVITY OF DAILY LIVING.~~

21 (5) (I) ~~"SUBSTANTIAL SUPERVISION" MEANS CONTINUAL~~
22 ~~SUPERVISION BY ANOTHER PERSON THAT IS NECESSARY TO PROTECT AN~~
23 ~~INDIVIDUAL WITH SEVERE COGNITIVE IMPAIRMENT FROM THREATS TO HEALTH OR~~
24 ~~SAFETY.~~

25 (II) ~~"SUBSTANTIAL SUPERVISION" INCLUDES CUING BY VERBAL~~
26 ~~PROMPTING, GESTURING, OR OTHER DEMONSTRATIONS OR 24 HOUR SUPERVISION.~~

27 (B) ~~AN INDIVIDUAL SHALL BE DETERMINED MEDICALLY ELIGIBLE TO~~
28 ~~RECEIVE NURSING FACILITY SERVICES UNDER THE MARYLAND MEDICAL~~
29 ~~ASSISTANCE PROGRAM IF THE INDIVIDUAL REQUIRES:~~

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

31 (2) ~~REHABILITATION SERVICES; OR~~

32 (3) ~~HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND~~
33 ~~BOARD THAT ARE AVAILABLE ONLY THROUGH INSTITUTIONAL FACILITIES~~
34 ~~INCLUDING, BUT NOT LIMITED TO, INDIVIDUALS WHO EITHER BECAUSE OF SEVERE~~
35 ~~COGNITIVE IMPAIRMENTS OR OTHER CONDITIONS:~~

1 ~~(F)~~ 1. ~~ARE CURRENTLY UNABLE TO PERFORM AT LEAST TWO~~
 2 ~~ACTIVITIES OF DAILY LIVING WITHOUT HANDS-ON ASSISTANCE OR STANDBY~~
 3 ~~ASSISTANCE FROM ANOTHER INDIVIDUAL; AND~~

4 ~~2.~~ ~~HAVE BEEN OR WILL BE UNABLE TO PERFORM AT LEAST~~
 5 ~~TWO ACTIVITIES OF DAILY LIVING FOR A PERIOD OF AT LEAST 90 DAYS DUE TO A~~
 6 ~~LOSS OF FUNCTIONAL CAPACITY; OR~~

7 ~~(H)~~ ~~NEED SUBSTANTIAL SUPERVISION FOR PROTECTION AGAINST~~
 8 ~~THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT.~~

9 ~~(C)~~ ~~THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE~~
 10 ~~PROVISIONS OF THIS SECTION.~~

11 15-132.

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

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

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

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

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

23 (6) ~~(F)~~ "Environmental modifications" ~~{has the meaning stated in~~
 24 ~~regulations adopted by the Department and includes those physical adaptations to~~
 25 ~~the home or residence which are necessary to ensure the health, welfare, and safety of~~
 26 ~~the individual or which enable the individual to function with greater independence~~
 27 ~~and without which, the individual would require admission to or continued stay in a~~
 28 ~~nursing facility}~~ ~~MEANS THE PHYSICAL ADAPTATIONS MADE TO AN INDIVIDUAL'S~~
 29 ~~HOME OR PLACE OF RESIDENCE TO ENSURE THE INDIVIDUAL'S HEALTH, WELFARE,~~
 30 ~~AND SAFETY, OR TO ENSURE THE INDIVIDUAL'S ABILITY TO FUNCTION WITH~~
 31 ~~GREATER INDEPENDENCE AND ACCESS IN THE RESIDENCE, AND THAT ARE:~~

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

33 2. ~~PREAUTHORIZED BY THE DEPARTMENT OF AGING;~~

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

1 4. ~~PROVIDED FOR AN INDIVIDUAL WHO DOES NOT LIVE IN A~~
 2 ~~LICENSED ASSISTED LIVING FACILITY;~~

3 5. ~~REQUIRED BECAUSE OF THE RESIDENCE'S PHYSICAL~~
 4 ~~STRUCTURE AND THE INDIVIDUAL'S SPECIAL FUNCTIONAL NEEDS; AND~~

5 6. ~~REASONABLE AND NECESSARY TO PREVENT THE~~
 6 ~~INDIVIDUAL'S INSTITUTIONALIZATION OR HOSPITALIZATION.~~

7 (H) ~~"ENVIRONMENTAL ACCESSIBILITY MODIFICATION" INCLUDES~~
 8 ~~THE COST, INSTALLATION, MAINTENANCE, AND REPAIR OF:~~

9 1. ~~RAMPS;~~

10 2. ~~GRAB BARS OR HANDRAILS;~~

11 3. ~~STAIR GLIDES;~~

12 4. ~~WIDENING OF DOORWAYS;~~

13 5. ~~MODIFICATION OF BATHROOM FACILITIES OR KITCHEN~~
 14 ~~FACILITIES TO MAKE THEM ACCESSIBLE TO A PHYSICALLY IMPAIRED INDIVIDUAL;~~

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

17 7. ~~HOME MODIFICATIONS TO HELP A COGNITIVELY~~
 18 ~~IMPAIRED INDIVIDUAL IDENTIFY THE PHYSICAL ENVIRONMENT AND FIND THE~~
 19 ~~BATHROOM; AND~~

20 8. ~~SPECIALIZED ELECTRICAL AND PLUMBING SYSTEMS TO~~
 21 ~~ACCOMMODATE THE MEDICAL EQUIPMENT AND SUPPLIES THAT ARE NECESSARY~~
 22 ~~FOR AN INDIVIDUAL'S WELFARE.~~

23 (H) ~~"ENVIRONMENTAL ACCESSIBILITY MODIFICATION" DOES NOT~~
 24 ~~INCLUDE ADAPTATIONS OR IMPROVEMENTS TO AN INDIVIDUAL'S HOME OR PLACE~~
 25 ~~OF RESIDENCE, SUCH AS CARPETING, ROOF REPAIR, AND CENTRAL AIR~~
 26 ~~CONDITIONING, WHICH:~~

27 1. ~~ARE OF GENERAL UTILITY;~~

28 2. ~~ARE NOT OF DIRECT MEDICAL OR REMEDIAL BENEFIT TO~~
 29 ~~AN INDIVIDUAL; OR~~

30 3. ~~ADD TO THE HOME'S TOTAL SQUARE FOOTAGE.~~

31 [(6)] (7) "Health related care and services", for purposes of paragraph
 32 [(8)] (9) of this subsection, includes:

33 (i) 24-hour supervision and observation by a licensed care
 34 provider;

- 1 (ii) Medication administration;
- 2 (iii) Inhalation therapy;
- 3 (iv) Bladder and catheter management;
- 4 (v) Assistance with suctioning; [and] OR
- 5 (vi) Assistance with treatment of skin disorders and dressings.

