

HB0592/396689/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 592
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Wilson” and substitute “Wilson, Pendergrass, Pena–Melnik, Bagnall, Barron, Bhandari, Carr, Charles, Chisholm, Cullison, Hill, Johnson, Kerr, Kipke, Krebs, R. Lewis, Metzgar, Morgan, Rosenberg, Saab, Szeliga, and K. Young”; in line 5, after “facility;” insert “requiring certain individuals to pursue certain assistance from the medical assistance program in a certain manner;”; in line 21, after “transfer;” insert “requiring, to the extent authorized under State and federal law, a facility to provide a certain supply of certain medications at the time of discharge or transfer;”; and in line 22, after “resident;” insert “altering the cooperation and assistance required of a resident’s next of kin or legal representative in the discharge planning process; authorizing a facility to petition a certain circuit court for certain relief under certain circumstances;”.

On page 2, in line 1, after “19–343,” insert “19–344(c)”.

AMENDMENT NO. 2

On page 3, after line 20, insert:

“19–344.

(c) (1) In this subsection, “agent” means a person who manages, uses, or controls the funds or assets that legally may be used to pay the applicant’s or resident’s share of costs or other charges for the facility’s services.

(2) Except as provided by the Department, a facility may not charge an applicant or resident who is a medical assistance beneficiary, or the applicant’s or

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resident's agent, any amount in addition to the amounts determined by the medical assistance program for services that are covered by medical assistance.

(3) Unless otherwise agreed, the financial obligation of the applicant's or resident's agent is limited to the amount of the applicant's or resident's funds that are considered available to the agent by the medical assistance program.

(4) (i) A facility may require an applicant, a resident, or the agent of an applicant or resident to agree to distribute any funds, including income or assets of the applicant or resident, which the medical assistance program has determined to be available to pay for the cost of the applicant's or resident's care, to the facility, promptly when due, for the cost of the applicant's or resident's care.

(ii) For the purpose of this section, funds of the applicant or resident include funds of the applicant or resident that are under the use, ownership, management, or control of the agent.

(iii) A resident or agent of the resident who has not paid a current obligation for the resident's care may apply to the medical assistance program for a determination of the funds available to pay for the cost of the resident's care.

(iv) If a request for a determination is made under subparagraph (iii) of this paragraph, the medical assistance program shall make the determination.

(v) If a resident or agent of a resident who has not paid a current obligation for the resident's care fails to request a determination under subparagraph (iii) of this paragraph, the facility may, without requesting the appointment of a guardian, petition the appropriate circuit court for an order **OR INJUNCTION** directing the resident or agent of the resident to request **AND PURSUE** the determination with due diligence **OR GRANTING OTHER APPROPRIATE RELIEF TO ENFORCE THE OBLIGATIONS UNDER THIS SECTION.**

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(vi) If a resident or agent of the resident fails to pay for the cost of the resident's care from funds that the medical assistance program has determined to be available to pay for that care, the facility may, without requesting the appointment of a guardian, petition the appropriate circuit court for an order directing the resident or agent of the resident to pay the facility from the funds determined by the medical assistance program to be available.

(5) (i) An applicant, a resident, or the agent of an applicant or resident shall seek **AND PURSUE WITH DUE DILIGENCE**, on behalf of the applicant or resident, all assistance from the medical assistance program which may be available to the applicant or resident.

(ii) The facility shall cooperate with and assist the agent in seeking assistance from the medical assistance program on behalf of the applicant or resident.

(iii) If a resident or the agent of a resident fails to seek assistance from the medical assistance program or to cooperate fully in the eligibility determination process, a facility providing care to the resident may, without requesting the appointment of a guardian, petition the appropriate circuit court for an order **OR INJUNCTION** requiring the resident or agent of the resident to seek assistance from the medical assistance program or to cooperate in the eligibility determination process with due diligence **OR GRANTING OTHER APPROPRIATE RELIEF TO ENFORCE THE OBLIGATIONS UNDER THIS SECTION.**

(6) (i) Any agent who willfully or with gross negligence violates the requirements of paragraph (4) of this subsection regarding the distribution of the applicant's or resident's funds is subject to a civil penalty not less than the amount of funds subject to the violation.

(ii) Any agent who willfully or with gross negligence violates the requirements of paragraph (5) of this subsection regarding an application for medical

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assistance by or on behalf of an applicant or resident is subject to a civil penalty not exceeding \$10,000.

(iii) The Attorney General is responsible for the enforcement and prosecution of violations of the provisions of paragraphs (4) and (5) of this subsection.

(7) Nothing in this subsection may be construed to prohibit any person from knowingly and voluntarily agreeing to guarantee payment for the cost of an applicant's care."

