

# SENATE BILL 743

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By: **Senator Washington**

Introduced and read first time: February 7, 2022

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Affordable Assisted Living Enhanced**  
3 **Care Pilot Program**

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

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

16 Preamble

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

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Current and future demand for services require Maryland to evaluate  
2 new solutions to provide greater access to cost-effective, community-based care for  
3 low- and moderate-income adults to avoid costly institutionalization in hospitals and  
4 nursing homes; and

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

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

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

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

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

22 **Article – Health – General**

23 **15-150.**

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

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

28 **(I) EATING OR BEING FED;**

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

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

33 **(IV) TOILETING; AND**

1 (V) DRESSING IN CLEAN, WEATHER-APPROPRIATE CLOTHING.

2 (3) "AFFORDABLE ASSISTED LIVING ENHANCED CARE RESIDENCE"  
3 MEANS AN ASSISTED LIVING RESIDENCE THAT PROVIDES ENHANCED CARE  
4 SERVICES.

5 (4) "AFFORDABLE RESIDENCE" MEANS A STRUCTURE:

6 (I) BUILT OR RENOVATED WITH LOW-INCOME HOUSING TAX  
7 CREDITS THAT OFFERS PRIVATE ONE-BEDROOM OR STUDIO APARTMENTS TO  
8 INDIVIDUALS OR COUPLES WHOSE INCOME DOES NOT EXCEED 60% OF THE AREA  
9 MEDIAN INCOME; AND

10 (II) THAT HAS A CAPACITY OF BETWEEN 80 AND 150 UNITS.

11 (5) "AREA MEDIAN INCOME" MEANS THE AREA MEDIAN INCOME AS  
12 ESTABLISHED FOR THE GEOGRAPHIC REGION BY THE U.S. DEPARTMENT OF  
13 HOUSING AND URBAN DEVELOPMENT.

14 (6) "ASSISTED LIVING RESIDENCE" MEANS A RESIDENTIAL OR  
15 FACILITY-BASED PROGRAM THAT PROVIDES HOUSING AND SUPPORTIVE SERVICES,  
16 SUPERVISION, PERSONALIZED ASSISTANCE, HEALTH-RELATED SERVICES, OR A  
17 COMBINATION OF THESE SERVICES THAT MEETS THE NEEDS OF INDIVIDUALS WHO  
18 ARE UNABLE TO PERFORM OR NEED ASSISTANCE IN PERFORMING THE ACTIVITIES  
19 OF DAILY LIVING OR INSTRUMENTAL ACTIVITIES OF DAILY LIVING IN A WAY THAT  
20 PROMOTES OPTIMUM DIGNITY AND INDEPENDENCE FOR THE INDIVIDUALS.

21 (7) "ENHANCED CARE" MEANS THE PROVISION OF THE FOLLOWING  
22 SERVICES THAT ARE IN ADDITION TO THE PROVISION OF SERVICES OF AN ASSISTED  
23 LIVING RESIDENCE:

24 (I) PERSON-CENTERED, INDIVIDUALIZED CARE PLANNING;

25 (II) REGULAR, PROACTIVE MONITORING OF HEALTH STATUS TO  
26 PROMOTE EARLY DETECTION AND RESOLUTION OF MEDICAL ISSUES;

27 (III) CARE MANAGEMENT TO ENSURE TIMELY REFERRAL AND  
28 ACCESS TO MEDICAL TREATMENT AND HEALTH-RELATED SERVICES;

29 (IV) MEDICATION MANAGEMENT TO IMPROVE ADHERENCE AND  
30 REDUCE MEDICATION ERRORS;

1                   **(V) ASSESSMENT AND REFERRAL TO THERAPY AND**  
2 **RESTORATIVE NURSING PROGRAMS;**

3                   **(VI) HEALTH AND WELLNESS PROGRAMS TO HELP RESIDENTS**  
4 **MANAGE CHRONIC ILLNESS, REDUCE THE RISK OF FALLING, AND LIVE A HEALTHY**  
5 **LIFESTYLE;**

