

# SENATE BILL 371

J1, J3

4lr1409

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By: **Senator Lam**

Introduced and read first time: January 17, 2024

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 25, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Medical Assistance Program – ~~Provider Agencies and Personal Care~~**  
3 **Aides – ~~Reimbursement and Wage Reports~~**  
4 **~~(Homecare Workers Livable Wage Act of 2024)~~**

5 FOR the purpose of requiring ~~provider~~ residential service agencies to submit certain reports  
6 to the Maryland Department of Labor regarding wage rates for personal care aides;  
7 ~~requiring the Maryland Department of Health to submit certain reports regarding~~  
8 ~~reimbursement rates for entities providing certain home and community based~~  
9 ~~services~~ requiring the Maryland Department of Health to report to certain  
10 committees of the General Assembly within a certain time period after the release of  
11 the final federal Ensuring Access to Medicaid Services rule on an overview of the  
12 final rule and plans or steps that the Department will take to operationalize the rule;  
13 and generally relating to personal care services reimbursed by the Maryland Medical  
14 Assistance Program.

15 BY adding to  
16 Article – Health – General  
17 Section 15–155  
18 Annotated Code of Maryland  
19 (2023 Replacement Volume)

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**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 15-155.

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

4 ~~(2)~~ ~~“PERSONAL CARE,~~ “PERSONAL CARE AIDE” MEANS AN  
5 INDIVIDUAL WHO PROVIDES PERSONAL ASSISTANCE SERVICES THROUGH A  
6 RESIDENTIAL SERVICE AGENCY.

7 ~~(3)~~ ~~“PROVIDER AGENCY” MEANS AN ENTITY THAT PAYS A PERSONAL~~  
8 ~~CARE AIDE TO PROVIDE PERSONAL ASSISTANCE SERVICES THAT ARE~~  
9 ~~REIMBURSABLE BY THE PROGRAM UNDER A MEDICAID HOME AND~~  
10 ~~COMMUNITY-BASED SERVICES PROGRAM.~~

11 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
12 THIS SECTION APPLIES ONLY TO PERSONAL ASSISTANCE SERVICES PROVIDED  
13 THROUGH A RESIDENTIAL SERVICE AGENCY UNDER COMMUNITY FIRST CHOICE,  
14 COMMUNITY OPTIONS, COMMUNITY PERSONAL ASSISTANCE SERVICES, AND ANY  
15 OTHER HOME- AND COMMUNITY-BASED SERVICES ADMINISTERED BY THE  
16 DEPARTMENT.

17 (2) THIS SECTION DOES NOT APPLY TO PERSONAL CARE SERVICES  
18 PROVIDED THROUGH THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

19 (C) (1) ON OR BEFORE SEPTEMBER 1 EACH YEAR, BEGINNING IN 2025,  
20 ~~PROVIDER~~ RESIDENTIAL SERVICE AGENCY SHALL SUBMIT TO THE MARYLAND  
21 DEPARTMENT OF LABOR A REPORT IN THE FORM AND MANNER REQUIRED BY THE  
22 MARYLAND DEPARTMENT OF LABOR.

23 (2) THE ANNUAL REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS  
24 SUBSECTION SHALL INCLUDE:

25 (i) DOCUMENTATION OF THE ~~PROVIDER~~ RESIDENTIAL  
26 SERVICE AGENCY’S:

27 1. AVERAGE WAGE RATE FOR PERSONAL CARE AIDES;

28 AND

29 2. HIGHEST AND LOWEST WAGE RATES FOR PERSONAL  
30 CARE AIDES; AND

31 (ii) ANY OTHER INFORMATION THAT THE MARYLAND  
32 DEPARTMENT OF LABOR DETERMINES APPROPRIATE.

1           (3) THE ANNUAL REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS  
2 SUBSECTION SHALL BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE  
3 ~~PROVIDER RESIDENTIAL SERVICE AGENCY.~~

4           ~~(D) (1) ON OR BEFORE SEPTEMBER 30, 2024, AND EVERY 2 YEARS~~  
5 ~~THEREAFTER, THE DEPARTMENT SHALL:~~

6           ~~(I) FOR HOME AND COMMUNITY-BASED SERVICES PROVIDED~~  
7 ~~UNDER PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS~~  
8 ~~MEDICAL CARE PROGRAMS ADMINISTRATION OF THE RARE AND EXPENSIVE CASE~~  
9 ~~MANAGEMENT PROGRAM:~~