6 [(7)] (8) "Home health care services" means those services defined in §
7 19-401 of this article and in 42 C.F.R. 440.70.

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

11 ~~(4)~~ ~~DO~~ not require hospital or a skilled level of nursing facility care
12 but whose mental, physical, functional, or cognitive condition requires health services
13 that:

14 {(i)} ~~1-~~ Are above the level of room and board;

15 {(ii)} ~~2-~~ Are provided {on a regular basis} AT LEAST 5 DAYS IN A
16 7-DAY PERIOD; and

17 {(iii)} ~~3-~~ Can be made available to the individuals through
18 institutional facilities; ~~OR~~

19 ~~(H)~~ ~~MEET THE STANDARDS UNDER § 15-115.1 OF THIS SUBTITLE.~~

20 [(9)] (10) "Medically and functionally impaired" means an individual
21 who is assessed by the Department to require services provided by a nursing facility
22 as defined in this section, and who, but for the receipt of these services, would require
23 admission to a nursing facility within 30 days.

24 [(10)] (11) (i) "Nursing facility" means a facility that provides skilled
25 nursing care and related services, rehabilitation services, and health related care and
26 services above the level of room and board needed on a regular basis in accordance
27 with § 1919 of the federal Social Security Act.

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

30 [(11)] (12) "Personal care services" means those services as defined in
31 accordance with 42 C.F.R. 440.167 and in regulations adopted by the Department.

32 [(12)] (13) "Respite care services" has the meaning stated in regulations
33 adopted by the Department and includes those services provided to individuals
34 unable to care for themselves furnished on a short-term basis because of the absence
35 or need for relief of those persons normally providing the care.

1 [(13)] (14) "Waiver" means a home and community based services waiver
 2 under § 1915(c) of the federal Social Security Act, submitted by the Department to the
 3 [Health Care Financing Administration] CENTERS FOR MEDICARE AND MEDICAID
 4 SERVICES, as required by subsections [(b) and (e)] ~~(F) AND (G)~~ (D) of this section.

5 [(14)] (15) "Waiver services" means the services covered under an
 6 approved waiver that:

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

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

10 (iii) Assure the waiver participant's health and safety in the
 11 community; and

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

14 ~~(B) ON OR BEFORE JULY 1, 2004, THE DEPARTMENT SHALL DEVELOP A
 15 PROGRAM DESIGNED TO REDUCE THE NUMBER OF NURSING FACILITY BEDS
 16 OCCUPIED BY MEDICAL ASSISTANCE LONG TERM CARE RECIPIENTS IN EACH
 17 COUNTY AND BALTIMORE CITY AND TO ASSIST DUALY ELIGIBLE NURSING FACILITY
 18 RESIDENTS WHO CHOOSE TO OBTAIN LONG TERM CARE SERVICES IN THE
 19 COMMUNITY.~~

20 ~~(C) THE PROGRAM DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION
 21 SHALL INCLUDE:~~

22 ~~(1) PROVISION OF SUPPORT SERVICES THAT ARE NECESSARY FOR AN
 23 INDIVIDUAL WHO IS DUALY ELIGIBLE FOR MEDICARE AND MEDICAID LONG TERM
 24 CARE BENEFITS TO ACHIEVE MAXIMUM PARTICIPATION IN THE MAINSTREAM IN THE
 25 MOST INTEGRATED SETTING POSSIBLE AND, ON A STATEWIDE BASIS, IMPROVE THE
 26 CAPACITY OF COMMUNITIES TO SUPPORT INDIVIDUALS WHO ARE DUALY ELIGIBLE
 27 FOR MEDICARE AND MEDICAID LONG TERM CARE BENEFITS WITH LONG TERM
 28 CARE OPTIONS THAT ARE SELF DIRECTED; AND~~

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

32 ~~(I) TAX CREDITS;~~

33 ~~(II) GRANTS TOWARD CONVERSION OF A LICENSED NURSING
 34 HOME BED TO AN ASSISTED LIVING BED, RESPITE CARE BED, OR FOR MEDICAL DAY
 35 CARE; OR~~

36 ~~(III) FROM A PORTION OF THE SAVINGS GENERATED FROM MOVING
 37 DUALY ELIGIBLE NURSING FACILITY RESIDENT TO THE COMMUNITY, AN~~

1 ADJUSTMENT IN MEDICAID REIMBURSEMENT FOR THE SICKEST RESIDENTS IN THE
2 FACILITY.

3 ~~(D) THE PROGRAM DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION~~
4 ~~MAY NOT:~~

5 ~~(1) DIMINISH OR REDUCE THE QUALITY OF SERVICES AVAILABLE TO~~
6 ~~NURSING HOME RESIDENTS;~~

7 ~~(2) REQUIRE A NURSING FACILITY RESIDENT TO INVOLUNTARILY~~
8 ~~ACCEPT HOME AND COMMUNITY BASED LONG TERM CARE SERVICES;~~

9 ~~(3) REQUIRE A NURSING FACILITY RESIDENT TO BE TRANSFERRED OR~~
10 ~~DISCHARGED AS A RESULT OF A CHANGE IN THE RESIDENT'S METHOD OF PAYMENT~~
11 ~~FOR NURSING FACILITY SERVICES OR EXHAUSTION OF THE RESIDENT'S PERSONAL~~
12 ~~FINANCIAL RESOURCES.~~

