

SENATE BILL 761

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By: **Senators Middleton, Klausmeier, Kramer, and Stoltzfus**

Introduced and read first time: February 6, 2009

Assigned to: Finance

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

6 WHEREAS, The Community Choice Program has not been implemented as
7 required; and

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

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

15 **Article - Health - General**

16 **15-141.1.**

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
18 MEANINGS INDICATED.

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

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

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

28 (2) AS PERMITTED BY FEDERAL LAW OR WAIVER, THE
29 SECRETARY MAY ESTABLISH A PROGRAM UNDER WHICH MARYLAND MEDICAL
30 ASSISTANCE PROGRAM RECIPIENTS ARE REQUIRED TO ENROLL IN A
31 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;

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

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

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

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

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