

HOUSE BILL 318

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(PRE-FILED)

11r0868
CF 11r1624

By: **Delegate K. Young**

Requested: October 6, 2020

Introduced and read first time: January 13, 2021

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Developmental Disabilities Administration – Self-Directed Services**
3 **(Self-Direction Act)**

4 FOR the purpose of requiring the Maryland Department of Health to increase by a certain
5 amount certain funding to certain recipients of services funded through the
6 Developmental Disabilities Administration under certain circumstances; providing
7 for the calculation of the funding increase; requiring the Administration to provide
8 to certain recipients of services certain options and services under certain
9 circumstances; requiring the Administration to provide certain reimbursement to
10 certain individuals under certain circumstances; prohibiting the Department from
11 requiring a certain person to obtain any additional approval to provide certain
12 services; establishing the State Advisory Council on Self-Directed Services;
13 providing for the composition, officers, and staffing of the Advisory Council;
14 providing that a certain member of the Advisory Council serves in an advisory
15 capacity only and may not vote on matters before the Advisory Council; providing for
16 the terms of appointed members of the Advisory Council; prohibiting a certain
17 member from being reappointed to the Advisory Council under certain
18 circumstances; requiring the Advisory Council to adopt certain rules; providing that
19 the members present at a meeting are a quorum; requiring the Advisory Council to
20 meet with certain frequency at the times and places and in the manner that it
21 determines; requiring that certain meetings be held in a certain manner; requiring
22 the Advisory Council to provide certain notice of a meeting before the meeting is
23 held; requiring the Advisory Council to make certain meeting minutes available to
24 the public except under certain circumstances; requiring the Administration to assist
25 the Advisory Council in notifying certain stakeholders of certain meetings and
26 opportunities to provide certain input to the Advisory Council; prohibiting a member
27 of the Advisory Council from receiving certain compensation, but authorizing the
28 reimbursement of certain expenses; establishing the duties of the Advisory Council;
29 requiring the Advisory Council to submit a certain report to the Governor and the
30 General Assembly on or before a certain date each year; exempting certain persons

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 from certain licensure requirements; specifying the terms of the initial appointed
2 members of the Advisory Council; requiring the Administration to coordinate with
3 the Advisory Council to request and implement a certain waiver; requiring the
4 Administration to provide a certain notice to the General Assembly under certain
5 circumstances on or before a certain date; requiring the General Assembly to convene
6 or reconvene a certain workgroup to evaluate a certain matter and make certain
7 recommendations under certain circumstances; requiring the submission of certain
8 recommendations to the Administration and the Advisory Council on or before a
9 certain date under certain circumstances; defining certain terms; providing for the
10 application of certain provisions of law; and generally relating to self-directed
11 services for people with developmental disabilities.

12 BY repealing and reenacting, with amendments,
13 Article – Health – General
14 Section 7–101, 7–903, and 7–1101(a)(1)
15 Annotated Code of Maryland
16 (2019 Replacement Volume and 2020 Supplement)

17 BY adding to
18 Article – Health – General
19 Section 7–309 and 7–408 through 7–410
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2020 Supplement)

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

24 **Article – Health – General**

25 7–101.

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

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

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

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

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

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

35 (ii) Admits not more than 3 individuals; and

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

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

4 (i) 1 or more of its residents; or

5 (ii) A person who:

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

7 2. Is not a provider of residential supervision.

8 (e) "Claim" has the meaning stated in § 2-601 of this article.

9 (f) "Deputy Secretary" means the Deputy Secretary for Developmental
10 Disabilities.

11 (g) "Developmental disability" means a severe chronic disability of an individual
12 that:

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

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

16 (3) Is likely to continue indefinitely;

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

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

22 (h) "External support" means:

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

25 (i) Personal management;

26 (ii) Household management; and

27 (iii) The use of community resources; and

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

2 (i) “Fee-for-service” means a method for payment that requires a person to
3 submit a claim for payment to the Department for each service performed.

4 (j) “Group home” means a residence that:

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

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

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

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

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

15 (2) “Individual support services” include:

16 (i) In-home assistance with meals and personal care;

17 (ii) Counseling;

18 (iii) Physical, occupational, or other therapies;

19 (iv) Architectural modification; and

20 (v) Any other services that the Administration considers
21 appropriate to meet the individual’s needs.

22 (3) “Individual support services” does not include full day or residential
23 services.

24 (m) “Intellectual disability” means a developmental disability that is evidenced by
25 significantly subaverage intellectual functioning and impairment in the adaptive behavior
26 of an individual.

27 (n) “Knowingly” has the meaning stated in § 2-601 of this article.

28 (o) “Live independently” means:

29 (1) For adults:

1 (i) Managing personal care, such as clothing and medication;

2 (ii) Managing a household, such as menu planning, food preparation
3 and shopping, essential care of the premises, and budgeting; and

4 (iii) Using community resources, such as commercial establishments,
5 transportation, and services of public agencies; or

6 (2) For minors, functioning in normal settings without the need for
7 supervision or assistance other than supervision or assistance that is age appropriate.

8 (p) “Meaningful day services” means employment supports or home- and
9 community-based supports, other than residential services, that assist an individual in
10 developing and maintaining skills, interests, and personalized connections that may create
11 opportunities for paid employment, increased independence, or meaningful relationships
12 with other individuals in the community.

