

HOUSE BILL 951

J1, O3

8lr2480

By: **Delegates Kullen, Bromwell, Costa, Gaines, Hubbard, Kipke, Montgomery, Nathan-Pulliam, Pena-Melnyk, Taylor, and V. Turner**

Introduced and read first time: February 7, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Living at Home Waiver Program – Case Management – Eligibility**

3 FOR the purpose of requiring nursing facilities to notify a certain case management
4 entity when certain individuals are admitted under certain circumstances;
5 requiring certain nursing facilities to allow certain representatives of a case
6 management entity access to certain nursing facilities; providing for the
7 development of a certain transition plan if certain individuals are eligible for a
8 certain program; requiring a certain case management entity to provide
9 outreach and training to certain nursing facility operators and staff; defining
10 certain terms; and generally relating to the living at home waiver and case
11 management services.

12 BY adding to

13 Article – Health – General

14 Section 15–135.1

15 Annotated Code of Maryland

16 (2005 Replacement Volume and 2007 Supplement)

17 Preamble

18 WHEREAS, New requirements by the Centers for Medicaid and Medicaid
19 Services regarding Targeted Case Management will become a barrier to transitioning
20 individuals with disabilities from nursing facilities to preferred homes of their own in
21 the community; and

22 WHEREAS, The new requirements impose an unrealistic time frame on
23 transition that cannot be met under current transition time lines and procedures; and

24 WHEREAS, The new requirements are in direct conflict with the intent of the
25 Olmstead Decision (Olmstead v L.L., 527 U.S. 581, (1999)) ruling that the Americans

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 with Disabilities Act may require states to provide community-based services rather
2 than institutional placements for individuals with disabilities; and

3 WHEREAS, The new requirements are contradictory to Maryland's Olmstead
4 response in re-balancing institutional versus community placements for people with
5 disabilities; now, therefore,

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

8 **Article - Health - General**

9 **15-135.1.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
11 MEANINGS INDICATED.

12 (2) "CASE MANAGEMENT ENTITY" MEANS AN AGENCY UNDER
13 CONTRACT WITH THE STATE TO PROVIDE CASE MANAGEMENT SERVICES TO
14 PROGRAM PARTICIPANTS.

15 (3) "NURSING FACILITY" HAS THE MEANING STATED IN §
16 15-132(A)(11) OF THIS SUBTITLE.

17 (4) "PROGRAM" MEANS THE LIVING AT HOME WAIVER
18 PROGRAM.

19 (B) (1) A NURSING FACILITY OPERATOR SHALL NOTIFY THE CASE
20 MANAGEMENT ENTITY WITHIN 24 HOURS OF ADMISSION OF AN INDIVIDUAL
21 WITH A DISABILITY WHO IS ELIGIBLE OR POTENTIALLY ELIGIBLE FOR THE
22 STATE MEDICAL ASSISTANCE PROGRAM.

23 (2) A NURSING FACILITY OPERATOR SHALL ALLOW
24 REPRESENTATIVES OF THE CASE MANAGEMENT ENTITY ACCESS TO THE
25 NURSING FACILITY AND ASSIGN NURSING FACILITY STAFF TO COLLABORATE
26 WITH THE CASE MANAGEMENT ENTITY REPRESENTATIVES TO ASSESS THE
27 INDIVIDUAL'S ELIGIBILITY FOR THE PROGRAM.

28 (3) IF AN INDIVIDUAL IS DEEMED ELIGIBLE FOR THE PROGRAM,
29 CASE MANAGEMENT ENTITY REPRESENTATIVES AND THE ASSIGNED NURSING
30 FACILITY STAFF SHALL DEVELOP A TRANSITION PLAN IN ACCORDANCE WITH
31 THE INDIVIDUAL'S NEEDS AND PREFERENCES.

32 (C) THE CASE MANAGEMENT ENTITY SHALL PROVIDE OUTREACH AND
33 TRAINING TO NURSING FACILITY OPERATORS AND ASSIGNED DISCHARGE

1 PLANNING STAFF TO FACILITATE THE IDENTIFICATION OF INDIVIDUALS
2 ELIGIBLE FOR TRANSITION SERVICES UPON ADMISSION TO THE NURSING
3 FACILITY.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2008.