AMENDMENT NO. 2

On page 4, in line 12, after the first "THE" insert "PROPOSED"; in the same line, after "TRANSFER" insert ", WHICH MAY CHANGE AS A RESULT OF AN APPEAL OR THE DISCHARGE PLANNING PROCESS"; in line 15, after "TRANSFERRED" insert ", WHICH MAY CHANGE AS A RESULT OF AN APPEAL OR THE DISCHARGE PLANNING PROCESS"; strike in their entirety lines 16 through 21, inclusive, and substitute:

"(4) THE NAME OF THE SOCIAL WORKER OR OTHER PROFESSIONALLY QUALIFIED STAFF, WHICH MAY CHANGE DURING THE DISCHARGE PLANNING PROCESS, WHO:

(I) IS DESIGNATED TO PROVIDE SOCIAL SERVICES AND DISCHARGE PLANNING SERVICES TO THE RESIDENT IN CONNECTION WITH THE DISCHARGE OR TRANSFER; AND

(II) WILL BE RESPONSIBLE FOR THE DEVELOPMENT OF THE POST DISCHARGE PLAN OF CARE UNDER SUBSECTION (G) OF THIS SECTION;";

and in line 23, after "RESIDENT" insert ", THE RESIDENT'S REPRESENTATIVE,".

AMENDMENT NO. 3

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On page 6, in line 26, after “RESIDENT” insert “TO ASSIST THE RESIDENT WITH ADJUSTING TO THE RESIDENT’S NEW LIVING ENVIRONMENT AND”.

On page 8, strike in their entirety lines 24 and 25; in line 26, strike “(5)” and substitute “(4)”; in line 30, strike “(6)” and substitute “(5)”; after line 31, insert:

“(C) TO THE EXTENT AUTHORIZED UNDER STATE AND FEDERAL LAW, A FACILITY SHALL PROVIDE AT LEAST A 3-DAY SUPPLY OF MEDICATIONS CURRENTLY BEING TAKEN BY THE RESIDENT AT THE TIME OF DISCHARGE OR TRANSFER.”;

and in line 32, strike “(c)” and substitute “(D)”.

On page 9, in line 8, after “FACILITY” insert “UNLESS THE FACILITY DOCUMENTS WHY IT IS IN THE BEST INTEREST OF THE RESIDENT TO BE DISCHARGED TO ANOTHER LOCATION”; in line 14, strike “MARYLAND MEDICAL ASSISTANCE PROGRAM,” and substitute “MEDICAL ASSISTANCE PROGRAM OR”; in line 15, strike “MARYLAND MEDICAL ASSISTANCE PROGRAM” and substitute “MEDICAL ASSISTANCE PROGRAM”; in line 17, strike “A.”; in the same line, strike “THE” and substitute “IF THE”; in the same line, after “IS” insert “OR MAY BE”; in line 18, strike “MARYLAND MEDICAL ASSISTANCE PROGRAM” and substitute “MEDICAL ASSISTANCE PROGRAM”; in line 19, strike “B.” and substitute “A.”; in line 20, strike “§ 19-334(C)” and substitute “§ 19-344(C)”; in line 22, strike “MARYLAND MEDICAL ASSISTANCE PROGRAM” and substitute “MEDICAL ASSISTANCE PROGRAM AND HAS DOCUMENTED THE COOPERATION AND ASSISTANCE”; strike in their entirety lines 23 and 24; in line 25, strike “D.” and substitute “B.”; in line 28, strike “E.” and substitute “C.”; and strike beginning with “MARYLAND” in line 26 down through “PROGRAM” in line 27 and substitute “MEDICAL ASSISTANCE PROGRAM OR HAS REPEATEDLY FAILED, DESPITE THE FACILITY’S DOCUMENTED ASSISTANCE, TO MAKE GOOD-FAITH EFFORTS TO SUPPLY INFORMATION OR MATERIALS”

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NECESSARY FOR THE MEDICAL ASSISTANCE PROGRAM TO ENROLL THE RESIDENT".

AMENDMENT NO. 4

On page 10, in line 11, strike "(d)" and substitute "**(E) (1)**"; in line 14, strike "(1)" and substitute "**(I)**"; in line 16, strike "(2)" and substitute "**(II)**"; strike beginning with "applying" in line 16 down through "resident" in line 17 and substitute "**MEETING THE REQUIREMENTS OF § 19-344(C) OF THIS SUBTITLE TO SEEK AND PURSUE WITH DUE DILIGENCE ASSISTANCE FROM THE MEDICAL ASSISTANCE PROGRAM.**

(2) A FACILITY MAY, WITHOUT REQUESTING THE APPOINTMENT OF A GUARDIAN, PETITION THE APPROPRIATE CIRCUIT COURT FOR AN ORDER OR INJUNCTION DIRECTED AT THE RESIDENT OR AGENT OF THE RESIDENT FOR APPROPRIATE RELIEF TO ENFORCE THIS SUBSECTION";

and in line 18, strike "(e)" and substitute "**(F)**".