

SENATE BILL 97

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By: **Senator Kelley**

Introduced and read first time: January 16, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Eligibility Determinations**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to send a
4 certain notice of a right to appeal if the Department does not render an
5 eligibility determination for an applicant for benefits and services from the
6 Maryland Medical Assistance Program within a certain period of time;
7 requiring the Department to render an eligibility determination for an applicant
8 at a certain hearing under certain circumstances; requiring the Department to
9 provide a certain applicant with a detailed list of certain information; requiring
10 the Department to give an applicant a certain period of time to provide certain
11 information before rendering an eligibility determination; requiring the
12 Department to render an eligibility determination for an applicant within a
13 certain period of time after receiving certain information; requiring the
14 Department and the Department of Human Resources to submit certain budget
15 estimates in a certain manner; providing that a certain budget estimate shall be
16 considered a certain estimate prescribed by law; requiring the Department and
17 the Department of Human Resources to report certain information to the
18 General Assembly on or before the first day of each month; defining a certain
19 term; and generally relating to eligibility determinations for the Maryland
20 Medical Assistance Program.

21 BY adding to
22 Article – Health – General
23 Section 15–147
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2011 Supplement)

26 Preamble

27 WHEREAS, Despite State regulations that require applications for benefits
28 through the Maryland Medical Assistance Program to be processed within 30 days or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 60 days if a disability determination is necessary, the applications are not processed
2 by the State within the required time frames; and

3 WHEREAS, Despite federal regulations that require applications for long-term
4 care services through Medicaid to be processed within 45 days, the applications are
5 not processed by the State within the required time frame; and

6 WHEREAS, Chapters 613 and 614 of the Acts of the General Assembly of 2008
7 required the Department of Health and Mental Hygiene and the Department of
8 Human Resources to create uniform procedures, guidelines, and forms to be used by
9 all employees in the determination of Maryland Medical Assistance Program eligibility
10 for long-term care services; and

11 WHEREAS, Marylanders in need of long-term care services through the
12 Maryland Medical Assistance Program are not having their applications for benefits
13 processed in accordance with the timelines prescribed in federal law and State
14 regulations; and

15 WHEREAS, Marylanders in need of long-term care services through the
16 Maryland Medical Assistance Program are facing involuntary discharge from nursing
17 homes for nonpayment as a result of their applications not being processed by the
18 State in a timely manner; and

19 WHEREAS, Many nursing facilities participating in the Maryland Medical
20 Assistance Program do not receive timely payment for the critically essential medical
21 services that they provide; and

22 WHEREAS, Marylanders are facing undue delays in obtaining access to
23 Medicaid home- and community-based services waivers under § 15-137 of the Health
24 – General Article and are unable to exercise their right to a timely transition from a
25 nursing home as a result of their eligibility applications not being processed in a
26 timely manner; and

27 WHEREAS, The right to a hearing before an administrative law judge under
28 the Administrative Procedure Act for failing to act promptly on an eligibility
29 application is not resulting in expedited eligibility determinations, but instead is
30 adding months of additional delay; now, therefore,

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

33 **Article – Health – General**

34 **15-147.**

35 **(A) IN THIS SECTION, “APPLICANT” MEANS AN INDIVIDUAL APPLYING**
36 **TO RECEIVE BENEFITS AND SERVICES THROUGH THE PROGRAM.**

1 **(B) IF THE DEPARTMENT DOES NOT RENDER AN ELIGIBILITY**
2 **DETERMINATION UNDER THE PROGRAM FOR AN APPLICANT WITHIN THE TIME**
3 **SPECIFIED IN THE CODE OF MARYLAND REGULATIONS OR UNDER FEDERAL**
4 **LAW, THE DEPARTMENT PROMPTLY SHALL SEND A NOTICE TO THE APPLICANT**
5 **AND THE REPRESENTATIVE OF THE APPLICANT OF THE RIGHT OF THE**
6 **APPLICANT TO APPEAL FOR FAILURE OF THE DEPARTMENT TO ACT WITH**
7 **REASONABLE PROMPTNESS.**