13 (q) “Provider” means an individual who is licensed or certified under Subtitle 9 of
14 this title and provides services to:

15 (1) A recipient; or

16 (2) An individual with a developmental disability who receives funding for
17 services from a source other than the Administration.

18 (r) “Recipient” means an individual who receives services funded by the
19 Administration under this title.

20 (s) “Release” means a permanent, temporary, absolute, or conditional release of
21 an individual from a State residential center.

22 (t) “Residential services” means individualized support and services that assist
23 an individual in developing and maintaining skills in living in the community.

24 **(U) (1) “SELF-DIRECTED SERVICES” MEANS, WHEN PARTICIPATING IN A**
25 **WAIVER PROGRAM ADMINISTERED BY THE ADMINISTRATION, SERVICES:**

26 **(I) FOR WHICH PARTICIPANTS OR THEIR REPRESENTATIVES**
27 **HAVE DECISION-MAKING AUTHORITY OVER AND TAKE DIRECT RESPONSIBILITY FOR**
28 **MANAGEMENT OF THE SERVICES WITH THE ASSISTANCE OF A SYSTEM OF AVAILABLE**
29 **SUPPORTS; AND**

30 **(II) THAT ARE PROVIDED IN A MANNER THAT FURTHERS THE**
31 **RIGHT OF INDIVIDUALS WITH DISABILITIES, REGARDLESS OF THE PHYSICAL OR**
32 **INTELLECTUAL CAPACITY OF THE INDIVIDUALS, TO MAKE CHOICES ABOUT AND**

1 DIRECT ALL ASPECTS OF THEIR LIVES, INCLUDING THROUGH CONTROL OVER
2 RECEIPT OF AND FUNDING FOR SUPPORT SERVICES.

3 (2) "SELF-DIRECTED SERVICES" INCLUDES SERVICES THAT:

4 (I) PROVIDE INDIVIDUALS WITH:

5 1. THE DECISION-MAKING EMPLOYER AUTHORITY TO
6 RECRUIT, HIRE, TRAIN, AND SUPERVISE THE INDIVIDUALS WHO FURNISH THEIR
7 SERVICES; AND

8 2. THE BUDGET AUTHORITY OVER HOW THE MEDICAID
9 WAIVER FUNDS IN A BUDGET ARE SPENT;

10 (II) MAXIMIZE THE OPPORTUNITIES OF INDIVIDUALS TO LIVE
11 AS INDEPENDENTLY AS POSSIBLE IN THE MOST INCLUSIVE COMMUNITY-BASED
12 SETTING OF THEIR CHOICE;

13 (III) EMPOWER INDIVIDUALS, WITH THE SUPPORT OF THEIR
14 CHOSEN TEAM, TO EXERCISE CHOICE AND CONTROL OVER THE LONG-TERM
15 SERVICES AND SUPPORT THEY NEED; AND

16 (IV) MAINTAIN AND IMPROVE HEALTH AND QUALITY OF LIFE IN
17 THE COMMUNITY OF INDIVIDUALS.

18 [(u)] (V) "Services" means residential, day, or other services that provide for
19 evaluation, diagnosis, treatment, care, supervision, assistance, or attention to individuals
20 with developmental disability and that promote habilitation of these individuals.

21 [(v)] (W) "Services coordination" means a service that consists of the following 3
22 major functions that are designed to assist an individual in obtaining the needed services
23 and programs that the individual desires in order to gain as much control over the
24 individual's own life as possible:

25 (1) Planning services;

26 (2) Coordinating services; and

27 (3) Monitoring service delivery to the individual.

28 [(w)] (X) "State residential center" means a licensed facility operated by the
29 State that provides residential and habilitation services to individuals with an intellectual
30 disability who are at least 18 years old and meet the criteria set forth in § 7-502 of this
31 title.

1 **(Y) “SUPPORT BROKER” MEANS A PERSON WHO HAS A FIDUCIARY DUTY TO**
2 **ADVOCATE ON BEHALF OF AND AS DIRECTED BY AN INDIVIDUAL WHO USES**
3 **SELF-DIRECTED SERVICES, INCLUDING BY ASSISTING THE INDIVIDUAL OR THE**
4 **INDIVIDUAL’S FAMILY OR OTHER REPRESENTATIVE WITH:**

5 **(1) MAKING INFORMED DECISIONS IN ARRANGING FOR, DIRECTING,**
6 **AND MANAGING SERVICES THE INDIVIDUAL RECEIVES;**

7 **(2) IDENTIFYING IMMEDIATE AND LONG-TERM NEEDS AND**
8 **DEVELOPING OPTIONS TO MEET THOSE NEEDS;**

9 **(3) ACCESSING IDENTIFIED SUPPORTS AND SERVICES BEST SUITED**
10 **FOR THE INDIVIDUAL;**

11 **(4) MANAGING EMPLOYER AND BUDGET AUTHORITY TASKS AND**
12 **RESPONSIBILITIES;**

13 **(5) MANAGING DAY-TO-DAY ASPECTS OF THE INDIVIDUAL’S**
14 **PROGRAM; AND**

15 **(6) PERFORMING OTHER TASKS AS ASSIGNED BY THE INDIVIDUAL,**
16 **INCLUDING BY SERVING AS A DESIGNATED REPRESENTATIVE.**

