SENATE BILL 743

By: Senator Washington
Introduced and read first time: February 7, 2022
Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Maryland Medical Assistance Program – Affordable Assisted Living Enhanced Care Pilot Program

FOR the purpose of establishing the Affordable Assisted Living Enhanced Care Pilot Program in the Maryland Department of Health to establish affordable assisted living enhanced care residences for the provision of enhanced care to eligible adults who are at least a certain age; prohibiting a residence selected for the Pilot Program from being prohibited from admitting into the residence certain individuals who are not eligible for the Pilot Program; and generally relating to the Maryland Medical Assistance Program and the provision of assisted living services.

BY adding to
Article – Health – General
Section 15–150
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

Preamble

WHEREAS, Between 2015 and 2030, Maryland’s population of residents age 60 and older is anticipated to increase from 1.2 million to 1.7 million, a 40% increase; and

WHEREAS, Of 22,904 licensed assisted living beds in Maryland, only 1,060 (less than 5%) are occupied by older, low–income adults enrolled in the Medicaid Home and Community Based Options Waiver (HCBOW); and

WHEREAS, There are over 22,000 Maryland residents on an 8–year waiting list for Medicaid HCBOW services and only a fraction of those potentially eligible for services are able to enroll in the HCBOW program as many die or end up in nursing homes before becoming eligible; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
WHEREAS, Current and future demand for services require Maryland to evaluate new solutions to provide greater access to cost–effective, community–based care for low– and moderate–income adults to avoid costly institutionalization in hospitals and nursing homes; and

WHEREAS, Studies have demonstrated that assisted living improves quality of life by creating cohesive social environments and encouraging social participation and family involvement and can reduce the overall cost of care; and

WHEREAS, The Affordable Assisted Living Enhanced Care Pilot Program creates a bundled payment for assisted living that is designed to promote new capacity and ensure adequacy of payment for services; and

WHEREAS, The Affordable Assisted Living Enhanced Care Pilot Program combines high–quality assisted living residences with enhanced monitoring, care management, medication management, and other programs to improve community tenure and reduce institutionalization in hospitals or nursing homes; and

WHEREAS, Given the potential of the Affordable Assisted Living Enhanced Care Pilot Program to increase access to long–term care services and supports, control costs, improve community tenure, and reduce costly hospital and nursing home admissions, it is the intent of the General Assembly to direct the Maryland Department of Health to establish the Pilot Program; now, therefore,}

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

Article – Health – General

15–150.

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

(2) “ACTIVITIES OF DAILY LIVING” MEANS NORMAL DAILY ACTIVITIES, INCLUDING:

(I) EATING OR BEING FED;

(II) GROOMING, BATHING, AND ORAL HYGIENE, INCLUDING BRUSHING TEETH, SHAVING, AND COMBING HAIR;

(III) MOBILITY, TRANSFER, AMBULATION, AND ACCESS TO THE OUTDOORS, WHEN APPROPRIATE;

(IV) TOILETING; AND
(V) Dressing in clean, weather-appropriate clothing.

(3) “Affordable assisted living enhanced care residence” means an assisted living residence that provides enhanced care services.

(4) “Affordable residence” means a structure:

(I) Built or renovated with low-income housing tax credits that offers private one-bedroom or studio apartments to individuals or couples whose income does not exceed 60% of the area median income; and

(II) That has a capacity of between 80 and 150 units.

(5) “Area median income” means the area median income as established for the geographic region by the U.S. Department of Housing and Urban Development.

(6) “Assisted living residence” means a residential or facility-based program that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination of these services that meets the needs of individuals who are unable to perform or need assistance in performing the activities of daily living or instrumental activities of daily living in a way that promotes optimum dignity and independence for the individuals.

(7) “Enhanced care” means the provision of the following services that are in addition to the provision of services of an assisted living residence:

(I) Person-centered, individualized care planning;

(II) Regular, proactive monitoring of health status to promote early detection and resolution of medical issues;

(III) Care management to ensure timely referral and access to medical treatment and health-related services;

(IV) Medication management to improve adherence and reduce medication errors;
(v) Assessment and referral to therapy and
restorative nursing programs;

(vi) Health and wellness programs to help residents
manage chronic illness, reduce the risk of falling, and live a healthy
lifestyle;

(vii) Activities programs to reduce social isolation and
help seniors maintain an active lifestyle;

(viii) Dietary services including nutritious meals and
snacks; and

(ix) Use of electronic medical records to improve care
monitoring, improve quality oversight, and support the tracking and
reporting of quality indicators.

(8) “Instrumental activities of daily living” means home
management skills, including shopping for food and personal items,
preparing meals, and handling money.

(9) “Pilot Program” means the Affordable Assisted Living
Enhanced Care Pilot Program in the Department.

(b) There is an Affordable Assisted Living Enhanced Care Pilot
Program in the Department.

(c) The purpose of the Pilot Program is to establish affordable
assisted living enhanced care residences for the provision of enhanced
care to eligible adults who are at least 60 years old.

