

Chapter 442

(House Bill 849)

AN ACT concerning

Department of Health and Mental Hygiene – Home– and Community–Based Services Waiver – Denial of Access Prohibited

FOR the purpose of prohibiting the Department of Health and Mental Hygiene from denying an individual access to a home– and community–based services waiver due to lack of funding if, in addition to existing criteria, ~~the individual is eligible for a certain number of days of nursing facility services~~ a certain number of days of the individual's nursing facility stay are eligible to be paid for by the Maryland Medical Assistance Program; making a technical correction; and generally relating to the Department of Health and Mental Hygiene and the home– and community–based services waiver.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 15–137

Annotated Code of Maryland

(2009 Replacement Volume)

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

Article – Health – General

15–137.

(a) The Department may not deny an individual access to a home– and community–based services waiver due to a lack of funding for waiver services if:

(1) The individual is living in a nursing [home] **FACILITY** at the time of the application for waiver services;

~~(2) The [nursing home services for the] individual [were paid] **IS ELIGIBLE FOR 30 DAYS OF NURSING FACILITY SERVICES PAID FOR** by the Program [for at least 30 consecutive days immediately prior to the application];~~

(2) AT LEAST 30 CONSECUTIVE DAYS OF THE INDIVIDUAL'S NURSING FACILITY STAY ARE ELIGIBLE TO BE PAID FOR BY THE PROGRAM;

(3) The individual meets all of the eligibility criteria for participation in the home— and community—based services waiver; and

(4) The home— and community—based services provided to the individual would qualify for federal matching funds.

(b) Nothing in this section is intended to result in a reduction of federal funds available to the Department.

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

Approved by the Governor, May 4, 2010.