17 **[(x)] (Z) “Support services” means supports that assist an individual to maintain**
18 **or improve the individual’s functional abilities, enhance interactions, or engage in**
19 **meaningful relationships in the home or community.**

20 **(AA) “TEAM” MEANS A GROUP OF INDIVIDUALS CHOSEN BY AN INDIVIDUAL**
21 **WHO USES SELF-DIRECTED SERVICES FOR THE PURPOSE OF SUPPORTING THE**
22 **INDIVIDUAL IN SELF-DIRECTING SERVICES AND THAT:**

23 **(1) INCLUDES THE INDIVIDUAL AND A COORDINATOR OF COMMUNITY**
24 **SERVICES; AND**

25 **(2) MAY INCLUDE FAMILY MEMBERS, FRIENDS OF THE INDIVIDUAL, A**
26 **SUPPORT BROKER, A DESIGNATED REPRESENTATIVE, OR OTHERS.**

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

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

1 [(aa)] (DD) “Waiver program” means each Medicaid Home– and
2 Community–Based Services Waiver funding program submitted by the Department and
3 approved by the federal Centers for Medicare and Medicaid Services in accordance with §
4 1915(c) of the Social Security Act that is overseen and administered by the Administration.

5 [(bb)] (EE) “Waiver program services” means services funded by the
6 Administration in accordance with a waiver program, including:

7 (1) Meaningful day services;

8 (2) Residential services; and

9 (3) Support services.

10 **7–309.**

11 (A) IF THE DEPARTMENT PROVIDES COST–OF–LIVING WAGE OR SALARY
12 INCREASES TO PROVIDERS UNDER THIS TITLE, THE DEPARTMENT SHALL INCREASE
13 FUNDING TO A RECIPIENT WHO USES SELF–DIRECTED SERVICES BY A COMPARABLE
14 AMOUNT FOR EACH PERSON THAT:

15 (1) PROVIDES SERVICES TO THE RECIPIENT; AND

16 (2) WOULD NOT OTHERWISE RECEIVE THE DEPARTMENT’S
17 COST–OF–LIVING INCREASE TO THE PERSON’S WAGES OR SALARY.

18 (B) THE DEPARTMENT SHALL CALCULATE THE FUNDING INCREASE TO A
19 RECIPIENT UNDER SUBSECTION (A) OF THIS SECTION BASED ON THE FUNDING
20 PROVIDED TO THE RECIPIENT IN THE IMMEDIATELY PRECEDING FISCAL YEAR.

21 **7–408.**

22 (A) THE ADMINISTRATION SHALL PROVIDE TO A RECIPIENT:

23 (1) AN OPTION FOR A FAMILY MEMBER, INCLUDING A STEPPARENT,
24 FOSTER PARENT, ADOPTIVE PARENT, OR SIBLING OF THE RECIPIENT, OR A LEGAL
25 GUARDIAN OF THE RECIPIENT, TO PROVIDE SUPPORT SERVICES FOR THE
26 RECIPIENT, REGARDLESS OF WHETHER THE FAMILY MEMBER OR LEGAL GUARDIAN
27 HAS A FIDUCIARY DUTY TO OR SERVES AS A DESIGNATED REPRESENTATIVE FOR THE
28 RECIPIENT, IF:

29 (i) THE RECIPIENT OR AN INDIVIDUAL AUTHORIZED TO MAKE
30 CARE DECISIONS ON BEHALF OF THE RECIPIENT CHOOSES THE FAMILY MEMBER TO
31 PROVIDE THE SERVICES; AND

1 (II) THE OPTION IS IN THE BEST INTERESTS OF THE RECIPIENT;
2 AND

3 (2) IF SELF-DIRECTED SERVICES ARE PROVIDED TO THE RECIPIENT,
4 SERVICES THAT INCLUDE:

5 (I) PERSONAL SUPPORTS THAT ENCOURAGE HABILITATION
6 FOR THE RECIPIENT, INCLUDING PERSONAL SUPPORTS IN THE RECIPIENT'S HOME
7 AND COMMUNITY AND OVERNIGHT;

8 (II) COMMUNITY INTEGRATION AND DEVELOPMENT SUPPORTS
9 THAT PROVIDE THE INDIVIDUAL WITH WORK OR VOLUNTEER TASKS AT HOME OR IN
10 THE COMMUNITY, INCLUDING A HOME-BASED BUSINESS, CRAFT, HOBBY, OR
11 VOLUNTEER TASK FOR A LOCAL NONPROFIT ENTITY OR BUSINESS; AND

12 (III) ENHANCED SERVICES FROM A SUPPORT BROKER WHO, ON
13 BEHALF AND UNDER THE DIRECTION OF THE RECIPIENT AND THE RECIPIENT'S
14 TEAM, ASSISTS THE RECIPIENT TO:

15 1. PERFORM DUTIES SIMILAR TO THOSE OF A PROGRAM
16 DIRECTOR OR HOUSE MANAGER UNDER A TRADITIONAL SERVICE MODEL;

17 2. MAINTAIN THE RECIPIENT'S HOME, INCLUDING BY
18 KEEPING INVENTORY OF FOOD AND SUPPLIES FOR HOME LIVING;

19 3. MANAGE THE RECIPIENT'S EMPLOYEE SCHEDULES;

20 4. SCHEDULE MEDICAL APPOINTMENTS AND OTHER
21 INTERACTIONS WITH HEALTH CARE PROFESSIONALS FOR THE RECIPIENT; AND

22 5. MANAGE THE RECIPIENT'S OTHER NEEDS ON A DAILY
23 BASIS, INCLUDING MANAGING THE RECIPIENT'S HEALTH AND SAFETY NEEDS AND
24 ENSURING THAT THE RECIPIENT'S SUPPORT SERVICES ARE FUNCTIONING
25 EFFICIENTLY.

