

Chapter 390

**(House Bill 1420)**

AN ACT concerning

**Maryland Department of Health – Services for Individuals With Developmental Disabilities – Fee-for-Service Payment Pilot Program**

FOR the purpose of requiring the Maryland Department of Health to establish a fee-for-service payment pilot program; authorizing certain providers to participate in the pilot program; requiring the Department to determine, establish, and publish certain rates for certain services in a certain manner; requiring certain providers to submit a claim for payment for certain services to the Department in a certain manner; establishing certain limitations on payments for certain claims; prohibiting certain providers from knowingly submitting certain false information; requiring certain providers to complete and submit to the Department each year certain financial statements; requiring certain providers to comply with certain provisions of law and certain regulations; requiring certain providers to submit certain information relating to wages and benefits for certain individuals to the Department in a certain manner; authorizing the Department to require certain providers to submit ~~additional reports and~~ certain information on the provision of certain services; authorizing the Department to conduct a certain audit of certain records and to recover overpayments from a provider; ~~requiring the Department to adopt certain regulations~~; defining certain terms; repealing a certain defined term; and generally relating to a fee-for-service payment pilot program for services for individuals with developmental disabilities.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 7-101  
Annotated Code of Maryland  
(2015 Replacement Volume and 2018 Supplement)

BY adding to  
Article – Health – General  
Section 7-308  
Annotated Code of Maryland  
(2015 Replacement Volume and 2018 Supplement)

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

**Article – Health – General**

7-101.

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

(b) “Administration” means the Developmental Disabilities Administration.

(c) (1) “Admission” means the process by which an individual with an intellectual disability is accepted as a resident in a State residential center.

(2) “Admission” includes the physical act of the individual entering the facility.

(d) (1) “Alternative living unit” means a residence that:

(i) Provides residential services for individuals who, because of developmental disability, require specialized living arrangements;

(ii) Admits not more than 3 individuals; and

(iii) Provides 10 or more hours of supervision per unit, per week.

(2) “Alternative living unit” does not include a residence that is owned or rented by:

(i) 1 or more of its residents; or

(ii) A person who:

1. Is an agent for any of the residents; but

2. Is not a provider of residential supervision.

**(E) “CLAIM” HAS THE MEANING STATED IN § 2-601 OF THIS ARTICLE.**

~~(F)~~ **(F)** “Deputy Secretary” means the Deputy Secretary for Developmental Disabilities.

~~(G)~~ **(G)** “Developmental disability” means a severe chronic disability of an individual that:

(1) Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;

(2) Is manifested before the individual attains the age of 22;

(3) Is likely to continue indefinitely;

(4) Results in an inability to live independently without external support or continuing and regular assistance; and

(5) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.

~~(G) “DIRECT SUPPORT PROFESSIONAL” MEANS AN INDIVIDUAL WHO PROVIDES DIRECT CARE SERVICES TO A RECIPIENT.~~

[(g)] (H) “External support” means:

(1) Periodic monitoring of the circumstances of an individual with respect to:

- (i) Personal management;
- (ii) Household management; and
- (iii) The use of community resources; and

(2) Rendering appropriate advice or assistance that may be needed.

**(I) “FEE-FOR-SERVICE” MEANS A METHOD FOR PAYMENT THAT REQUIRES A PERSON TO SUBMIT A CLAIM FOR PAYMENT TO THE DEPARTMENT FOR EACH SERVICE PERFORMED.**

[(h)] (J) “Group home” means a residence that:

(1) Provides residential services for individuals who, because of developmental disability, require specialized living arrangements;

(2) Admits at least 4 but not more than 8 individuals; and

(3) Provides 10 or more hours of supervision per home, per week.

[(i)] (K) “Habilitation” means a process by which a provider of services enables an individual to acquire and maintain life skills to cope more effectively with the demands of the individual’s own person and environment and to raise the level of the individual’s mental, physical, social, and vocational functioning.

[(j)] (L) (1) “Individual support services” means an array of services that are designed to increase or maintain an individual’s ability to live alone or in a family setting.

(2) “Individual support services” include:

- (i) In-home assistance with meals and personal care;
- (ii) Counseling;
- (iii) Physical, occupational, or other therapies;
- (iv) Architectural modification; and
- (v) Any other services that the Administration considers appropriate to meet the individual's needs.

(3) "Individual support services" does not include full day or residential services.

**[(k)] (M)** "Intellectual disability" means a developmental disability that is evidenced by significantly subaverage intellectual functioning and impairment in the adaptive behavior of an individual.