8 **(C) (1) THE DEPARTMENT SHALL RENDER AN ELIGIBILITY**
9 **DETERMINATION FOR AN APPLICANT AT AN ADMINISTRATIVE HEARING HELD**
10 **FOR FAILURE TO ACT WITH REASONABLE PROMPTNESS, UNLESS:**

11 **(I) THE DEPARTMENT NEEDS ADDITIONAL INFORMATION**
12 **FROM THE APPLICANT TO MAKE THE ELIGIBILITY DETERMINATION; AND**

13 **(II) THE APPLICANT DOES NOT HAVE THE ADDITIONAL**
14 **INFORMATION NEEDED AT THE HEARING.**

15 **(2) (I) IF THE DEPARTMENT NEEDS ADDITIONAL**
16 **INFORMATION TO MAKE AN ELIGIBILITY DETERMINATION AT AN**
17 **ADMINISTRATIVE HEARING HELD FOR FAILURE TO ACT WITH REASONABLE**
18 **PROMPTNESS, THE DEPARTMENT SHALL:**

19 **1. PROVIDE TO THE APPLICANT AT THE HEARING A**
20 **DETAILED LIST OF ALL INFORMATION THAT IS NEEDED; AND**

21 **2. GIVE THE APPLICANT 30 DAYS TO PROVIDE THE**
22 **INFORMATION BEFORE THE DEPARTMENT RENDERS AN ELIGIBILITY**
23 **DETERMINATION.**

24 **(II) THE DEPARTMENT SHALL RENDER AN ELIGIBILITY**
25 **DETERMINATION FOR THE APPLICANT WITHIN 30 DAYS AFTER RECEIVING THE**
26 **ADDITIONAL INFORMATION REQUESTED.**

27 **(D) (1) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN**
28 **RESOURCES SHALL SUBMIT BUDGET ESTIMATES TO THE GOVERNOR THAT**
29 **ENABLE THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES TO**
30 **ACHIEVE TIMELY AND ACCURATE ELIGIBILITY DETERMINATIONS WITHIN THE**
31 **TIMELINES ESTABLISHED UNDER THE CODE OF MARYLAND REGULATIONS AND**
32 **FEDERAL LAW.**

1 **(2) A BUDGET ESTIMATE REQUIRED UNDER THIS SUBSECTION**
2 **SHALL BE CONSIDERED AN ESTIMATE PRESCRIBED BY LAW UNDER ARTICLE III,**
3 **§ 52(12) OF THE MARYLAND CONSTITUTION.**

4 **(E) ON OR BEFORE THE FIRST DAY OF EACH MONTH, THE DEPARTMENT**
5 **AND THE DEPARTMENT OF HUMAN RESOURCES SHALL REPORT TO THE**
6 **GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE**
7 **GOVERNMENT ARTICLE, ON:**

8 **(1) THE NUMBER OF APPLICATIONS PENDING FOR THE PROGRAM**
9 **AND THE LENGTH OF TIME EACH APPLICATION HAS BEEN PENDING;**

10 **(2) THE NUMBER OF APPLICATIONS THAT WERE APPROVED IN**
11 **THE PREVIOUS MONTH;**

12 **(3) THE NUMBER OF APPLICATIONS THAT WERE DENIED IN THE**
13 **PREVIOUS MONTH AND THE REASONS FOR THE DENIALS;**

14 **(4) THE NUMBER OF PROGRAM RECIPIENTS WHO PREVIOUSLY**
15 **APPLIED FOR A REDETERMINATION AND WHOSE BENEFITS WERE TERMINATED**
16 **IN THE PREVIOUS MONTH AND THE REASONS FOR THE TERMINATIONS; AND**

17 **(5) THE MEASURES TAKEN BY THE DEPARTMENT AND THE**
18 **DEPARTMENT OF HUMAN RESOURCES TO:**

19 **(I) STREAMLINE THE APPLICATION PROCESS FOR**
20 **LONG-TERM CARE SERVICES THROUGH THE PROGRAM; AND**

21 **(II) ELIMINATE DELAYS IN PROCESSING APPLICATIONS FOR**
22 **LONG-TERM CARE SERVICES THROUGH THE PROGRAM.**

23 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **July 1, 2012.**