

SENATE BILL 429

J1

(0lr0522)

ENROLLED BILL

— Finance/Health and Government Operations —

Introduced by **Senators Kelley and Conway**

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 **Maryland Medical Assistance Program – Medical Eligibility for Nursing**
3 **Facility Level of Care – Report**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to
5 ~~determine that certain individuals are medically eligible for certain services~~
6 ~~under certain circumstances; requiring the Department to allow individuals to~~
7 ~~submit certain information under certain circumstances~~ provide a certain report
8 to certain committees of the General Assembly and the Medicaid Advisory
9 Committee within a certain time period prior to making any change to medical
10 eligibility for certain Medical Assistance Program long-term care services;
11 requiring the Department to discuss certain reports submitted to the Medicaid
12 Advisory Committee at a meeting of the Committee; defining a certain ~~terms~~
13 term; and generally relating to medical eligibility for nursing facility level of
14 care under the Maryland Medical Assistance Program.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, without amendments,
 2 Article – Health – General
 3 Section 1–101(a) and (c) and 15–101(a) and (h)
 4 Annotated Code of Maryland
 5 (2009 Replacement Volume)

6 BY adding to
 7 Article – Health – General
 8 Section 15–146
 9 Annotated Code of Maryland
 10 (2009 Replacement Volume)

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

13 **Article – Health – General**

14 1–101.

15 (a) In this article the following words have the meanings indicated.

16 (c) “Department” means the Department of Health and Mental Hygiene.

17 15–101.

18 (a) In this title the following words have the meanings indicated.

19 (h) “Program” means the Maryland Medical Assistance Program.

20 **15–146.**

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

23 ~~(2) “ACTIVITIES OF DAILY LIVING” MEANS BATHING, DRESSING,~~
 24 ~~MOBILITY, TRANSFER, TOILETING OR CONTINENCE, AND EATING.~~

25 ~~(3) “HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM~~
 26 ~~AND BOARD” MEANS:~~

27 ~~(i) CARE OF AN INDIVIDUAL WHO REQUIRES HANDS ON~~
 28 ~~ASSISTANCE TO PERFORM ADEQUATELY AND SAFELY TWO OR MORE ACTIVITIES~~
 29 ~~OF DAILY LIVING AS A RESULT OF A CURRENT MEDICAL CONDITION OR~~
 30 ~~DISABILITY;~~

~~(H) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING FOR AN INDIVIDUAL:~~

~~1. WITH COGNITIVE DEFICITS, AS INDICATED BY A SCORE OF 15 OR LESS ON THE FOLSTEIN MINI MENTAL STATUS EVALUATION OR AN EQUIVALENT DETERMINATION MADE BY A LICENSED PHYSICIAN, PSYCHOLOGIST, OR CERTIFIED SOCIAL WORKER CLINICAL; AND~~

~~2. WHO IS IN NEED OF ASSISTANCE WITH AT LEAST THREE INSTRUMENTAL ACTIVITIES OF DAILY LIVING; OR~~

~~(HH) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF TWO OR MORE ACTIVITIES OF DAILY LIVING COMBINED WITH THE NEED FOR SUPERVISION OF OR REDIRECTION FOR AN INDIVIDUAL WHO EXHIBITS AT LEAST TWO OF THE FOLLOWING BEHAVIORAL PROBLEMS:~~

~~1. WANDERING SEVERAL TIMES A DAY;~~

~~2. HALLUCINATIONS OR DELUSIONS AT LEAST WEEKLY;~~

~~3. AGGRESSIVE OR ABUSIVE BEHAVIOR SEVERAL TIMES A WEEK;~~

~~4. DISRUPTIVE OR SOCIALLY INAPPROPRIATE BEHAVIOR SEVERAL TIMES A WEEK; OR~~

~~5. SELF INJURIOUS BEHAVIOR SEVERAL TIMES A MONTH.~~

~~(4) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS TELEPHONE USE, MONEY MANAGEMENT, HOUSEKEEPING, AND MEDICATION MANAGEMENT.~~

~~(B) (1) THE DEPARTMENT SHALL DETERMINE THAT AN INDIVIDUAL IS MEDICALLY ELIGIBLE FOR NURSING FACILITY SERVICES OR FOR A NURSING FACILITY LEVEL OF CARE UNDER THE PROGRAM IF THE INDIVIDUAL REQUIRES, ON A REGULAR BASIS, HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD.~~

~~(2) IF AN INDIVIDUAL DOES NOT DEMONSTRATE THE CLINICAL NEED FOR HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD ON A REGULAR BASIS, THE DEPARTMENT SHALL PERMIT THE INDIVIDUAL TO SUBMIT ADDITIONAL INFORMATION FOR CLINICAL REVIEW TO~~

1 ~~DEMONSTRATE ELIGIBILITY UNDER APPLICABLE FEDERAL OR STATE~~
2 ~~REGULATIONS.~~

3 (A) IN THIS SECTION, "HOME- AND COMMUNITY-BASED WAIVER
4 SERVICES" INCLUDE INCLUDES SERVICES PROVIDED UNDER THE LIVING AT
5 HOME WAIVER, THE OLDER ADULTS WAIVER, AND THE MEDICAL DAY CARE
6 WAIVER.

7 (B) AT LEAST 90 DAYS PRIOR TO MAKING ANY CHANGE TO MEDICAL
8 ELIGIBILITY FOR PROGRAM LONG-TERM CARE SERVICES, INCLUDING NURSING
9 FACILITY SERVICES, HOME- AND COMMUNITY-BASED WAIVER SERVICES, AND
10 OTHER SERVICES THAT REQUIRE A NURSING FACILITY LEVEL OF CARE, THE
11 DEPARTMENT SHALL PROVIDE A REPORT TO:

12 (1) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH
13 AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246
14 OF THE STATE GOVERNMENT ARTICLE; AND

15 (2) THE MEDICAID ADVISORY COMMITTEE.

16 (C) THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION
17 SHALL INCLUDE:

18 (1) THE DETAILS OF THE INTENDED CHANGE IN MEDICAL
19 ELIGIBILITY;

20 (2) A DESCRIPTION OF HOW THE INTENDED CHANGE WILL
21 AFFECT CURRENT MEDICAL ELIGIBILITY;

22 (3) THE INTENDED EFFECTIVE DATE OF THE CHANGE; AND

23 (4) WHETHER THE CHANGE WILL BE PURSUED THROUGH
24 DEPARTMENTAL POLICY, BY REGULATION, OR BY STATUTE.

25 (D) THE DEPARTMENT SHALL DISCUSS ANY REPORT SUBMITTED TO
26 THE MEDICAID ADVISORY COMMITTEE UNDER SUBSECTION (B) OF THIS
27 SECTION AT A MEETING OF THE MEDICAID ADVISORY COMMITTEE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 July 1, 2010.