**(N) "KNOWINGLY" HAS THE MEANING STATED IN § 2-601 OF THIS ARTICLE.**

**[(l)] ~~(N)~~ (O)** "Live independently" means:

- (1) For adults:
  - (i) Managing personal care, such as clothing and medication;
  - (ii) Managing a household, such as menu planning, food preparation and shopping, essential care of the premises, and budgeting; and
  - (iii) Using community resources, such as commercial establishments, transportation, and services of public agencies; or
- (2) For minors, functioning in normal settings without the need for supervision or assistance other than supervision or assistance that is age appropriate.

**~~(P)~~ (P) "MEANINGFUL DAY SERVICES" MEANS ~~INDIVIDUALIZED~~ EMPLOYMENT SUPPORTS OR HOME- AND COMMUNITY-BASED SUPPORTS, OTHER THAN RESIDENTIAL SERVICES, THAT ASSIST AN INDIVIDUAL IN DEVELOPING AND MAINTAINING SKILLS, INTERESTS, AND PERSONALIZED CONNECTIONS THAT MAY CREATE OPPORTUNITIES FOR PAID EMPLOYMENT, INCREASED INDEPENDENCE, ~~AND~~ OR MEANINGFUL RELATIONSHIPS WITH OTHER INDIVIDUALS IN THE COMMUNITY.**

**~~(P)~~ (Q) "PROVIDER" MEANS AN INDIVIDUAL WHO IS LICENSED OR CERTIFIED UNDER SUBTITLE 9 OF THIS TITLE AND PROVIDES SERVICES TO A:**

**(1) A RECIPIENT ~~OR AN~~; OR**

**(2) AN INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY WHO RECEIVES FUNDING FOR SERVICES FROM A SOURCE OTHER THAN THE ADMINISTRATION.**

**~~(Q)~~ (R) “RECIPIENT” MEANS AN INDIVIDUAL WHO RECEIVES SERVICES FUNDED BY THE ADMINISTRATION UNDER THIS TITLE.**

**[(m)] ~~(R)~~ (S) “Release” means a permanent, temporary, absolute, or conditional release of an individual from a State residential center.**

**~~(S)~~ (T) “RESIDENTIAL SERVICES” MEANS INDIVIDUALIZED SUPPORT AND SERVICES THAT ASSIST AN INDIVIDUAL IN DEVELOPING SKILLS FOR LIVING INDEPENDENTLY IN THE COMMUNITY THROUGH APPLICATION OF TEACHING METHODS IN A COMMUNITY RESIDENTIAL SETTING AND MAINTAINING SKILLS IN LIVING IN THE COMMUNITY.**

**[(n)] ~~(T)~~ (U) “Services” means residential, day, or other services that provide for evaluation, diagnosis, treatment, care, supervision, assistance, or attention to individuals with developmental disability and that promote habilitation of these individuals.**

**[(o)] ~~(U)~~ (V) “Services coordination” means a service that consists of the following 3 major functions that are designed to assist an individual in obtaining the needed services and programs that the individual desires in order to gain as much control over the individual’s own life as possible:**

- (1) Planning services;
- (2) Coordinating services; and
- (3) Monitoring service delivery to the individual.

**~~(V)~~ (W) “STATE RESIDENTIAL CENTER” MEANS A LICENSED FACILITY OPERATED BY THE STATE THAT PROVIDES RESIDENTIAL AND HABILITATION SERVICES TO INDIVIDUALS WITH AN INTELLECTUAL DISABILITY WHO ARE AT LEAST 18 YEARS OLD AND MEET THE CRITERIA SET FORTH IN § 7-502 OF THIS TITLE.**

**[(p)] “State residential center” means a place that:**

- (1) Is owned and operated by this State;

(2) Provides residential services for individuals with an intellectual disability and who, because of that intellectual disability, require specialized living arrangements; and

(3) Admits 9 or more individuals with an intellectual disability.]

~~(w)~~ **(x)** “SUPPORT SERVICES” MEANS SUPPORTS THAT ASSIST AN INDIVIDUAL TO MAINTAIN OR IMPROVE THE INDIVIDUAL’S FUNCTIONAL ABILITIES, ENHANCE INTERACTIONS, ~~AND ENGAGE IN MEANINGFUL RELATIONSHIPS AND THAT PROMOTE THE INDIVIDUAL’S ABILITY TO LIVE INDEPENDENTLY AND PARTICIPATE MEANINGFULLY IN THE COMMUNITY~~ OR ENGAGE IN MEANINGFUL RELATIONSHIPS IN THE HOME OR COMMUNITY.

[(q)] ~~(x)~~ **(y)** “Treatment” means any education, training, professional care or attention, or other program that is given to an individual with developmental disability.

[(r)] ~~(y)~~ **(z)** “Vocational services” means a service that provides job training and placement, supported employment and training in acceptable work behaviors, and vocationally-related social and other skills.

