

# HOUSE BILL 1119

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CF SB 761

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By: **Delegates V. Turner, Barnes, Benson, Ivey, Kullen, Montgomery, Nathan-Pulliam, Oaks, Pena-Melnyk, Reznik, Tarrant, Valderrama, Walker, and Weldon**

Introduced and read first time: February 13, 2009

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Federal Waiver – Waiver for**  
3 **Medicaid Coordinated Long-Term Care Program**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to apply  
5 for a certain waiver under the federal Social Security Act on or before a certain  
6 date; requiring a certain waiver to include certain goals and objectives;  
7 requiring a certain waiver to include certain benefits and consumer protections  
8 regarding the choice of certain long-term care facilities; requiring certain  
9 coordinated care organizations to reimburse certain facilities at certain rates;  
10 requiring certain coordinated care organizations to meet certain certification  
11 requirements; requiring the Department to report annually on the status of a  
12 certain program; defining certain terms; and generally relating to long-term  
13 care eligibility requirements and waiver services in the Maryland Medical  
14 Assistance Program.

15 BY adding to  
16 Article – Health – General  
17 Section 15–141.1  
18 Annotated Code of Maryland  
19 (2005 Replacement Volume and 2008 Supplement)

20 Preamble

21 WHEREAS, The General Assembly required the Department of Health and  
22 Mental Hygiene to submit to the Center for Medicare and Medicaid Services a waiver  
23 to implement the “Community Choice Program” by passage of Senate Bill 819 of 2004,  
24 which was vetoed by the Governor; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, On December 28, 2004, the Governor called the General Assembly  
2 into Special Session and the General Assembly overrode the Governor's veto of Senate  
3 Bill 819 of 2004 to ensure the implementation of the Community Choice Program; and

4 WHEREAS, Some of the goals and objectives of the Community Choice Program  
5 were to enhance the quality of care and quality of life of recipients of long-term care  
6 services in the State and to utilize State health care dollars effectively; and

7 WHEREAS, There was significant stakeholder involvement in the development  
8 of the draft waiver authorized by Senate Bill 819 of 2004; and

9 WHEREAS, The Community Choice Program has not been implemented as  
10 required; and

11 WHEREAS, According to the Department of Health and Mental Hygiene the  
12 current system of delivering Medicaid benefits to recipients of long-term care services  
13 is not well coordinated, does not meet consumers' needs, and requires better  
14 coordination and integration to improve quality outcomes and save money at the same  
15 time; now, therefore,

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

18 **Article - Health - General**

19 **15-141.1.**

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
21 MEANINGS INDICATED.

22 (2) "COORDINATED CARE ORGANIZATION" MEANS AN  
23 ORGANIZATION APPROVED BY THE DEPARTMENT THAT ARRANGES FOR HEALTH  
24 CARE SERVICES WITH THE GOAL OF PROMOTING THE DELIVERY OF SERVICES IN  
25 THE MOST APPROPRIATE, COST-EFFECTIVE SETTING.

26 (3) "COORDINATED LONG-TERM CARE PROGRAM" MEANS A  
27 PROGRAM THAT DELIVERS SERVICES IN ACCORDANCE WITH THE WAIVER  
28 DEVELOPED UNDER THIS SECTION.

29 (B) (1) ON OR BEFORE DECEMBER 1, 2009, THE DEPARTMENT SHALL  
30 APPLY FOR A WAIVER UNDER THE FEDERAL SOCIAL SECURITY ACT.

31 (2) AS PERMITTED BY FEDERAL LAW OR WAIVER, THE  
32 SECRETARY MAY ESTABLISH A PROGRAM UNDER WHICH MARYLAND MEDICAL  
33 ASSISTANCE PROGRAM RECIPIENTS ARE REQUIRED TO ENROLL IN A  
34 COORDINATED LONG-TERM CARE PROGRAM.

1           **(C) (1) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL**  
2 **INCLUDE THE SAME GOALS AND OBJECTIVES SET FORTH IN § 15-141(C) OF THIS**  
3 **SUBTITLE.**

4           **(2) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL**  
5 **INCLUDE THE SAME BENEFITS AND CONSUMER PROTECTIONS CONSISTENT**  
6 **WITH § 15-141 OF THIS SUBTITLE, INCLUDING:**

7                   **(I) EACH ENROLLEE RECEIVING SERVICES IN A NURSING**  
8 **HOME, AN ASSISTED LIVING FACILITY, AN ADULT DAY CARE FACILITY, A**  
9 **PSYCHIATRIC REHABILITATION PROGRAM, OR A RESIDENTIAL REHABILITATION**  
10 **PROGRAM SHALL HAVE THE OPTION OF REMAINING IN THE NURSING HOME, AN**  
11 **ASSISTED LIVING FACILITY, AN ADULT DAY CARE FACILITY, A PSYCHIATRIC**  
12 **REHABILITATION PROGRAM, OR A RESIDENTIAL REHABILITATION PROGRAM;**  
13 **AND**

14                   **(II) TO THE EXTENT PRACTICABLE, ALLOW WAIVER**  
15 **ENROLLEES WHO MEET THE NURSING HOME LEVEL OF CARE TO SELECT A**  
16 **NURSING HOME, AN ASSISTED LIVING FACILITY, OR AN ADULT DAY CARE**  
17 **FACILITY PROVIDED THAT:**

18                           **1. THE NURSING HOME, ASSISTED LIVING FACILITY,**  
19 **OR ADULT DAY CARE FACILITY IS LICENSED BY THE DEPARTMENT; AND**

20                           **2. THE PROVIDER MEETS THE DEPARTMENT**  
21 **APPROVED CREDENTIALING REQUIREMENTS OF THE LONG-TERM CARE ENTITY.**

22           **(D) IN ARRANGING FOR THE BENEFITS REQUIRED UNDER THE WAIVER**  
23 **PROGRAM, THE COORDINATED CARE ORGANIZATION SHALL:**

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

29                   **(II) FOR WAIVER RECIPIENTS THAT WOULD HAVE BEEN**  
30 **PAID BY THE MEDICARE PROGRAM FOR SERVICES PROVIDED, REIMBURSE**  
31 **NURSING HOMES NOT LESS THAN THE APPLICABLE REIMBURSEMENT RATE**  
32 **PAYABLE BY MEDICARE FOR THAT WAIVER RECIPIENT;**

1                   **(2) REIMBURSE NURSING HOMES IN ACCORDANCE WITH THE**  
2 **DEPARTMENT'S POLICY ON LEAVE OF ABSENCE AS PROVIDED UNDER § 15-117**  
3 **OF THIS SUBTITLE; AND**

4                   **(3) REIMBURSE ADULT DAY CARE FACILITIES NOT LESS THAN**  
5 **THE RATE DETERMINED BY THE DEPARTMENT FOR THE MARYLAND MEDICAL**  
6 **ASSISTANCE PROGRAM.**

7                   **(E) EACH COORDINATED CARE ORGANIZATION SHALL MEET THE SAME**  
8 **REQUIREMENTS FOR CERTIFICATION AS SET FORTH IN § 15-141 OF THIS**  
9 **SUBTITLE.**

10                   **(F) BEGINNING ON DECEMBER 1, 2009, THE DEPARTMENT SHALL**  
11 **ANNUALLY REPORT TO, IN ACCORDANCE WITH § 2-1246 OF THE STATE**  
12 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE STATUS OF THE**  
13 **PROGRAM DEVELOPED UNDER THIS SECTION.**

14                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 June 1, 2009.