26 (B) FOR A RECIPIENT WHO USES SELF-DIRECTED SERVICES, THE
27 ADMINISTRATION SHALL PROVIDE REIMBURSEMENT TO A MEMBER OF THE
28 RECIPIENT'S FAMILY, REGARDLESS OF WHETHER THE FAMILY MEMBER IS A LEGAL
29 GUARDIAN, FOR USE OF AND MODIFICATIONS TO THE FAMILY MEMBER'S VEHICLE
30 TO ACCOMMODATE A NEED OF THE RECIPIENT RELATED TO THE RECIPIENT'S
31 DISABILITY.

1 **7-409.**

2 **THE DEPARTMENT MAY NOT REQUIRE A PERSON AUTHORIZED TO PROVIDE**
3 **SERVICES TO A RECIPIENT IN THE STATE TO OBTAIN ANY ADDITIONAL APPROVAL TO**
4 **PROVIDE THE SAME SERVICES TO A RECIPIENT WHO USES SELF-DIRECTED**
5 **SERVICES UNDER THIS TITLE.**

6 **7-410.**

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

9 **(2) "ADVISORY COUNCIL" MEANS THE STATE ADVISORY COUNCIL ON**
10 **SELF-DIRECTED SERVICES.**

11 **(3) "FAMILY MEMBER" MEANS A PARENT, STEPPARENT, FOSTER**
12 **PARENT, ADOPTIVE PARENT, OR SIBLING OF AN INDIVIDUAL WITH DISABILITIES**
13 **WHO WORKS AS DIRECT STAFF OR AS A MEMBER OF A TEAM TO PROVIDE THROUGH**
14 **HOME- AND COMMUNITY-BASED SERVICES EXTRAORDINARY CARE TO THE**
15 **INDIVIDUAL THAT IMPOSES A DISPROPORTIONATELY GREATER BURDEN ON THE**
16 **FAMILY MEMBER OF THE INDIVIDUAL COMPARED TO THE FAMILY MEMBER OF A**
17 **NONDISABLED PERSON OF THE SAME AGE.**

18 **(B) THERE IS A STATE ADVISORY COUNCIL ON SELF-DIRECTED SERVICES.**

19 **(C) THE ADVISORY COUNCIL CONSISTS OF:**

20 **(1) THE SECRETARY OF HUMAN SERVICES, OR THE SECRETARY'S**
21 **DESIGNEE;**

22 **(2) THE DEPUTY SECRETARY OF THE DEVELOPMENTAL**
23 **DISABILITIES ADMINISTRATION, OR THE DEPUTY SECRETARY'S DESIGNEE;**

24 **(3) ONE REPRESENTATIVE FROM EACH OF THE ADMINISTRATION'S**
25 **FOUR REGIONAL OFFICES, DESIGNATED BY THE REGIONAL DIRECTOR OF EACH**
26 **OFFICE;**

27 **(4) ONE REPRESENTATIVE FROM THE DEPARTMENT OF**
28 **DISABILITIES, DESIGNATED BY THE SECRETARY OF DISABILITIES;**

29 **(5) ONE REPRESENTATIVE FROM NURSING AND WAIVER SERVICES**
30 **WITHIN MARYLAND MEDICAID'S OFFICE OF LONG TERM SUPPORT SERVICES,**
31 **DESIGNATED BY THE DEPUTY DIRECTOR OF NURSING AND WAIVER SERVICES;**

1 **(6) ONE REPRESENTATIVE FROM THE INTERAGENCY TRANSITION**
2 **COUNCIL FOR YOUTH WITH DISABILITIES, DESIGNATED BY THE CHAIR OF THE**
3 **COUNCIL;**

4 **(7) ONE REPRESENTATIVE FROM THE DIVISION OF REHABILITATIVE**
5 **SERVICES IN THE STATE DEPARTMENT OF EDUCATION, DESIGNATED BY THE**
6 **ASSISTANT STATE SUPERINTENDENT;**

7 **(8) THE CHAIR OF THE MARYLAND COMMISSION ON CAREGIVING,**
8 **OR THE CHAIR'S DESIGNEE;**

9 **(9) THE BOARD OF DIRECTORS OF THE SELF-DIRECTED ADVOCACY**
10 **NETWORK OF MARYLAND, INC., OR THEIR DESIGNEES WHO SHALL BE FROM EACH**
11 **REGION OF THE ADMINISTRATION'S REGIONAL OFFICES, INCLUDING, TO THE**
12 **EXTENT PRACTICABLE:**