6                   **(VII) ACTIVITIES PROGRAMS TO REDUCE SOCIAL ISOLATION AND**  
7 **HELP SENIORS MAINTAIN AN ACTIVE LIFESTYLE;**

8                   **(VIII) DIETARY SERVICES INCLUDING NUTRITIOUS MEALS AND**  
9 **SNACKS; AND**

10                   **(IX) USE OF ELECTRONIC MEDICAL RECORDS TO IMPROVE CARE**  
11 **MONITORING, IMPROVE QUALITY OVERSIGHT, AND SUPPORT THE TRACKING AND**  
12 **REPORTING OF QUALITY INDICATORS.**

13                   **(8) “INSTRUMENTAL ACTIVITIES OF DAILY LIVING” MEANS HOME**  
14 **MANAGEMENT SKILLS, INCLUDING SHOPPING FOR FOOD AND PERSONAL ITEMS,**  
15 **PREPARING MEALS, AND HANDLING MONEY.**

16                   **(9) “PILOT PROGRAM” MEANS THE AFFORDABLE ASSISTED LIVING**  
17 **ENHANCED CARE PILOT PROGRAM IN THE DEPARTMENT.**

18                   **(B) THERE IS AN AFFORDABLE ASSISTED LIVING ENHANCED CARE PILOT**  
19 **PROGRAM IN THE DEPARTMENT.**

20                   **(C) THE PURPOSE OF THE PILOT PROGRAM IS TO ESTABLISH AFFORDABLE**  
21 **ASSISTED LIVING ENHANCED CARE RESIDENCES FOR THE PROVISION OF ENHANCED**  
22 **CARE TO ELIGIBLE ADULTS WHO ARE AT LEAST 60 YEARS OLD.**

23                   **(D) THE DEPARTMENT SHALL ADMINISTER THE PILOT PROGRAM.**

24                   **(E) (1) THE DEPARTMENT SHALL SELECT UP TO FOUR SITES AT WHICH**  
25 **AN AFFORDABLE ASSISTED LIVING ENHANCED CARE RESIDENCE SHALL BE**  
26 **ESTABLISHED OVER A 5-YEAR PERIOD.**

27                   **(2) IN SELECTING SITES UNDER THIS SUBSECTION, THE**  
28 **DEPARTMENT SHALL PRIORITIZE JURISDICTIONS WITHIN THE STATE WITH THE**  
29 **HIGHEST PERCENTAGE OF LOW-INCOME RESIDENTS WHO ARE AT LEAST 60 YEARS**  
30 **OLD AS IDENTIFIED BY THE DEPARTMENT OF AGING’S STATE PLAN ON AGING,**  
31 **2017–2020.**

1           **(3) TO THE EXTENT PRACTICABLE, ONE OF THE SITES SELECTED BY**  
2 **THE DEPARTMENT SHALL BE LOCATED IN AN URBAN AREA AND ONE SHALL BE**  
3 **LOCATED IN A RURAL AREA OF THE STATE.**

4           **(F) THE DEPARTMENT SHALL PROVIDE FUNDING TO SITES PARTICIPATING**  
5 **IN THE PILOT PROGRAM:**

6           **(1) FOR RECRUITMENT AND TRAINING OF STAFF;**

7           **(2) TO SUPPORT PILOT PROGRAM REIMBURSEMENT FOR A BUNDLED**  
8 **PAYMENT RATE FOR INDIVIDUALS DESCRIBED IN SUBSECTION (G) OF THIS SECTION**  
9 **THAT IS NOT LESS THAN 60% OF THE AVERAGE RATE FOR NURSING HOME CARE**  
10 **WITHIN THE GEOGRAPHIC AREA IN WHICH THE SELECTED AFFORDABLE ASSISTED**  
11 **LIVING ENHANCED CARE RESIDENCE IS LOCATED; AND**