13 ~~(E) FOR EVERY MEDICAL ASSISTANCE LONG TERM CARE RECIPIENT~~
14 ~~DISCHARGED FROM A NURSING FACILITY BED TO A COMMUNITY BASED WAIVER~~
15 ~~SLOT, THE DEPARTMENT SHALL DETERMINE THE AVERAGE SAVINGS PER RECIPIENT~~
16 ~~TRANSFERRED AND SHALL USE THE SAVINGS TO:~~

17 ~~(1) FUND IMPLEMENTATION OF EXPANDED MEDICAL ELIGIBILITY~~
18 ~~REQUIREMENTS FOR NURSING FACILITY SERVICES UNDER § 15-115.1 OF THIS~~
19 ~~SUBTITLE;~~

20 ~~(2) ASSIST MEDICALLY AND FUNCTIONALLY IMPAIRED INDIVIDUALS IN~~
21 ~~THE COMMUNITY, OR WHEN DISCHARGED FROM A HOSPITAL, RECEIVE HOME AND~~
22 ~~COMMUNITY BASED WAIVER SERVICES; AND~~

23 ~~(3) MAKE ADJUSTMENTS IN MEDICAID REIMBURSEMENTS AS PROVIDED~~
24 ~~IN SUBSECTION (C)(2)(III) OF THIS SECTION.~~

25 ~~{(b)}~~ ~~(F)~~ On or before ~~{August 1, 1999}~~ ~~SEPTEMBER 1, 2004~~, the Department
26 shall apply to the ~~{Health Care Financing Administration}~~ ~~CENTERS FOR MEDICARE~~
27 ~~AND MEDICAID SERVICES~~ of the United States Department of Health and Human
28 Services for an amendment to the existing home and community based services
29 waiver (Control Number 0265.90) under § 1915(c) of the federal Social Security Act to
30 receive federal matching funds for waiver services received by eligible medically and
31 functionally impaired individuals participating in the waiver ~~AND TO RECEIVE~~
32 ~~FEDERAL MATCHING FUNDS FOR WAIVER SERVICES TO ASSIST DUALY ELIGIBLE~~
33 ~~NURSING FACILITY RESIDENTS IN OBTAINING LONG TERM CARE SERVICES IN THE~~
34 ~~COMMUNITY.~~

35 (C) (1) IF PERMITTED BY THE CENTERS FOR MEDICARE AND MEDICAID
36 SERVICES, AN INDIVIDUAL SHALL BE DETERMINED MEDICALLY ELIGIBLE TO
37 RECEIVE SERVICES UNDER THE WAIVER UNDER SUBSECTION (B) OF THIS SECTION IF
38 THE INDIVIDUAL REQUIRES:

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

3 (II) REHABILITATION SERVICES; OR

4 (III) HEALTH-RELATED SERVICES ABOVE THE LEVEL OF ROOM AND
 5 BOARD THAT ARE AVAILABLE ONLY THROUGH NURSING FACILITIES, INCLUDING
 6 INDIVIDUALS WHO BECAUSE OF SEVERE COGNITIVE IMPAIRMENTS OR OTHER
 7 CONDITIONS;

8 1. A. ARE CURRENTLY UNABLE TO PERFORM AT LEAST
 9 TWO ACTIVITIES OF DAILY LIVING WITHOUT HANDS-ON ASSISTANCE OR STANDBY
 10 ASSISTANCE FROM ANOTHER INDIVIDUAL; AND

11 B. HAVE BEEN OR WILL BE UNABLE TO PERFORM AT LEAST
 12 TWO ACTIVITIES OF DAILY LIVING FOR A PERIOD OF AT LEAST 90 DAYS DUE TO A
 13 LOSS OF FUNCTIONAL CAPACITY; OR

14 2. NEED SUBSTANTIAL SUPERVISION FOR PROTECTION
 15 AGAINST THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE
 16 IMPAIRMENT.

17 (2) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE
 18 PROVISIONS OF THIS SUBSECTION.

19 [(c)] (G) (D) The Department's waiver application shall include the
 20 following ~~GOALS AND OBJECTIVES~~:

21 (1) (F) ~~An initial cap on waiver participation at 7,500 individuals TO~~
 22 ~~ASSIST THE MEDICALLY AND FUNCTIONALLY IMPAIRED IN OBTAINING HOME AND~~
 23 ~~COMMUNITY-BASED WAIVER SERVICES; AND~~

24 (H) ~~AN INITIAL CAP ON WAIVER PARTICIPATION AT 7,500~~
 25 ~~INDIVIDUALS TO ASSIST DUALY ELIGIBLE NURSING FACILITY RESIDENTS IN~~
 26 ~~OBTAINING LONG-TERM CARE SERVICES IN THE COMMUNITY;~~

27 (2) ~~A PROGRAM TO PERMIT:~~

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

33 (H) ~~THE HIRING OF AN INDIVIDUAL'S FAMILY MEMBER, INCLUDING~~
 34 ~~A SPOUSE OR FRIEND, AS A PERSONAL CARE ATTENDANT;~~

35 (III) ~~THE DEPARTMENT TO SET THE WAGES FOR A PERSONAL CARE~~
 36 ~~ATTENDANT;~~

1 ~~(IV) THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE LOCAL~~
2 ~~AREA AGENCIES ON AGING TO ASSIST AN INDIVIDUAL IN OBTAINING PERSONAL~~
3 ~~CARE ATTENDANTS; AND~~

4 ~~(V) THE DEPARTMENT TO CONTRACT WITH AN INTERMEDIARY~~
5 ~~SERVICE ORGANIZATION TO PROVIDE PAYROLL, TAX, AND OTHER PAYROLL SUPPORT~~
6 ~~SERVICES ON BEHALF OF AN INDIVIDUAL;~~

7 ~~{(2)}~~ ~~(3)~~ A limit on annual waiver participation based on State General
8 Fund support as provided in the budget bill;

9 ~~{(3)}~~ ~~(4)~~ Elimination of the current requirements that waiver
10 applicants be at least 62 years old and be eligible for or already receive a subsidy for
11 the senior assisted housing program;

12 ~~{(4)}~~ ~~(5)~~ Financial eligibility criteria which include:

13 (i) The current federal and State medical assistance long-term
14 care rules for using services provided by a nursing facility, per §§ 1902, 1919, and
15 1924 of the federal Social Security Act, and applicable regulations adopted by the
16 Department;

