

SENATE BILL 868

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2lr2038
CF HB 1020

By: **Senator Lee**

Introduced and read first time: February 7, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Developmental Disabilities Administration – Self-Directed Services**
3 **(Self-Direction Act of 2022)**

4 FOR the purpose of requiring the Developmental Disabilities Administration to establish
5 and provide training materials to coordinators of community services on
6 self-directed services; requiring coordinators of community services to educate a
7 certain recipient on self-directed services at certain times; providing for the services
8 and manner of delivering services that the Administration provides to a recipient
9 who receives self-directed services; requiring that home- and community-based
10 services waiver recipients receive support broker services; requiring the
11 Administration to submit a certain waiver application for a certain purpose by a
12 certain date; requiring the Administration to leverage certain federal funding for a
13 certain purpose; and generally relating to Developmental Disabilities
14 Administration services.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 7-101
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2021 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 7-408 through 7-410
23 Annotated Code of Maryland
24 (2019 Replacement Volume and 2021 Supplement)

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

27 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7–101.

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

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

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

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

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

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

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

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

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

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

16 (ii) A person who:

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

18 2. Is not a provider of residential supervision.

19 (e) “Claim” has the meaning stated in § 2–601 of this article.

20 (f) “Deputy Secretary” means the Deputy Secretary for Developmental
21 Disabilities.

22 (g) “Developmental disability” means a severe chronic disability of an individual
23 that:

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

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

27 (3) Is likely to continue indefinitely;

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

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

6 (h) "External support" means:

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

9 (i) Personal management;

10 (ii) Household management; and

11 (iii) The use of community resources; and

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

13 (i) "Fee-for-service" means a method for payment that requires a person to
14 submit a claim for payment to the Department for each service performed.

15 (j) "Group home" means a residence that:

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

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

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

20 (k) "Habilitation" means a process by which a provider of services enables an
21 individual to acquire and maintain life skills to cope more effectively with the demands of
22 the individual's own person and environment and to raise the level of the individual's
23 mental, physical, social, and vocational functioning.

24 **(L) (1) "INDIVIDUAL-DIRECTED FAMILY GOODS AND SERVICES" MEANS**
25 **SERVICES, EQUIPMENT, THERAPIES, TRANSPORTATION, OR SUPPLIES FOR**
26 **INDIVIDUALS WHO SELF-DIRECT SERVICES THAT:**

27 **(I) RELATE TO A NEED OR GOAL IDENTIFIED IN THE**
28 **PERSON-CENTERED PLAN;**

29 **(II) MAINTAIN OR INCREASE INDEPENDENCE;**

1 (III) PROMOTE OPPORTUNITIES FOR COMMUNITY LIVING AND
2 INCLUSION; AND

3 (IV) ARE NOT AVAILABLE UNDER A WAIVER SERVICE OR
4 SERVICES PROVIDED UNDER THE STATE PLAN ESTABLISHED IN SUBTITLE 3 OF THIS
5 TITLE.

6
7 (2) "INDIVIDUAL-DIRECTED FAMILY GOODS AND SERVICES"
8 INCLUDES ANY OTHER GOODS OR SERVICES AUTHORIZED UNDER GUIDANCE ISSUED
9 BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES UNDER §
10 1915(C) OF THE SOCIAL SECURITY ACT.

11 [(1)] (M) (1) "Individual support services" means an array of services that are
12 designed to increase or maintain an individual's ability to live alone or in a family setting.

13 (2) "Individual support services" include:

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

15 (ii) Counseling;

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

17 (iv) Architectural modification; and

18 (v) Any other services that the Administration considers
19 appropriate to meet the individual's needs.

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

22 [(m)] (N) "Intellectual disability" means a developmental disability that is
23 evidenced by significantly subaverage intellectual functioning and impairment in the
24 adaptive behavior of an individual.

25 [(n)] (O) "Knowingly" has the meaning stated in § 2-601 of this article.