(d) The Department shall administer the Pilot Program.

(e) (1) The Department shall select up to four sites at which
an affordable assisted living enhanced care residence shall be
established over a 5–year period.

(2) In selecting sites under this subsection, the
Department shall prioritize jurisdictions within the State with the
highest percentage of low–income residents who are at least 60 years
old as identified by the Department of Aging’s State Plan on Aging,
(3) To the extent practicable, one of the sites selected by the Department shall be located in an urban area and one shall be located in a rural area of the state.

(f) The Department shall provide funding to sites participating in the Pilot Program:

(1) For recruitment and training of staff;

(2) To support Pilot Program reimbursement for a bundled payment rate for individuals described in subsection (g) of this section that is not less than 60% of the average rate for nursing home care within the geographic area in which the selected affordable assisted living enhanced care residence is located; and

(3) For other purposes necessary to implement and evaluate the Pilot Program.

(g) To be eligible for the Pilot Program, an individual shall meet the eligibility criteria for enrollment in the Home and Community-Based Options Waiver specified under COMAR 10.09.54.03B and C.

(h) (1) For an individual participating in the Pilot Program whose home is in an affordable residence, the Department shall reduce its monthly payment amount of the assisted living bundled payment by the amount remaining after deducting from the individual's total nonexcluded monthly income the following amounts in the following order:

(i) A personal needs allowance, consisting of the amount established in accordance with COMAR 10.09.24.10D(2)(C) and the assisted living provider’s charge, not exceeding the maximum Supplemental Security Income benefit amount per month;

(ii) A spousal or family maintenance allowance, or both, if applicable, in accordance with COMAR 10.09.24.10D(2)(D); and

(iii) Incurred medical expenses in accordance with COMAR 10.09.24.10D(2)(F) through (H).

(2) The Department shall determine the amount of available income to be paid by an individual participating in the Pilot
PROGRAM TOWARD THE COST OF AFFORDABLE ASSISTED LIVING.

(3) THE INDIVIDUAL PARTICIPATING IN THE PILOT PROGRAM SHALL PAY THE AMOUNT OF AVAILABLE INCOME FOR THE PARTICIPANT’S COST OF AFFORDABLE ASSISTED LIVING DIRECTLY TO THE ASSISTED LIVING SERVICES PROVIDER.

(I) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, AN AFFORDABLE ASSISTED LIVING ENHANCED CARE RESIDENCE SELECTED FOR THE PILOT PROGRAM MAY NOT BE PROHIBITED FROM ADMITTING INTO THE RESIDENCE ANY INDIVIDUAL WHO:

(1) IS NOT ELIGIBLE FOR THE PILOT PROGRAM;

(2) HAS AN INCOME THAT DOES NOT EXCEED 60% OF AREA MEDIAN INCOME; AND

(3) HAS CARE NEEDS THAT CAN BE MET BY THE ASSISTED LIVING RESIDENCE IN ACCORDANCE WITH THE LIMITATIONS OF ITS LICENSE.

(J) THE DEPARTMENT SHALL:

(1) COLLABORATE WITH STAKEHOLDERS IN THE DEVELOPMENT, IMPLEMENTATION, AND OUTCOME MONITORING OF THE PILOT PROGRAM; AND

(2) COLLECT OUTCOMES DATA ON RESIDENTS IN THE PILOT PROGRAM TO:

(i) EVALUATE THE EFFECTIVENESS OF THE PILOT PROGRAM IN:

1. IMPROVING QUALITY OF LIFE AND CONSUMER SATISFACTION;

2. REDUCING LOW-ACUITY EMERGENCY ROOM ADMISSIONS AND AVOIDABLE HOSPITAL ADMISSIONS AND READMISSIONS; AND

3. PROLONGING COMMUNITY TENURE; AND

(ii) DETERMINE WHETHER TO IMPLEMENT THE PILOT PROGRAM STATEWIDE.

(K) THE DEPARTMENT SHALL APPLY TO THE CENTERS FOR MEDICARE AND
MEDICAID SERVICES FOR AN AMENDMENT TO THE STATE’S 1115 HEALTHCHOICE
DEMONSTRATION WAIVER OR FOR OTHER AUTHORITY UNDER TITLE 19 OF THE
SOCIAL SECURITY ACT IF NECESSARY TO IMPLEMENT THE PILOT PROGRAM.

(L) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN
APPROPRIATION FOR THE PILOT PROGRAM IN THE FOLLOWING AMOUNTS:

(1) $15,500,000 IN FISCAL YEAR 2025; AND

(2) $31,000,000 IN FISCAL YEAR 2026 AND IN EACH FISCAL YEAR
THEREAFTER.

(M) ON OR BEFORE NOVEMBER 1, 2024, THE DEPARTMENT SHALL REPORT
TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE
GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE DEPARTMENT’S
FINDINGS AND RECOMMENDATIONS FROM THE PILOT PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
1, 2022.