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

21 (III) IF PERMITTED BY THE CENTERS FOR MEDICARE AND MEDICAID
22 SERVICES UNDER THE WAIVER UNDER SUBSECTION (B) OF THIS SECTION,
23 MEDICALLY NEEDY INDIVIDUALS WHOSE COUNTABLE INCOME EXCEEDS 300% OF
24 THE APPLICABLE PAYMENT RATE FOR SUPPLEMENTAL SECURITY INCOME BUT IS
25 LESS THAN THE AVERAGE MEDICAID REIMBURSEMENT RATE FOR LONG-TERM CARE
26 AFTER ALL DEDUCTIONS INCLUDING THE PROTECTION FROM SPOUSAL
27 IMPOVERISHMENT PROVISIONS OF THE FEDERAL SOCIAL SECURITY ACT; AND

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

30 ~~{(5)}~~ ~~(6)~~ Waiver services that include at least the following:

31 (i) Assisted living services;

32 (ii) Case management services;

33 (iii) Personal care services and homemaker services;

34 (iv) Home health care services;

35 (v) Respite care services;

36 (vi) Assistive technology;

- 1 (vii) Environmental modifications;
- 2 (viii) Medically necessary over-the-counter supplies ordered by a
3 physician and not otherwise covered by the program;
- 4 (ix) Environmental assessments;
- 5 (x) Family/consumer training;
- 6 (xi) Personal emergency response systems;
- 7 (xii) Home delivered meals and dietitian/nutrition services; {and}
- 8 (xiii) Ambulance or other transportation services for individuals
9 receiving assisted living services or home health care services for being transported to
10 and from health care providers and facilities for medical diagnosis or medically
11 necessary treatment or care; ~~AND~~

12 ~~(XIV) CASH PAYMENTS TO PERSONAL CARE ATTENDANTS BY AN~~
13 ~~INDIVIDUAL RECEIVING WAIVER SERVICES;~~

14 ~~(7)~~ (6) THE OPPORTUNITY TO PROVIDE ELIGIBLE INDIVIDUALS WITH
15 WAIVER SERVICES UNDER THIS SECTION AS SOON AS THEY ARE AVAILABLE
16 WITHOUT WAITING FOR PLACEMENT SLOTS TO OPEN IN THE NEXT FISCAL YEAR;

17 ~~(8)~~ (7) AN INCREASE IN PARTICIPANT SATISFACTION;

18 ~~(9)~~ (8) THE FORESTALLING OF FUNCTIONAL DECLINE;

19 ~~(10)~~ (9) A REDUCTION IN MEDICAID EXPENDITURES BY REDUCING
20 UTILIZATION OF SERVICES; AND

21 ~~(11)~~ (10) THE ENHANCEMENT OF COMPLIANCE WITH THE DECISION OF
22 THE UNITED STATES SUPREME COURT IN THE CASE OF OLMSTEAD V. L.C. (1999) BY
23 OFFERING COST-EFFECTIVE COMMUNITY-BASED SERVICES IN THE MOST
24 APPROPRIATE SETTING.

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

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

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

1 [(g)] ~~(K)~~ (H) Waiver services shall be jointly administered by the
 2 [Departments of Aging, Human Resources, and Health and Mental Hygiene]
 3 DEPARTMENT AND THE DEPARTMENT OF AGING.

4 ~~(L) THE DEPARTMENT AND THE DEPARTMENT OF AGING SHALL:~~

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

8 ~~(2) DEVELOP A STATEWIDE SINGLE POINT OF ENTRY SYSTEM TO:~~

9 ~~(I) ACCEPT APPLICATIONS;~~

10 ~~(II) MAKE ALL ELIGIBILITY DETERMINATIONS;~~

11 ~~(III) ENROLL INDIVIDUALS IN THE WAIVER; AND~~

12 ~~(IV) PROVIDE COORDINATED WAIVER SERVICES, INCLUDING:~~

13 ~~1. LEVEL OF CARE DETERMINATION;~~

14 ~~2. FINANCIAL DETERMINATION;~~

15 ~~3. PLAN OF CARE DETERMINATION;~~

16 ~~4. CASE MANAGEMENT SERVICES; AND~~

17 ~~5. OTHER SERVICES AS NEEDED UNDER THE WAIVER; AND~~

18 ~~(3) IMPLEMENT AN AUTOMATED PROVIDER LICENSURE AND~~
 19 ~~INSPECTION SYSTEM; AND~~

20 ~~(4) AUTHORIZE PROVIDERS TO DIRECTLY BILL THE DEPARTMENT FOR~~
 21 ~~SERVICES PROVIDED UNDER THE WAIVER.~~

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

25 ~~(I) AT LEAST 25% OF THE PROPORTION OF INDIVIDUALS WHO QUALIFY FOR~~
 26 ~~MEDICAL ASSISTANCE ELIGIBILITY UNDER THE WAIVER UNDER SUBSECTION (B) OF~~
 27 ~~THIS SECTION SHALL BE PARTICIPANTS IN WHO ARE RESIDENTS OF AREAS OF THE~~
 28 ~~STATE DESCRIBED IN § 15-141(B)(3) OF THIS SUBTITLE PRIOR TO IMPLEMENTATION~~
 29 ~~OF THE PROGRAM DESCRIBED IN § 15-141 OF THIS SUBTITLE SHALL REMAIN THE~~
 30 ~~SAME AFTER IMPLEMENTATION OF THE PROGRAM DESCRIBED IN § 15-141 OF THIS~~
 31 ~~SUBTITLE.~~

32 [(h)] ~~(N)~~ (J) The Department, in consultation with representatives of the
 33 affected industry and advocates for waiver candidates, and with the approval of the
 34 Department of Aging [and the Department of Human Resources], shall adopt

1 regulations to implement this section within 180 days of receipt of approval of the
 2 amended waiver application from the [Health Care Financing Administration]
 3 CENTERS FOR MEDICARE AND MEDICAID SERVICES of the United States Department
 4 of Health and Human Services.