~~(z)~~ **(aa)** “WAIVER PROGRAM” MEANS EACH MEDICAID HOME- AND COMMUNITY-BASED SERVICES WAIVER FUNDING PROGRAM SUBMITTED BY THE DEPARTMENT AND APPROVED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES IN ACCORDANCE WITH § 1915(C) OF THE SOCIAL SECURITY ACT THAT IS OVERSEEN AND ADMINISTERED BY THE ADMINISTRATION.

~~(aa)~~ **(bb)** “WAIVER PROGRAM SERVICES” MEANS SERVICES FUNDED BY THE ADMINISTRATION IN ACCORDANCE WITH A WAIVER PROGRAM, INCLUDING:

- (1) MEANINGFUL DAY SERVICES;
- (2) RESIDENTIAL SERVICES; AND
- (3) SUPPORT SERVICES.

**7-308.**

**(A)** IN THIS SECTION, “PILOT PROGRAM” MEANS THE FEE-FOR-SERVICE PAYMENT PILOT PROGRAM.

**(B)** THE DEPARTMENT SHALL ESTABLISH A FEE-FOR-SERVICE PAYMENT PILOT PROGRAM.

(C) A PROVIDER THAT PROVIDES WAIVER PROGRAM SERVICES TO INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY WHO ARE ELIGIBLE FOR SERVICES UNDER SUBTITLE 4 OF THIS TITLE MAY PARTICIPATE IN THE PILOT PROGRAM.

(D) THE DEPARTMENT SHALL:

(1) DETERMINE AND ESTABLISH RATES FOR WAIVER PROGRAM SERVICES; AND

(2) PUBLISH THE RATES FOR WAIVER PROGRAM SERVICES, AND ANY SUBSEQUENT CHANGES TO THOSE RATES, IN REGULATION.

(E) (1) A PROVIDER PARTICIPATING IN THE PILOT PROGRAM SHALL SUBMIT A CLAIM FOR PAYMENT TO THE DEPARTMENT ON A FORM THAT THE DEPARTMENT REQUIRES.

(2) PAYMENT FOR A CLAIM IS SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) PAYMENT MAY NOT BE MADE FOR A CLAIM THAT IS RECEIVED BY THE DEPARTMENT MORE THAN 1 CALENDAR YEAR AFTER THE DATE THE SERVICES WERE PROVIDED; AND

(II) A CLAIM THAT IS NOT SUBMITTED WITHIN THE TIME PERIOD REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH MAY NOT BE CHARGED TO THE RECIPIENT OF SERVICES.

(F) A PROVIDER MAY NOT KNOWINGLY SUBMIT TO THE DEPARTMENT:

(1) A FALSE OR FRAUDULENT CLAIM FOR PAYMENT; OR

(2) DOCUMENTATION SUPPORTING A CLAIM THAT CONTAINS FALSE INFORMATION.

(G) (1) A PROVIDER THAT PARTICIPATES IN THE PILOT PROGRAM MUST COMPLETE AND SUBMIT TO THE DEPARTMENT EACH YEAR FINANCIAL STATEMENTS FOR EACH FISCAL YEAR THAT WERE AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(2) A PROVIDER PARTICIPATING IN THE PILOT PROGRAM SHALL SUBMIT INFORMATION REQUIRED BY THE DEPARTMENT, ON A FORM APPROVED BY THE DEPARTMENT, RELATING TO WAGES AND BENEFITS PAID TO DIRECT SUPPORT PROFESSIONALS.

**(3) THE DEPARTMENT MAY REQUIRE A PROVIDER PARTICIPATING IN THE PILOT PROGRAM TO SUBMIT ~~ADDITIONAL REPORTS AND~~ INFORMATION RELATED TO THE PROVISION OF SERVICES TO INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY AS IT RELATES TO THE EXECUTION OF THE PILOT PROGRAM.**

**(H) THE DEPARTMENT MAY:**

**(1) CONDUCT AN AUDIT OF ANY RECORDS SUPPORTING A CLAIM FOR PAYMENT OF A PROVIDER PARTICIPATING IN THE PILOT PROGRAM; AND**

**(2) RECOVER OVERPAYMENTS FROM A PROVIDER.**

**(I) A PROVIDER PARTICIPATING IN THE PILOT PROGRAM SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS GOVERNING FINANCIAL DOCUMENTATION, REPORTING, AND OTHER PAYMENT-RELATED REQUIREMENTS FOR MEDICAID PROVIDERS.**

~~**(J) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE PILOT PROGRAM REGARDING THE GOVERNANCE OF FEE FOR SERVICE PAYMENTS AND REPORTING REQUIREMENTS AND PROCEDURES CONSISTENT WITH THIS SUBTITLE AND OTHER APPLICABLE LAWS.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

**Approved by the Governor, May 13, 2019.**