26 [(o)] (P) "Live independently" means:

27 (1) For adults:

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

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

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

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

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

10 (R) “PERSON-CENTERED” MEANS THAT A PLAN FOR SERVICES:

11 (1) REFLECTS WHAT IS IMPORTANT TO THE INDIVIDUAL AND FOR THE
12 INDIVIDUAL’S HEALTH AND WELFARE; AND

13 (2) IS DEVELOPED WITH INPUT FROM THE INDIVIDUAL OR THE
14 INDIVIDUAL’S REPRESENTATIVE, IF APPLICABLE.

15 [(q)] (S) “Provider” means an individual who is licensed or certified under
16 Subtitle 9 of this title and provides services to:

17 (1) A recipient; or

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

20 [(r)] (T) “Recipient” means an individual who receives services funded by the
21 Administration under this title.

22 [(s)] (U) “Release” means a permanent, temporary, absolute, or conditional
23 release of an individual from a State residential center.

24 [(t)] (V) “Residential services” means individualized support and services that
25 assist an individual in developing and maintaining skills in living in the community.

26 (W) (1) “SELF-DIRECTED SERVICES” MEANS WAIVER PROGRAM
27 SERVICES:

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

1 **(II) THAT ARE PROVIDED IN A MANNER THAT FURTHERS THE**
2 **RIGHT OF INDIVIDUALS WITH DISABILITIES, REGARDLESS OF THE PHYSICAL OR**
3 **INTELLECTUAL CAPACITY OF THE INDIVIDUALS, TO MAKE CHOICES ABOUT AND**
4 **DIRECT ALL ASPECTS OF THEIR LIVES, INCLUDING THROUGH CONTROL OVER**
5 **RECEIPT OF, AND FUNDING FOR, SUPPORT SERVICES.**

6 **(2) “SELF-DIRECTED SERVICES” INCLUDES SERVICES THAT:**

7 **(I) PROVIDE AN INDIVIDUAL WITH:**

8 **1. THE DECISION-MAKING EMPLOYER AUTHORITY TO**
9 **RECRUIT, HIRE, TRAIN, AND SUPERVISE THE INDIVIDUALS WHO FURNISH THE**
10 **INDIVIDUAL’S SERVICES; AND**

11 **2. THE BUDGET AUTHORITY OVER HOW FUNDS IN A**
12 **BUDGET ARE SPENT;**

13 **(II) MAXIMIZE THE OPPORTUNITIES OF AN INDIVIDUAL TO LIVE**
14 **AS INDEPENDENTLY AS POSSIBLE IN THE MOST INCLUSIVE COMMUNITY-BASED**
15 **SETTING OF THE INDIVIDUAL’S CHOICE;**

16 **(III) EMPOWER AN INDIVIDUAL TO EXERCISE CHOICE AND**
17 **CONTROL OVER NEEDED LONG-TERM SERVICES AND SUPPORTS; AND**

18 **(IV) HELP TO MAINTAIN AND IMPROVE HEALTH AND QUALITY OF**
19 **LIFE IN THE INDIVIDUAL’S COMMUNITY.**

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

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

27 (1) Planning services;

28 (2) Coordinating services; and

29 (3) Monitoring service delivery to the individual.

30 **[(w)] (Z)** “State residential center” means a licensed facility operated by the

1 State that provides residential and habilitation services to individuals with an intellectual
2 disability who are at least 18 years old and meet the criteria set forth in § 7-502 of this
3 title.

4 **(AA) “SUPPORT BROKER” MEANS A PERSON WHO ADVOCATES ON BEHALF OF**
5 **AND AS DIRECTED BY AN INDIVIDUAL WHO USES SELF-DIRECTED SERVICES,**
6 **INCLUDING BY ASSISTING THE INDIVIDUAL OR THE INDIVIDUAL’S FAMILY OR OTHER**
7 **REPRESENTATIVE WITH:**

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

10 **(2) ACCESSING AND MANAGING IDENTIFIED SUPPORTS AND**
11 **SERVICES BEST SUITED FOR THE INDIVIDUAL; AND**

12 **(3) PERFORMING OTHER TASKS AS ASSIGNED BY THE INDIVIDUAL.**

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

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

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

21 **[(aa)] (EE)** “Waiver program” means each Medicaid Home- and
22 Community-Based Services Waiver funding program submitted by the Department and
23 approved by the federal Centers for Medicare and Medicaid Services in accordance with §
24 1915(c) of the Social Security Act that is overseen and administered by the Administration.