5 [(i)] (K) Subject to § 2-1246 of the State Government Article~~},~~

6 (4) ~~{the} THE~~ Department shall report to the General Assembly every 6
 7 months concerning the status of the Department's application under subsections ~~{(b)}~~
 8 and ~~(e)-(F) AND (G)~~ (D) of this section; ~~AND~~

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

13 15-141.

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 15 INDICATED.

16 (2) "COMMUNITY CARE ORGANIZATION" MEANS AN ORGANIZATION
 17 APPROVED BY THE DEPARTMENT THAT ARRANGES FOR HEALTH CARE SERVICES
 18 WITH THE GOAL OF PROMOTING THE DELIVERY OF SERVICES IN THE MOST
 19 APPROPRIATE, COST-EFFECTIVE SETTING.

20 (3) "COMMUNITY CHOICE PROGRAM" MEANS A PROGRAM THAT
 21 DELIVERS SERVICES IN ACCORDANCE WITH THE WAIVER DEVELOPED UNDER THIS
 22 SECTION.

23 (B) (1) ON OR BEFORE NOVEMBER 1, 2004, THE DEPARTMENT SHALL APPLY
 24 FOR A WAIVER UNDER THE FEDERAL SOCIAL SECURITY ACT.

25 (2) AS PERMITTED BY FEDERAL LAW OR WAIVER, THE SECRETARY MAY
 26 ESTABLISH A PROGRAM UNDER WHICH MEDICAID PROGRAM RECIPIENTS ARE
 27 REQUIRED TO ENROLL IN COMMUNITY CARE ORGANIZATIONS.

28 (3) CONSISTENT WITH THE FEDERAL WAIVER UNDER PARAGRAPH (1) OF
 29 THIS SUBSECTION, IF THE SECRETARY ESTABLISHES A PROGRAM UNDER
 30 PARAGRAPH (2) OF THIS SUBSECTION, THE PROGRAM MAY NOT OPERATE IN MORE
 31 THAN TWO AREAS OF THE STATE.

32 (C) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL INCLUDE THE
 33 FOLLOWING GOALS AND OBJECTIVES:

34 (1) INCREASING PARTICIPANT SATISFACTION;

35 (2) ALLOWING PARTICIPANTS TO AGE IN PLACE;

1 (3) REDUCING MEDICAID EXPENDITURES BY ENCOURAGING THE MOST
2 APPROPRIATE UTILIZATION OF HIGH QUALITY SERVICES; AND

3 (4) ENHANCING COMPLIANCE WITH THE FEDERAL AMERICANS WITH
4 DISABILITIES ACT BY OFFERING COST-EFFECTIVE COMMUNITY-BASED SERVICES IN
5 THE MOST APPROPRIATE HIGH QUALITY AND LEAST RESTRICTIVE SETTING.

6 (D) (1) THE BENEFITS PROVIDED BY THE COMMUNITY CHOICE PROGRAM
7 SHALL INCLUDE THOSE SERVICES AVAILABLE UNDER THE MEDICAID STATE PLAN
8 AND SERVICES COVERED UNDER HOME AND COMMUNITY-BASED SERVICES
9 WAIVERS.

10 (2) EXCEPT WHEN SERVICES ARE LIMITED OR EXCLUDED FROM THE
11 COMMUNITY CHOICE PROGRAM BY THE SECRETARY, THE COMMUNITY CARE
12 ORGANIZATION SHALL PROVIDE ALL THE SERVICES ESTABLISHED IN REGULATION
13 AND REQUIRED BY THE SECRETARY.

14 (3) THE SECRETARY MAY EXCLUDE SPECIFIC POPULATIONS.

15 (4) THE SECRETARY SHALL INCLUDE A DEFINITION OF "MEDICAL
16 NECESSITY" IN ITS QUALITY AND ACCESS STANDARDS.

17 (5) NOTHING IN THE COMMUNITY CHOICE PROGRAM MAY PRECLUDE A
18 NURSING HOME FROM UTILIZING AN INSTITUTIONAL PHARMACY OF ITS OWN
19 CHOICE FOR THE PROVISION OF INSTITUTIONAL PHARMACY SERVICES AND
20 BENEFITS FOR WAIVER ENROLLEES IN THE NURSING HOME.

21 (E) COMMUNITY CHOICE PROGRAM RECIPIENTS SERVED BY THE PROGRAM
22 DEVELOPED UNDER THIS SECTION SHALL BE ALLOWED TO CHOOSE AMONG AT
23 LEAST TWO COMMUNITY CARE ORGANIZATIONS THAT HAVE DEMONSTRATED A
24 NETWORK CAPACITY SUFFICIENT TO MEET THE NEEDS OF THE POPULATION.

25 (F) (1) ON AN ANNUAL BASIS OR FOR CAUSE, AN ENROLLEE MAY CHOOSE
26 TO DISENROLL FROM A COMMUNITY CARE ORGANIZATION AND ENROLL IN ANOTHER
27 COMMUNITY CARE ORGANIZATION.

28 (2) EACH ENROLLEE RECEIVING SERVICES IN A NURSING HOME, AN
29 ASSISTED LIVING FACILITY, ~~OR~~ AN ADULT DAY CARE FACILITY, A *PSYCHIATRIC*
30 *REHABILITATION PROGRAM, OR A RESIDENTIAL REHABILITATION PROGRAM SHALL*
31 HAVE THE OPTION OF REMAINING IN THE NURSING HOME, ASSISTED LIVING
32 FACILITY, ~~OR~~ ADULT DAY CARE FACILITY, *PSYCHIATRIC REHABILITATION PROGRAM,*
33 *OR RESIDENTIAL REHABILITATION PROGRAM.*

34 (3) AN ENROLLEE OF THE PROGRAM WHO QUALIFIES FOR NURSING
35 LEVEL CARE MAY CHOOSE TO RECEIVE SERVICES IN A NURSING HOME OR IN THE
36 COMMUNITY, IF THE COMMUNITY PLACEMENT IS COST-EFFECTIVE.

37 (4) THE COMMUNITY CHOICE PROGRAM SHALL ENSURE THAT ALL
38 ENROLLEES IN THE PROGRAM MAINTAIN ACCESS TO PHARMACY BENEFITS.