10           ~~1. COMPARE THE RATE OF REIMBURSEMENT WITH THE~~  
11 ~~ACTUAL COST TO ENTITIES PROVIDING THE SERVICES, TO THE EXTENT~~  
12 ~~INFORMATION IS PUBLICLY AVAILABLE, FOR:~~

13           ~~A. PROVIDING CARE TO INDIVIDUALS APPROVED FOR~~  
14 ~~DIRECT CARE SERVICES;~~

15           ~~B. COORDINATING CARE SERVICES; AND~~

16           ~~C. PROVIDING ANY OTHER SERVICES; AND~~

17           ~~2. REVIEW:~~

18           ~~A. SPECIFIC SERVICES REQUIRED TO BE PROVIDED;~~

19           ~~B. ANY LICENSURE REQUIREMENTS IMPOSED ON~~  
20 ~~ENTITIES THAT PROVIDE THE HOME AND COMMUNITY-BASED SERVICES;~~

21           ~~C. ANY REQUIREMENTS IMPOSED BY A HEALTH~~  
22 ~~OCCUPATIONS BOARD THAT ARE SPECIFIC TO INDIVIDUALS PROVIDING HOME AND~~  
23 ~~COMMUNITY-BASED SERVICES; AND~~

24           ~~D. ANY OTHER STATE OR LOCAL REQUIREMENTS~~  
25 ~~ASSOCIATED WITH THE COST OF PROVIDING THE SERVICES IN THE STATE;~~

26           ~~(II) DETERMINE, TO THE EXTENT INFORMATION IS PUBLICLY~~  
27 ~~AVAILABLE, THE COSTS ASSOCIATED WITH PROVIDING SERVICE AND CARE UNDER~~  
28 ~~OTHER HOME AND COMMUNITY-BASED PROGRAMS;~~

~~(III) IN MAKING THE DETERMINATION UNDER ITEM (II) OF THIS PARAGRAPH, CONSULT WITH PERSONS PROVIDING THE SERVICES REQUIRED UNDER EACH HOME AND COMMUNITY-BASED PROGRAM, INCLUDING:~~

~~1. ENTITIES PROVIDING ADULT MEDICAL DAY CARE;~~

~~2. PRIVATE DUTY NURSES;~~

~~3. ASSISTED LIVING PROVIDERS; AND~~

~~4. PERSONAL CARE ASSISTANCE PROVIDERS;~~

~~(IV) COMPARE THE RATE OF REIMBURSEMENT VERSUS THE ACTUAL COST TO PROVIDE PERSONAL ASSISTANCE SERVICES TO INDIVIDUALS UNDER THE COMMUNITY FIRST CHOICE, COMMUNITY OPTIONS, COMMUNITY PERSONAL ASSISTANCE SERVICES, AND ANY OTHER HOME OR COMMUNITY-BASED SERVICES ADMINISTERED BY THE DEPARTMENT;~~

~~(V) DEVELOP A PLAN TO CLOSE ANY IDENTIFIED DIFFERENTIAL GAP IN REIMBURSEMENT RATES, INCLUDING BY CONSIDERING WAGES AND BENEFITS PAID TO PERSONAL CARE AIDES OR SIMILAR WORKERS IN OTHER STATES OR IN OTHER HEALTH CARE SETTINGS; AND~~

~~(VI) DETERMINE THE AMOUNT OF ANY ADJUSTMENT NEEDED IN REIMBURSEMENT RATES TO INCREASE WAGES AND BENEFITS TO PERSONAL CARE AIDES TO AT LEAST 150% OF THE STATE MINIMUM WAGE.~~

~~(2) ON OR BEFORE SEPTEMBER 30, 2024, AND EVERY 2 YEARS THEREAFTER, THE DEPARTMENT SHALL SUBMIT ITS FINDINGS AND RECOMMENDATIONS, INCLUDING ANY PROPOSED LEGISLATIVE OR REGULATORY CHANGES, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before the 180th day after the release of the final federal Ensuring Access to Medicaid Services rule, the Maryland Department of Health shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, on an overview of the final rule and plans or steps that the Department will take to operationalize the rule.

(b) The report required under subsection (a) of this section shall include:

(1) the process that the Department will use to review wage reports of

1 personal care aides; and

2 (2) how the data will be used to review Medicaid reimbursement rates as  
3 outlined in the rule.

4 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 June 1, 2024.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.