25 **[(bb)] (FF)** “Waiver program services” means services funded by the
26 Administration in accordance with a waiver program, including:

27 (1) Meaningful day services;

28 (2) Residential services; and

29 (3) Support services.

30 **7-408.**

1 (A) THE ADMINISTRATION, IN CONSULTATION WITH STAKEHOLDERS,
2 SHALL ESTABLISH AND PROVIDE TRAINING MATERIALS TO COORDINATORS OF
3 COMMUNITY SERVICES ON SELF-DIRECTED SERVICES, INCLUDING TRAINING
4 MATERIALS ON SELF-DIRECTED SERVICES POLICIES AND RESOURCES.

5 (B) AS PART OF THE PROCESS OF DEVELOPING A PERSON-CENTERED PLAN
6 OF SERVICE FOR A RECIPIENT, A COORDINATOR OF COMMUNITY SERVICES SHALL
7 EDUCATE THE RECIPIENT ON THE AVAILABILITY OF SELF-DIRECTED SERVICES:

8 (1) WHEN THE INDIVIDUAL BEGINS RECEIVING SERVICES FROM A
9 COORDINATOR OF COMMUNITY SERVICES; AND

10 (2) AT LEAST ONCE EACH YEAR THAT THE INDIVIDUAL IS RECEIVING
11 SERVICES FROM A COORDINATOR OF COMMUNITY SERVICES.

12 (C) A COORDINATOR OF COMMUNITY SERVICES SHALL REPORT TO THE
13 ADMINISTRATION, IN THE FORM AND MANNER REQUIRED BY THE ADMINISTRATION,
14 THAT THE COORDINATOR OFFERED SELF-DIRECTED SERVICES TO AN INDIVIDUAL
15 IN ACCORDANCE WITH THIS SECTION.

16 **7-409.**

17 (A) THE ADMINISTRATION SHALL PROVIDE TO A RECIPIENT WHO RECEIVES
18 SELF-DIRECTED SERVICES:

19 (1) INDIVIDUAL-DIRECTED FAMILY GOODS AND SERVICES IN AN
20 AMOUNT BASED ON THE RECIPIENT'S NEEDS AND INCLUDED IN THE RECIPIENT'S
21 PERSON-CENTERED PLAN OF SERVICE AS CALCULATED ON AN ANNUAL BASIS;

22 (2) ACCESS TO THE RECIPIENT'S PLAN OF SERVICE AND BUDGETS
23 FOR THE PLAN OF SERVICE THROUGH THE DEPARTMENT'S LONG TERM SERVICES
24 AND SUPPORTS SOFTWARE SYSTEM;

25 (3) UP TO 40 HOURS OF SUPPORT BROKER SERVICES EACH MONTH,
26 AS NEEDED BY THE RECIPIENT;

27 (4) AN OPTION FOR A FAMILY MEMBER OR LEGAL GUARDIAN OF THE
28 RECIPIENT TO PROVIDE SERVICES FOR THE 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 RECIPIENT ALSO HIRES A SUPPORT BROKER;**

2 **(5) REIMBURSEMENT PAID ON A PER-MILE BASIS FOR**
3 **TRANSPORTATION PROVIDED TO THE RECIPIENT BY AN INDIVIDUAL WHO IS NOT**
4 **EMPLOYED BY THE INDIVIDUAL, IF THE TRANSPORTATION IS RELATED TO THE**
5 **RECIPIENT'S PERSON-CENTERED PLAN OF SERVICE;**

6 **(6) A BUDGET FOR SELF-DIRECTED SERVICES THAT PROVIDES**
7 **SUBSTANTIALLY SIMILAR SERVICES AS THOSE PROVIDED TO A RECIPIENT WHO**
8 **DOES NOT SELF-DIRECT SERVICES, INCLUDING FUNDING FOR MANAGERIAL OR**
9 **DIRECT SUPPORT POSITIONS;**