13 **(I) AT LEAST FOUR INDIVIDUALS WITH DEVELOPMENTAL**
14 **DISABILITIES WHO USE SELF-DIRECTED SERVICES;**

15 **(II) AT LEAST TWO, BUT NOT MORE THAN FOUR, FAMILY**
16 **MEMBERS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES WHO USE**
17 **SELF-DIRECTED SERVICES;**

18 **(III) ONE INDIVIDUAL WHO PROVIDES SUPPORT BROKER**
19 **SERVICES;**

20 **(IV) ONE INDIVIDUAL WHO HAS EXPERIENCE AS A**
21 **COORDINATOR OF COMMUNITY SERVICES; AND**

22 **(V) ONE INDIVIDUAL WHO PROVIDES NURSE DELEGATION OR**
23 **NURSING CASE MANAGEMENT SERVICES TO INDIVIDUALS WHO USE SELF-DIRECTED**
24 **SERVICES;**

25 **(10) THE EXECUTIVE DIRECTOR OF THE MARYLAND**
26 **DEVELOPMENTAL DISABILITIES COUNCIL, OR THE EXECUTIVE DIRECTOR'S**
27 **DESIGNEE;**

28 **(11) THE EXECUTIVE DIRECTOR OF DISABILITY RIGHTS MARYLAND,**
29 **OR THE EXECUTIVE DIRECTOR'S DESIGNEE;**

30 **(12) THE PUBLIC POLICY DIRECTOR OF PEOPLE ON THE GO**
31 **MARYLAND, OR THE PUBLIC POLICY DIRECTOR'S DESIGNEE;**

1 **(13) THE EXECUTIVE DIRECTOR OF THE ARC MARYLAND, OR THE**
2 **EXECUTIVE DIRECTOR'S DESIGNEE;**

3 **(14) THE PRESIDENT OF MARYLAND WORKS, OR THE PRESIDENT'S**
4 **DESIGNEE; AND**

5 **(15) THE FOLLOWING MEMBERS NOMINATED BY THE ADVISORY**
6 **COUNCIL AND SELECTED BY THE CHAIR OF THE ADVISORY COUNCIL:**

7 **(I) A REPRESENTATIVE FROM A FISCAL MANAGEMENT**
8 **PROVIDER; AND**

9 **(II) AN INDIVIDUAL WHO IS DIRECT SUPPORT STAFF FOR**
10 **SOMEONE WHO USES SELF-DIRECTED SERVICES.**

11 **(D) THE STATE AGENCY MEMBERS OF THE ADVISORY COUNCIL SERVE IN**
12 **AN ADVISORY CAPACITY ONLY AND MAY NOT VOTE ON MATTERS BEFORE THE**
13 **ADVISORY COUNCIL.**

14 **(E) (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.**

15 **(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS**
16 **REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL ON**
17 **JULY 1, 2021.**

18 **(3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO**
19 **SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

20 **(4) AN APPOINTED MEMBER WHO IS DESIGNATED AFTER A TERM HAS**
21 **BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS**
22 **APPOINTED AND QUALIFIES.**

23 **(5) AN APPOINTED MEMBER MAY SERVE TWO CONSECUTIVE FULL**
24 **TERMS.**

25 **(6) AN APPOINTED MEMBER WHO SERVES TWO CONSECUTIVE FULL**
26 **TERMS MAY NOT BE REAPPOINTED WITHIN 4 YEARS AFTER THE END OF THE SECOND**
27 **TERM.**

28 **(7) THE ADVISORY COUNCIL SHALL ADOPT RULES FOR THE**
29 **REMOVAL OF ITS MEMBERS.**

1 **(F) (1) THE ADVISORY COUNCIL SHALL ELECT A CHAIR AND OTHER**
2 **OFFICERS FROM AMONG ITS MEMBERS.**

3 **(2) THE MEMBERS PRESENT AT A MEETING ARE A QUORUM.**

4 **(G) (1) SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION,**
5 **THE ADVISORY COUNCIL SHALL MEET AT LEAST QUARTERLY EACH YEAR AT THE**
6 **TIMES AND PLACES AND IN THE MANNER THAT IT DETERMINES.**

7 **(2) THE ADVISORY COUNCIL'S MEETING SHALL BE:**

8 **(I) ACCESSIBLE TO THE PUBLIC; AND**

9 **(II) HELD, TO THE EXTENT PRACTICABLE, AT LOCATIONS AND**
10 **TIMES THAT ARE CONVENIENT TO INTERESTED STAKEHOLDERS.**

11 **(3) THE ADVISORY COUNCIL SHALL PROVIDE ADEQUATE PUBLIC**
12 **NOTICE OF A MEETING BEFORE THE MEETING IS HELD.**

13 **(4) EXCEPT AS OTHERWISE PROVIDED UNDER THE OPEN MEETINGS**
14 **ACT, THE ADVISORY COUNCIL SHALL MAKE ALL MEETING MINUTES AVAILABLE TO**
15 **THE PUBLIC.**

16 **(H) THE ADMINISTRATION SHALL ASSIST THE ADVISORY COUNCIL IN**
17 **NOTIFYING STAKEHOLDERS, INCLUDING CONSUMERS OF ADMINISTRATION**
18 **SERVICES, THEIR FAMILY MEMBERS AND CAREGIVERS, AND HEALTH CARE**
19 **PROVIDERS, OF MEETINGS AND OTHER OPPORTUNITIES TO PROVIDE INPUT TO THE**
20 **ADVISORY COUNCIL.**