1 INCLUDING ALL CLASSES OF DRUGS, THAT ARE COMPARABLE TO THE BENEFITS
2 PROVIDED IN THE MEDICAL ASSISTANCE PROGRAM.

3 (G) (1) EACH COMMUNITY CARE ORGANIZATION SHALL PROVIDE FOR THE
4 BENEFITS DESCRIBED IN SUBSECTION (D) OF THIS SECTION.

5 (2) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A COMMUNITY
6 CARE ORGANIZATION FROM PROVIDING ADDITIONAL BENEFITS THAT ARE NOT
7 COVERED BY A CAPITATED RATE.

8 (3) (I) THE DEPARTMENT SHALL MAKE CAPITATION PAYMENTS TO
9 EACH COMMUNITY CARE ORGANIZATION AS PROVIDED IN THIS PARAGRAPH.

10 (II) THE SECRETARY SHALL SET CAPITATION PAYMENTS AT A
11 LEVEL THAT IS ACTUARIALY ADJUSTED FOR THE BENEFITS PROVIDED.

12 (III) THE SECRETARY SHALL ADJUST CAPITATION PAYMENTS TO
13 REFLECT THE RELATIVE RISK ASSUMED BY THE COMMUNITY CARE ORGANIZATION.

14 (H) THE DEPARTMENT SHALL REQUIRE COMMUNITY CARE ORGANIZATIONS
15 TO BE CERTIFIED TO ACCEPT CAPITATED PAYMENTS FROM THE FEDERAL MEDICARE
16 PROGRAM FOR INDIVIDUALS WHO ARE DUALY ELIGIBLE.

17 (I) THE COMMUNITY CHOICE PROGRAM SHALL INCLUDE:

18 (1) ADULTS WHO ARE DUALY ELIGIBLE;

19 (2) ADULT MEDICAID RECIPIENTS WHO MEET THE NURSING HOME
20 LEVEL OF CARE STANDARD; AND

21 (3) MEDICAID RECIPIENTS OVER 65 YEARS OF AGE.

22 (J) (1) INDIVIDUALS ELIGIBLE FOR THE COMMUNITY CHOICE PROGRAM
23 SHALL HAVE THE RIGHT TO ELECT TO RECEIVE SERVICES UNDER THE COMMUNITY
24 CHOICE PROGRAM OR AN APPROVED PROGRAM OF ALL-INCLUSIVE CARE FOR THE
25 ELDERLY.

26 (2) IF AN INDIVIDUAL ELIGIBLE FOR THE COMMUNITY CHOICE
27 PROGRAM REQUIRES HOSPICE CARE, THE INDIVIDUAL SHALL ELECT TO RECEIVE
28 HOSPICE CARE FROM A LICENSED HOSPICE PROGRAM UNDER A SEPARATE
29 ARRANGEMENT AND PAYMENT FOR HOSPICE CARE PROVIDED TO THE INDIVIDUAL
30 SHALL BE MADE DIRECTLY TO THE HOSPICE PROGRAM BY THE DEPARTMENT UNDER
31 THE MEDICAID-ESTABLISHED RATE FOR HOSPICE CARE REIMBURSEMENT.

32 (3) IF AN INDIVIDUAL ELIGIBLE FOR THE COMMUNITY CHOICE
33 PROGRAM REQUIRES SPECIALTY MENTAL HEALTH SERVICES, THE INDIVIDUAL
34 SHALL ELECT TO RECEIVE SPECIALTY MENTAL HEALTH SERVICES FROM AN
35 APPROVED MENTAL HEALTH PROVIDER UNDER A SEPARATE ARRANGEMENT, AND
36 PAYMENT FOR SPECIALTY MENTAL HEALTH SERVICES PROVIDED TO THE
37 INDIVIDUAL SHALL BE MADE DIRECTLY TO THE MENTAL HEALTH PROVIDER BY THE

1 DEPARTMENT UNDER THE MEDICAID-ESTABLISHED RATE FOR SPECIALTY MENTAL
2 HEALTH SERVICES.

3 (K) (1) EACH COMMUNITY CARE ORGANIZATION SHALL MEET ALL
4 REQUIREMENTS FOR CERTIFICATION BY THE DEPARTMENT.

5 (2) EACH COMMUNITY CARE ORGANIZATION SHALL:

6 (I) HAVE A QUALITY ASSURANCE PROGRAM, SUBJECT TO
7 APPROVAL BY THE SECRETARY, WHICH SHALL:

8 1. PROVIDE FOR AN ENROLLEE GRIEVANCE SYSTEM,
9 INCLUDING AN ENROLLEE HOTLINE;

10 2. PROVIDE FOR A PROVIDER GRIEVANCE SYSTEM,
11 INCLUDING A PROVIDER HOTLINE;

12 3. PROVIDE FOR AN ENROLLEE SATISFACTION SURVEY; AND

13 4. PROVIDE FOR A CONSUMER ADVISORY BOARD TO
14 RECEIVE REGULAR INPUT FROM ENROLLEES AND SUBMIT AN ANNUAL REPORT OF
15 THE ADVISORY BOARD TO THE SECRETARY;

16 (II) SUBMIT SERVICE-SPECIFIC DATA IN A FORMAT SPECIFIED BY
17 THE SECRETARY;

18 (III) INCLUDE PROVISIONS FOR CONSUMER DIRECTION OF
19 PERSONAL ASSISTANCE SERVICES;

20 (IV) ENSURE NECESSARY PROVIDER CAPACITY IN ALL GEOGRAPHIC
21 REGIONS WHERE THE COMMUNITY CARE ORGANIZATION IS APPROVED TO OPERATE;

22 (V) BE ACCOUNTABLE, AND HOLD ITS SUBCONTRACTORS
23 ACCOUNTABLE, FOR MEETING ALL REQUIREMENTS, STANDARDS, CRITERIA, OR
24 OTHER DIRECTIVES OF THE DEPARTMENT AND UPON FAILURE TO MEET THOSE
25 STANDARDS, BE SUBJECT TO ONE OR MORE OF THE FOLLOWING PENALTIES:

26 1. FINES;

27 2. SUSPENSION OF FURTHER ENROLLMENT;

28 3. WITHHOLDING OF ALL OR PART OF A CAPITATION
29 PAYMENT;