10 **(7) AN OPTION FOR A RECIPIENT WHO HAS A DEMONSTRATED NEED**
11 **FOR OVERNIGHT SUPPORTS TO DIRECT AND CHOOSE THE PROVIDER OF THE**
12 **OVERNIGHT SUPPORTS, INCLUDING WHETHER TO USE FUNDING IN THE RECIPIENT'S**
13 **BUDGET FOR SELF-DIRECTED SERVICES ALLOCATED FOR PERSONAL SUPPORT**
14 **SERVICES FOR OVERNIGHT SUPPORTS;**

15 **(8) THE CHOICE OF A VENDOR TO PROVIDE FISCAL MANAGEMENT**
16 **SERVICES FROM AT LEAST THREE OPTIONS;**

17 **(9) THE OPTION TO EMPLOY A REPRESENTATIVE, SUPPORT BROKER,**
18 **OR TEAM OF INDIVIDUALS TO SUPPORT THE RECIPIENT IN DIRECTING SERVICES;**
19 **AND**

20 **(10) TRAINING FOR A REPRESENTATIVE, SUPPORT BROKER, OR TEAM**
21 **OF INDIVIDUALS ON SELF-DIRECTED SERVICES.**

22 **(B) SUBJECT TO SUBSECTION (A)(3) OF THIS SECTION, THE**
23 **ADMINISTRATION SHALL PROVIDE TO A RECIPIENT OF SELF-DIRECTED SERVICES**
24 **ANY SUPPORT BROKER SERVICES THAT ARE:**

25 **(1) AUTHORIZED UNDER GUIDANCE ISSUED BY THE CENTERS FOR**
26 **MEDICARE AND MEDICAID SERVICES IN § 1915(C) OF THE SOCIAL SECURITY ACT;**
27 **AND**

28 **(2) SELECTED BY THE RECIPIENT.**

29 **(C) THE ADMINISTRATION MAY NOT ESTABLISH A LIMIT ON:**

30 **(1) THE DOLLAR AMOUNT OF INDIVIDUAL-DIRECTED FAMILY GOODS**
31 **AND SERVICES PROVIDED TO A RECIPIENT; OR**

1 **(2) THE NUMBER OF HOURS OF OVERNIGHT SUPPORTS PROVIDED TO**
2 **A RECIPIENT WHO RECEIVES SELF-DIRECTED SERVICES.**

3 **(D) THE STATE MAY NOT REQUIRE A RECIPIENT TO DEMONSTRATE**
4 **COMPETENCY BEFORE THE ADMINISTRATION AUTHORIZES THE RECIPIENT TO**
5 **RECEIVE SELF-DIRECT SERVICES.**

6 **7-410.**

7 **(A) THE ADMINISTRATION SHALL PROVIDE UP TO 40 HOURS OF SUPPORT**
8 **BROKER SERVICES EACH MONTH TO A RECIPIENT OF WAIVER SERVICES.**

9 **(B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION**
10 **SHALL PROVIDE TO A RECIPIENT OF WAIVER SERVICES ANY SUPPORT BROKER**
11 **SERVICES THAT ARE AUTHORIZED UNDER GUIDANCE ISSUED BY THE CENTERS FOR**
12 **MEDICARE AND MEDICAID SERVICES UNDER § 1915(C) OF THE SOCIAL SECURITY**
13 **ACT.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 1, 2023,
15 the Developmental Disabilities Administration shall submit to the Centers for Medicare
16 and Medicaid Services an amendment to the Community Pathways Waiver that includes
17 the overnight supports requirements established under Section 1 of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That on or before January 1 each
19 year, beginning in 2023 and ending in 2026, the Developmental Disabilities Administration
20 shall report to the General Assembly, in accordance with § 2-1257 of the State Government
21 Article, on the progress in implementing the requirements established under Section 1 of
22 this Act and the recommendations outlined in the Self-Directed Advocacy Network of
23 Maryland's "Recommendations to Summary Study Workgroup House Bill 318 of 2021".

24 SECTION 4. AND BE IT FURTHER ENACTED, That, to the extent authorized by
25 law, the Developmental Disabilities Administration shall leverage federal funding,
26 including funding provided by the Centers for Medicare and Medicaid Services, to pay for
27 the services established under this Act.

28 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2022.