21 **(I) A MEMBER OF THE ADVISORY COUNCIL:**

22 **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**
23 **ADVISORY COUNCIL; BUT**

24 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
25 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

26 **(J) THE ADMINISTRATION SHALL PROVIDE STAFF FOR THE ADVISORY**
27 **COUNCIL, IN CONSULTATION WITH THE SELF-DIRECTED ADVOCACY NETWORK OF**
28 **MARYLAND, INC., AND ANY OTHER ADVOCACY ORGANIZATION WITH A MEMBER ON**
29 **THE ADVISORY COUNCIL.**

30 **(K) THE ADVISORY COUNCIL SHALL:**

1 **(1) EXAMINE POLICIES, PROCEDURES, AND PROPOSALS RELATED TO**
2 **SELF-DIRECTED SERVICES;**

3 **(2) ANNUALLY CONDUCT A STATE SURVEY OF THE SELF-DIRECTED**
4 **SERVICES PROCESS AS IMPLEMENTED BY THE ADMINISTRATION;**

5 **(3) MAKE RECOMMENDATIONS TO THE DEPUTY SECRETARY**
6 **REGARDING HOW TO IMPROVE THE SELF-DIRECTED SERVICES PROCESS AND THE**
7 **EXPERIENCE OF USING SELF-DIRECTED SERVICES;**

8 **(4) PROVIDE A FORUM FOR INPUT FROM THE RESIDENTS OF THE**
9 **STATE RELATED TO SELF-DIRECTED SERVICES;**

10 **(5) INVENTORY AND TRACK SERVICES AND SUPPORTS AVAILABLE**
11 **THROUGH THE HOME- AND COMMUNITY-BASED SERVICES PROGRAMS IN THE**
12 **STATE, INCLUDING THE NUMBER, DURATION, AND SCOPE OF THE SERVICES AND**
13 **SUPPORTS, AND ASSESS ANY GAPS IN OR BARRIERS TO RECEIVING SERVICES AND**
14 **SUPPORTS THROUGH THOSE PROGRAMS;**

15 **(6) REVIEW AND MAKE RECOMMENDATIONS REGARDING**
16 **DISPARITIES BETWEEN THE SERVICES AND SUPPORTS RECEIVED BY INDIVIDUALS**
17 **WHO USE SELF-DIRECTED SERVICES AND THE SERVICES AND SUPPORTS RECEIVED**
18 **BY INDIVIDUALS WHO USE SERVICES PROVIDED BY THE STATE, INCLUDING:**

19 **(I) AUTHORIZATION RATES;**

20 **(II) PAY RATES FOR CAREGIVERS; AND**

21 **(III) THE AMOUNT PAID BY THE STATE FOR SERVICES PER**
22 **INDIVIDUAL;**

23 **(7) REVIEW AND MAKE RECOMMENDATIONS REGARDING POLICIES,**
24 **INCLUDING POLICIES THAT REQUIRE THE USE OF MEDICAID STATE PLAN SERVICES**
25 **IN ADDITION TO OR IN LIEU OF HOME- AND COMMUNITY-BASED SERVICES, THAT:**

26 **(I) PROHIBIT OR RESTRICT INDIVIDUALS FROM RECEIVING**
27 **CERTAIN TYPES OF NECESSARY CARE; OR**

28 **(II) COMPLICATE OR CREATE BARRIERS TO AN INDIVIDUAL'S**
29 **USE OF SELF-DIRECTED SERVICES;**

30 **(8) ADVISE THE GENERAL ASSEMBLY ON ISSUES RELATING TO**

1 SELF-DIRECTED SERVICES, INCLUDING:

2 (I) COMMUNICATIONS BETWEEN THE ADMINISTRATION AND
3 SELF-DIRECTED SERVICES PARTICIPANTS AND THEIR FAMILIES;

4 (II) THE ADMINISTRATION'S AND THE MARYLAND MEDICAL
5 ASSISTANCE PROGRAM'S EFFORTS TO WORK IN PARTNERSHIP WITH
6 SELF-DIRECTED SERVICES PARTICIPANTS AND THEIR FAMILIES AND CAREGIVERS
7 TO IMPROVE THE SELF-DIRECTED SERVICES PROCESS AND THE EXPERIENCE OF
8 USING SELF-DIRECTED SERVICES; AND

9 (III) ANY LEGISLATION THAT SHOULD BE ENACTED TO
10 IMPLEMENT THE RECOMMENDATIONS MADE BY THE ADVISORY COUNCIL;

11 (9) REVIEW AND MAKE RECOMMENDATIONS REGARDING THE
12 FOLLOWING CRITICAL NEEDS RELATED TO SELF-DIRECTED SERVICES:

13 (I) SUPPORT BROKER DUTIES AND RESPONSIBILITIES WHEN
14 PROVIDING SERVICES TO A WAIVER PARTICIPANT, INCLUDING A REQUIREMENT
15 THAT SUPPORT BROKERS RECEIVE TRAINING AND COORDINATE WITH
16 COORDINATORS OF COMMUNITY SERVICE;