30 4. TERMINATION OF A CONTRACT;

31 5. DISQUALIFICATION FROM FUTURE PARTICIPATION; AND

32 6. ANY OTHER PENALTIES THAT MAY BE IMPOSED BY THE
33 SECRETARY;

1 (VI) MEET THE SOLVENCY AND CAPITAL REQUIREMENTS FOR
2 HEALTHCHOICE MANAGED CARE ORGANIZATIONS UNDER THE INSURANCE ARTICLE;

3 (VII) TO THE EXTENT PRACTICABLE, ALLOW WAIVER ENROLLEES,
4 WHO MEET THE NURSING HOME LEVEL OF CARE, TO SELECT A NURSING HOME,
5 ASSISTED LIVING FACILITY, OR ADULT DAY CARE FACILITY PROVIDED THAT THE
6 NURSING HOME, ASSISTED LIVING FACILITY, OR ADULT DAY CARE FACILITY IS
7 LICENSED BY THE DEPARTMENT AND THE PROVIDER MEETS THE
8 DEPARTMENT-APPROVED CREDENTIALING REQUIREMENTS OF THE COMMUNITY
9 CARE ORGANIZATION;

10 (VIII) SUBMIT TO THE DEPARTMENT UTILIZATION AND OUTCOME
11 REPORTS AS DIRECTED BY THE DEPARTMENT;

12 (IX) PROVIDE TIMELY ACCESS TO, AND CONTINUITY OF, HEALTH
13 AND LONG-TERM CARE SERVICES FOR ENROLLEES;

14 (X) DEMONSTRATE ORGANIZATIONAL CAPACITY TO PROVIDE
15 SPECIAL POPULATION SERVICES, INCLUDING OUTREACH, CASE MANAGEMENT, AND
16 HOME VISITING, DESIGNED TO MEET THE INDIVIDUAL NEEDS OF ALL ENROLLEES;

17 (XI) PROVIDE ASSISTANCE TO ENROLLEES IN SECURING
18 NECESSARY HEALTH AND LONG-TERM CARE SERVICES; AND

19 (XII) COMPLY WITH ALL RELEVANT PROVISIONS OF THE FEDERAL
20 BALANCED BUDGET ACT OF 1997 (P.L. 105-33).

21 (L) A COMMUNITY CARE ORGANIZATION MAY NOT HAVE FACE-TO-FACE OR
22 TELEPHONE CONTACT OR OTHERWISE SOLICIT AN INDIVIDUAL FOR THE PURPOSE
23 OF ENROLLMENT UNDER THE PROGRAM.

24 (M) (1) IN ARRANGING FOR THE BENEFITS REQUIRED UNDER SUBSECTION
25 (D) OF THIS SECTION, THE COMMUNITY CARE ORGANIZATION SHALL:

26 (I) A. REIMBURSE NURSING HOMES NOT LESS THAN THE
27 MEDICAID-ESTABLISHED RATE BASED ON THE WAIVER RECIPIENT'S MEDICAL
28 CONDITION PLUS ALLOWABLE ANCILLARY SERVICES, AS ESTABLISHED BY THE
29 DEPARTMENT BASED ON ITS NURSING HOME MEDICAID RATE SETTING
30 METHODOLOGY; OR

31 B. FOR WAIVER RECIPIENTS THAT WOULD HAVE BEEN PAID
32 BY THE MEDICARE PROGRAM FOR SERVICES PROVIDED, REIMBURSE NURSING
33 HOMES NOT LESS THAN THE APPLICABLE REIMBURSEMENT RATE PAYABLE BY
34 MEDICARE FOR THAT WAIVER RECIPIENT;

35 (II) REIMBURSE NURSING HOMES IN ACCORDANCE WITH THE
36 DEPARTMENT'S POLICY ON LEAVE OF ABSENCE AS PROVIDED UNDER § 15-117 OF
37 THIS SUBTITLE;

1 (III) REIMBURSE ADULT DAY CARE FACILITIES NOT LESS THAN THE
2 RATE DETERMINED BY THE DEPARTMENT FOR THE MEDICAL ASSISTANCE PROGRAM;

3 (IV) REIMBURSE HOSPITALS IN ACCORDANCE WITH THE RATES
4 ESTABLISHED BY THE HEALTH SERVICES COST REVIEW COMMISSION;

5 (V) FOR ENROLLEES WITH COMPLEX, LONG-TERM CARE NEEDS,
6 USE A COMPREHENSIVE CARE AND SUPPORT MANAGEMENT TEAM, INCLUDING THE
7 PRIMARY CARE PROVIDER, NURSE MANAGER, CASE MANAGER, AND OTHERS AS
8 APPROPRIATE; AND

9 (VI) REIMBURSE A HOSPITAL EMERGENCY FACILITY AND PROVIDER
10 FOR:

11 1. HEALTH CARE SERVICES THAT MEET THE DEFINITION OF
12 EMERGENCY SERVICES UNDER § 19-701 OF THIS ARTICLE;

13 2. MEDICAL SCREENING SERVICES RENDERED TO MEET THE
14 REQUIREMENTS OF THE FEDERAL EMERGENCY MEDICAL TREATMENT AND ACTIVE
15 LABOR ACT;

16 3. MEDICALLY NECESSARY SERVICES IF THE COMMUNITY
17 CARE ORGANIZATION AUTHORIZED, REFERRED, OR OTHERWISE ALLOWED THE
18 ENROLLEE TO USE THE EMERGENCY FACILITY AND THE MEDICALLY NECESSARY
19 SERVICES ARE RELATED TO THE CONDITION FOR WHICH THE ENROLLEE WAS
20 ALLOWED TO USE THE EMERGENCY FACILITY; AND

21 4. MEDICALLY NECESSARY SERVICES THAT RELATE TO THE
22 CONDITION PRESENTED AND THAT ARE PROVIDED BY THE PROVIDER IN THE
23 EMERGENCY FACILITY TO THE ENROLLEE IF THE COMMUNITY CARE ORGANIZATION
24 FAILS TO PROVIDE 24-HOUR ACCESS TO A PHYSICIAN AS REQUIRED BY THE
25 DEPARTMENT.