12           **(3) FOR OTHER PURPOSES NECESSARY TO IMPLEMENT AND**  
13 **EVALUATE THE PILOT PROGRAM.**

14           **(G) TO BE ELIGIBLE FOR THE PILOT PROGRAM, AN INDIVIDUAL SHALL**  
15 **MEET THE ELIGIBILITY CRITERIA FOR ENROLLMENT IN THE HOME AND**  
16 **COMMUNITY-BASED OPTIONS WAIVER SPECIFIED UNDER COMAR 10.09.54.03B**  
17 **AND C.**

18           **(H) (1) FOR AN INDIVIDUAL PARTICIPATING IN THE PILOT PROGRAM**  
19 **WHOSE HOME IS IN AN AFFORDABLE RESIDENCE, THE DEPARTMENT SHALL REDUCE**  
20 **ITS MONTHLY PAYMENT AMOUNT OF THE ASSISTED LIVING BUNDLED PAYMENT BY**  
21 **THE AMOUNT REMAINING AFTER DEDUCTING FROM THE INDIVIDUAL'S TOTAL**  
22 **NONEXCLUDED MONTHLY INCOME THE FOLLOWING AMOUNTS IN THE FOLLOWING**  
23 **ORDER:**

24           **(I) A PERSONAL NEEDS ALLOWANCE, CONSISTING OF THE**  
25 **AMOUNT ESTABLISHED IN ACCORDANCE WITH COMAR 10.09.24.10D(2)(C) AND**  
26 **THE ASSISTED LIVING PROVIDER'S CHARGE, NOT EXCEEDING THE MAXIMUM**  
27 **SUPPLEMENTAL SECURITY INCOME BENEFIT AMOUNT PER MONTH;**

28           **(II) A SPOUSAL OR FAMILY MAINTENANCE ALLOWANCE, OR**  
29 **BOTH, IF APPLICABLE, IN ACCORDANCE WITH COMAR 10.09.24.10D(2)(D); AND**

30           **(III) INCURRED MEDICAL EXPENSES IN ACCORDANCE WITH**  
31 **COMAR 10.09.24.10D(2)(F) THROUGH (H).**

32           **(2) THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF**  
33 **AVAILABLE INCOME TO BE PAID BY AN INDIVIDUAL PARTICIPATING IN THE PILOT**

1 **PROGRAM TOWARD THE COST OF AFFORDABLE ASSISTED LIVING.**

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

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

10 **(1) IS NOT ELIGIBLE FOR THE PILOT PROGRAM;**

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

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

15 **(J) THE DEPARTMENT SHALL:**

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

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

20 **(I) EVALUATE THE EFFECTIVENESS OF THE PILOT PROGRAM**  
21 **IN:**

22 **1. IMPROVING QUALITY OF LIFE AND CONSUMER**  
23 **SATISFACTION;**

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

26 **3. PROLONGING COMMUNITY TENURE; AND**

27 **(II) DETERMINE WHETHER TO IMPLEMENT THE PILOT**  
28 **PROGRAM STATEWIDE.**

29 **(K) THE DEPARTMENT SHALL APPLY TO THE CENTERS FOR MEDICARE AND**

1 **MEDICAID SERVICES FOR AN AMENDMENT TO THE STATE'S 1115 HEALTHCHOICE**  
2 **DEMONSTRATION WAIVER OR FOR OTHER AUTHORITY UNDER TITLE 19 OF THE**  
3 **SOCIAL SECURITY ACT IF NECESSARY TO IMPLEMENT THE PILOT PROGRAM.**

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

6 **(1) \$15,500,000 IN FISCAL YEAR 2025; AND**

7 **(2) \$31,000,000 IN FISCAL YEAR 2026 AND IN EACH FISCAL YEAR**  
8 **THEREAFTER.**

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

13 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**  
14 **1, 2022.**