17 (II) PERSON-CENTERED PLANS THAT COMPREHENSIVELY
18 ADDRESS AN INDIVIDUAL'S NEEDS IN THE INDIVIDUAL'S COMMUNITY AND THAT
19 TAKE INTO ACCOUNT THE INDIVIDUAL'S PERSONAL GOALS, PREFERENCES,
20 COMMUNITY SUPPORTS, FINANCIAL RESOURCES, AND OTHER FACTORS THAT ARE
21 IMPORTANT TO THE INDIVIDUAL;

22 (III) INDIVIDUAL BUDGETS THAT ARE SUFFICIENT TO MEET THE
23 UNIQUE NEEDS AND CIRCUMSTANCES OF THE INDIVIDUAL, AS OUTLINED IN A PLAN
24 DESCRIBED UNDER ITEM (II) OF THIS ITEM, THAT ARE CREATED USING THE
25 TRADITIONAL HEALTH CARE PROVIDER BUDGET AND THE PLAN DESCRIBED UNDER
26 ITEM (II) OF THIS ITEM AS A BASELINE FOR THE APPROPRIATE FUNDING
27 ALLOCATIONS UNDER THE BUDGET;

28 (IV) NONMEDICAL TRANSPORTATION SERVICES AS A DEFINED
29 SERVICE CATEGORY;

30 (V) PERSONAL HABILITATION SUPPORTS PROVIDED IN
31 ACCORDANCE WITH A PLAN DESCRIBED UNDER ITEM (II) OF THIS ITEM;

32 (VI) ACCESS TO COMMUNITY DEVELOPMENT SERVICES IN THE
33 LOCATION AND MANNER THAT THE INDIVIDUAL CHOOSES;

1 (VII) BUDGETS RELATED TO SELF-DIRECTED SERVICES AND
2 INDIVIDUALIZED ALLOTMENTS OF COST-OF-LIVING ADJUSTMENTS;

3 (VIII) USE OF SELF-DIRECTED SERVICES, REGARDLESS OF THE
4 SEVERITY AND TYPE OF DISABILITY;

5 (IX) STREAMLINED PROCESSES FOR CHOOSING VENDORS OF
6 PROFESSIONAL SERVICES OR PRODUCTS, INCLUDING THE AUTHORIZATION FOR
7 VENDORS APPROVED TO PROVIDE SERVICES IN THE STATE TO PROVIDE SERVICES
8 TO AN INDIVIDUAL UNDER A HOME- AND COMMUNITY-BASED SERVICES PROGRAM
9 WITHOUT OBTAINING ANY ADDITIONAL APPROVAL;

10 (X) MEASURES TO ASSESS THE QUALITY AND OTHER ASPECTS
11 OF SELF-DIRECTED SERVICES; AND

12 (XI) THE INCLUSION OF FISCAL MANAGEMENT SERVICES AS A
13 WAIVER SERVICE, WHEREBY THE INDIVIDUAL MAY CHOOSE TO RECEIVE THE
14 SERVICES FROM AT LEAST TWO PROVIDERS, INCLUDING SERVICES THAT ASSIST AN
15 INDIVIDUAL WITH:

16 1. MANAGING AND DIRECTING THE DISBURSEMENT OF
17 FUNDS IN THE INDIVIDUAL'S BUDGET;

18 2. PERFORMING EMPLOYER RESPONSIBILITIES,
19 INCLUDING PAYROLL PROCESSING, TAX WITHHOLDING, AND MAKING PAYMENTS ON
20 TAXES OWED; AND

21 3. PROVIDING ACCOUNTING SERVICES AND PREPARING
22 EXPENDITURE REPORTS FOR THE INDIVIDUAL AND THEIR TEAM, AND STATE
23 AUTHORITIES; AND

24 (10) PERFORM ANY OTHER DUTIES THE ADVISORY COUNCIL
25 CONSIDERS APPROPRIATE.

26 (L) (1) ON OR BEFORE DECEMBER 1 EACH YEAR, THE ADVISORY
27 COUNCIL SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH
28 § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

29 (2) THE REPORT SHALL INCLUDE:

30 (I) INFORMATION ON HOW WELL THE SELF-DIRECTED
31 SERVICES PROCESS IS MEETING THE NEEDS OF THE SELF-DIRECTED SERVICES

1 RECIPIENTS, INCLUDING:

2 1. ANY GAPS IN SERVICES FOR RECIPIENTS;

3 2. ANY BARRIERS TO THE RECEIPT OF SERVICES BY
4 RECIPIENTS; AND

5 3. THE NUMBER OF INDIVIDUALS WHO USE
6 SELF-DIRECTED SERVICES;

7 (II) THE RESULTS OF THE SURVEY CONDUCTED UNDER
8 SUBSECTION (K)(2) OF THIS SECTION; AND

9 (III) RECOMMENDATIONS FOR THE IMPROVEMENT OF
10 SELF-DIRECTED SERVICES AND THE EXPERIENCES OF INDIVIDUALS USING
11 SELF-DIRECTED SERVICES.

12 7-903.

13 (A) THIS SECTION DOES NOT APPLY TO A PERSON WHEN THE PERSON IS
14 PROVIDING SELF-DIRECTED SERVICES.

15 [(a)] (B) (1) In addition to any other license required by law, a person shall
16 be licensed by the Department before the person may provide services to an individual with
17 developmental disability or a recipient of individual support services.

18 (2) The Department shall adopt regulations providing for the services
19 requiring licensure under paragraph (1) of this subsection.

