

# SENATE BILL 429

J1

0lr0522  
CF HB 278

---

By: **Senators Kelley and Conway**

Introduced and read first time: January 29, 2010

Assigned to: Finance

---

## A BILL ENTITLED

1 AN ACT concerning

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

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; defining certain terms;  
8 and generally relating to medical eligibility for nursing facility level of care  
9 under the Maryland Medical Assistance Program.

10 BY repealing and reenacting, without amendments,  
11 Article – Health – General  
12 Section 1–101(a) and (c) and 15–101(a) and (h)  
13 Annotated Code of Maryland  
14 (2009 Replacement Volume)

15 BY adding to  
16 Article – Health – General  
17 Section 15–146  
18 Annotated Code of Maryland  
19 (2009 Replacement Volume)

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

22 **Article – Health – General**

23 1–101.

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) "Department" means the Department of Health and Mental Hygiene.

2 15-101.

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

4 (h) "Program" means the Maryland Medical Assistance Program.

5 **15-146.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
7 MEANINGS INDICATED.

8 (2) "ACTIVITIES OF DAILY LIVING" MEANS BATHING, DRESSING,  
9 MOBILITY, TRANSFER, TOILETING OR CONTINENCE, AND EATING.

10 (3) "HEALTH-RELATED SERVICES ABOVE THE LEVEL OF ROOM  
11 AND BOARD" MEANS:

12 (I) CARE OF AN INDIVIDUAL WHO REQUIRES HANDS-ON  
13 ASSISTANCE TO PERFORM ADEQUATELY AND SAFELY TWO OR MORE ACTIVITIES  
14 OF DAILY LIVING AS A RESULT OF A CURRENT MEDICAL CONDITION OR  
15 DISABILITY;

16 (II) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF  
17 TWO OR MORE ACTIVITIES OF DAILY LIVING FOR AN INDIVIDUAL:

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

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

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

28 1. WANDERING SEVERAL TIMES A DAY;

29 2. HALLUCINATIONS OR DELUSIONS AT LEAST  
30 WEEKLY;

1                                   3.    **AGGRESSIVE OR ABUSIVE BEHAVIOR SEVERAL**  
2 **TIMES A WEEK;**

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

5                                   5.    **SELF-INJURIOUS BEHAVIOR SEVERAL TIMES A**  
6 **MONTH.**

7                   (4)    **“INSTRUMENTAL ACTIVITIES OF DAILY LIVING” MEANS**  
8 **TELEPHONE USE, MONEY MANAGEMENT, HOUSEKEEPING, AND MEDICATION**  
9 **MANAGEMENT.**

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

15                   **(2) IF AN INDIVIDUAL DOES NOT DEMONSTRATE THE CLINICAL**  
16 **NEED FOR HEALTH-RELATED SERVICES ABOVE THE LEVEL OF ROOM AND**  
17 **BOARD ON A REGULAR BASIS, THE DEPARTMENT SHALL PERMIT THE**  
18 **INDIVIDUAL TO SUBMIT ADDITIONAL INFORMATION FOR CLINICAL REVIEW TO**  
19 **DEMONSTRATE ELIGIBILITY UNDER APPLICABLE FEDERAL OR STATE**  
20 **REGULATIONS.**

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