26 (2) A PROVIDER MAY NOT BE REQUIRED TO OBTAIN PRIOR
27 AUTHORIZATION OR APPROVAL FOR PAYMENT FROM A COMMUNITY CARE
28 ORGANIZATION IN ORDER TO OBTAIN REIMBURSEMENT UNDER PARAGRAPH (1) (VI)
29 OF THIS SUBSECTION.

30 (3) NOTHING IN THIS SUBSECTION PROHIBITS A COMMUNITY CARE
31 ORGANIZATION FROM PROVIDING A BONUS OR INCENTIVE FOR QUALITY
32 IMPROVEMENTS.

33 (N) SAVINGS FROM THE PROGRAM DEVELOPED UNDER THIS SECTION ~~MAY~~
34 SHALL BE USED TO:

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

1 (2) INCREASE REIMBURSEMENT RATES TO COMMUNITY PROVIDERS;

2 AND

3 (3) DEVELOP A STATEWIDE SINGLE POINT-OF-ENTRY SYSTEM
4 CONSISTING OF A DESIGNATED ENTITY IN EACH COUNTY AND BALTIMORE CITY TO:

5 (I) ACCEPT APPLICATIONS;

6 (II) MAKE ALL ELIGIBILITY DETERMINATIONS;

7 (III) ENROLL INDIVIDUALS IN THE PROGRAM; AND

8 (IV) PROVIDE COORDINATED SERVICES, INCLUDING:

9 1. LEVEL-OF-CARE DETERMINATIONS;

10 2. FINANCIAL DETERMINATIONS;

11 3. PLAN OF CARE DETERMINATIONS;

12 4. CASE MANAGEMENT SERVICES; AND

13 5. OTHER SERVICES AS NEEDED.

14 (O) IN DEVELOPING THE WAIVER APPLICATION AND REGULATIONS UNDER
15 THIS SECTION, THE DEPARTMENT SHALL SOLICIT INPUT FROM, AND CONSULT WITH,
16 REPRESENTATIVES OF INTERESTED AND AFFECTED PARTIES, INCLUDING:

17 (1) LEGISLATORS;

18 (2) AFFECTED STATE AGENCIES;

19 (3) PROVIDERS WITH EXPERTISE IN DEMENTIA, GERIATRICS,
20 END-OF-LIFE CARE, AND MENTAL HEALTH;

21 (4) LONG-TERM CARE PROVIDERS;

22 (5) MANAGED CARE ORGANIZATIONS;

23 (6) ACUTE CARE PROVIDERS;

24 (7) LAY CARE GIVERS;

25 (8) ADVOCATES FOR WAIVER-ELIGIBLE CANDIDATES; AND

26 (9) CONSUMERS.

27 (P) IN DEVELOPING THE WAIVER APPLICATION UNDER THIS SECTION, THE
28 DEPARTMENT SHALL:

29 (1) DETERMINE WHETHER IT IS IN THE BEST INTEREST OF WAIVER
30 ENROLLEES TO PROVIDE FOR A STANDARD PRESCRIPTION DRUG FORMULARY AND

1 DRUG UTILIZATION REVIEW FOR MEDICALLY NECESSARY DRUGS FOR WAIVER AND
 2 NONWAIVER RECIPIENTS IN NURSING HOMES; AND

3 (2) CONSIDER MAINTAINING THE SAME NURSING HOME PRESCRIPTION
 4 DRUG BENEFIT AND UTILIZATION REVIEW FOR ALL NURSING HOME RESIDENTS
 5 UNTIL FEDERAL IMPLEMENTATION OF THE MEDICARE PRESCRIPTION DRUG,
 6 IMPROVEMENT, AND MODERNIZATION ACT OF 2003.

7 ~~(P)~~ (Q) THE DEPARTMENT SHALL OBTAIN LEGISLATIVE APPROVAL, PRIOR
 8 TO APPLYING TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR ANY
 9 WAIVER UNDER § 1115 OR § 1915(C) OF THE FEDERAL SOCIAL SECURITY ACT THE
 10 WAIVER UNDER THIS SECTION, SUBMIT THE PROPOSED WAIVER TO THE
 11 LEGISLATIVE POLICY COMMITTEE FOR ITS REVIEW AND COMMENT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That, in developing the
 13 requirements for certification under § 15-141(k) of the Health - General Article, as
 14 enacted by Section 1 of this Act, the Department of Health and Mental Hygiene shall
 15 study ways to provide incentives for community care organizations that are locally
 16 owned, controlled, and operated, and shall report to the Senate Finance Committee
 17 and the House Health and Government Operations Committee, in accordance with §
 18 2-1246 of the State Government Article, on or before September 30, 2004.

19 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That the Department of
 20 Health and Mental Hygiene ~~and the Department of Aging shall develop a plan to~~
 21 ~~assist local area agencies on aging under § 15-132(l) of the Health - General Article,~~
 22 ~~as added by this Act, in recruiting staff, assisting with enrollment services, and~~
 23 ~~monitoring providers, and for updating the provider system to account for differences~~
 24 ~~in provider size and type. The Department shall report its findings and~~
 25 ~~recommendations to the Governor and, subject to § 2-1246 of the State Government~~
 26 ~~Article, to the Senate Finance Committee and the House Health and Government~~
 27 ~~Operations Committee on or before December 1, 2004 shall annually report to the~~
 28 General Assembly beginning on December 1, 2004, in accordance with § 2-1246 of the
 29 State Government Article, on the status of the program developed under § 15-141 of
 30 the Health - General Article as enacted by this Act.

31 ~~SECTION 3. 4.~~ AND BE IT FURTHER ENACTED, That the Department of
 32 Health and Mental Hygiene shall initially submit emergency regulations to begin
 33 implementation of the program developed under § 15-141 of the Health - General
 34 Article as enacted by this Act.

35 ~~SECTION 4. 5.~~ AND BE IT FURTHER ENACTED, That unless further action is
 36 taken by the General Assembly, the program developed under § 15-141 of the Health
 37 - General Article as enacted by this Act shall terminate at the end of May 31, 2008.

38 ~~SECTION 3. 5. 6.~~ AND BE IT FURTHER ENACTED, That this Act shall take
 39 effect June 1, 2004.