20 [(b)] (C) (1) If a person is licensed or certified by another State agency or
21 accredited by an organization approved by the Secretary in accordance with § 19-2302 of
22 this article to provide services to an individual with a developmental disability or a
23 recipient of individual support services, the Deputy Secretary may waive the requirement
24 for a license by the Department.

25 (2) Upon a showing by the Deputy Secretary that the licensed, certified, or
26 accredited person is out of compliance with licensing regulations adopted by the Secretary,
27 the Deputy Secretary may revoke the waiver.

28 7-1101.

29 (a) (1) Unless licensed by the Administration **OR EXEMPT FROM LICENSURE**
30 under this title, a person may not provide the following services to an individual with
31 developmental disability or to a recipient of individual support services, as defined in §
32 7-901 of this title:

- 1 (i) Day habilitation services;
- 2 (ii) Residential services;
- 3 (iii) Services coordination;
- 4 (iv) Vocational services;
- 5 (v) More than 1 family support service, as defined in § 7–701 of this
6 title;
- 7 (vi) More than 1 individual support service; and
- 8 (vii) More than 1 community supported living arrangements service,
9 as defined in § 7–709 of this title.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
11 appointed members of the State Advisory Council on Self–Directed Services shall expire as
12 follows:

- 13 (1) a number of the initial members equal to the total number of the initial
14 members divided by three and rounded to the nearest whole number in 2022;
- 15 (2) the same number of members as the number of members whose terms
16 expired under item (1) of this section in 2023; and
- 17 (3) the remaining initial members in 2024.

18 SECTION 3. AND BE IT FURTHER ENACTED, That:

19 (a) The Developmental Disabilities Administration shall coordinate with the
20 State Advisory Council on Self–Directed Services established under § 7–410 of the Health
21 – General Article, as enacted under Section 1 of this Act, to request from the federal Centers
22 on Medicare and Medicaid Services a Medicaid § 1915(c) home and community–based
23 services waiver for self–directed services and, if approved, implement the waiver, that:

24 (1) includes the following elements of the formerly designated New
25 Directions Independence Plus waiver:

26 (i) all waiver participants have the opportunity to direct some or all
27 of their waiver services;

28 (ii) all waiver participants live with their families, in their own
29 private residence, in a unit of a larger complex, or in a living arrangement where services
30 are provided to fewer than four persons who are not members of the proprietor’s family;

1 (iii) the service planning process is participant-led and
2 person-centered;

3 (iv) use of self-directed services is available for all waiver services,
4 including services that are used most frequently by a significant number of waiver
5 participants;

6 (v) all waiver participants who elect to direct their waiver services
7 may exercise the full range of their employer authority to recruit, hire, train, and supervise
8 the individuals who provide their services and have access to the full array of supports
9 available to participants who exercise employer authority;

10 (vi) all waiver participants who elect to direct their waiver services
11 may exercise complete decision-making budget authority over how the Medicaid waiver
12 funds in a budget are spent and have access to the full array of supports available to
13 participants who exercise budget authority;

14 (vii) an appropriate method is used to determine the
15 participant-centered budget; and

16 (viii) a separate advocacy function is provided to waiver participants
17 who direct their services to be performed by a person who does not provide other direct
18 services to, perform assessments for, or have monitoring, oversight, or fiscal responsibilities
19 to the participant; and

20 (2) is available on or before July 1, 2022.

21 (b) If the Administration determines it will be unable to obtain and implement
22 the waiver under subsection (a) of this section by July 1, 2022, the Administration shall, in
23 accordance with § 2-1257 of the State Government Article, notify the General Assembly of
24 the determination on or before April 1, 2022, including in the notification the reasons for
25 the Administration's determination.

26 (c) (1) If the General Assembly receives notice under subsection (b) of this
27 section, the General Assembly shall establish a workgroup of members of the General
28 Assembly, including at least one member each from the Senate Education, Health, and
29 Environmental Affairs Committee, the House Health and Government Operations
30 Committee, and the Joint Committee on Children, Youth, and Families, to evaluate and
31 make recommendations on whether the Administration should request and implement the
32 waiver under subsection (a) of this section notwithstanding the determination under
33 subsection (b) of this section.

34 (2) If established, the workgroup shall submit its recommendations to the
35 Administration and the State Advisory Council on Self-Directed Services on or before
36 October 1, 2022.

1 (d) (1) If the workgroup established under subsection (c) of this section
2 recommends that the Administration request and implement the waiver and the
3 Administration determines it will be unable to establish the waiver by July 1, 2023, the
4 Administration shall, in accordance with § 2–1257 of the State Government Article, notify
5 the General Assembly of its determination on or before April 1, 2023, including in the
6 notification the reasons for the Administration’s determination.

7 (2) If the General Assembly receives notice under paragraph (1) of this
8 subsection, the workgroup established under subsection (c) of this section shall reconvene
9 and include the same members of the General Assembly, to the extent practicable.

10 (3) If the workgroup is reconvened under paragraph (2) of this subsection,
11 the workgroup shall submit recommendations, including recommendations for legislation,
12 for addressing the issues that may have been addressed if the waiver had been
13 implemented to the Administration and the State Advisory Council on Self-Directed
14 Services on or before October 1, 2023.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2021.