

Chapter 175

(Senate Bill 742)

AN ACT concerning

**Maryland Medical Assistance Program and Developmental Disabilities
Administration – Home– and Community–Based Services Eligibility
Determinations
(Maryland Protecting People With Disabilities Act)**

FOR the purpose of altering the time within which an individual receiving services from the Developmental Disabilities Administration must appeal a loss of eligibility for services; establishing requirements related to eligibility determinations and redeterminations under the Maryland Medical Assistance Program; requiring the Maryland Department of Health to provide certain accessible information to Program recipients and any other individuals on request; prohibiting the Department from procedurally disenrolling individuals from the Program or home– and community–based services solely on a certain basis except under certain circumstances; requiring the Department, subject to federal approval, to reserve certain home– and community–based services waiver slots for Program recipients who lost eligibility under certain circumstances; and generally relating to determinations of eligibility for home– and community–based services.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 7–309(b)
Annotated Code of Maryland
(2023 Replacement Volume and 2025 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–101(a), (h), and (i)
Annotated Code of Maryland
(2023 Replacement Volume and 2025 Supplement)

BY adding to
Article – Health – General
Section 15–103.9
Annotated Code of Maryland
(2023 Replacement Volume and 2025 Supplement)

Preamble

WHEREAS, The landmark decision of the U.S. Supreme Court in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999) affirmed that unjustified segregation of individuals

with disabilities constitutes discrimination in violation of Title II of the federal Americans with Disabilities Act; and

WHEREAS, The Olmstead decision established that people with disabilities have the right to receive services in the most integrated setting appropriate to their needs and that states must provide community-based services when such services are appropriate, desired by the individual, and can be reasonably accommodated; and

WHEREAS, Individuals with ~~intellectual and developmental~~ disabilities are vital members of Maryland's communities, contributing meaningfully in workplaces, classrooms, places of worship, neighborhoods, and civic life across the State; and

WHEREAS, The State of Maryland has demonstrated a longstanding commitment to community inclusion by ~~closing nearly all large public institutions for people with intellectual and developmental disabilities and~~ investing in supports that allow Marylanders with disabilities to live, work, and thrive in the communities of their choosing, with people they choose; and

~~WHEREAS, Despite this progress, barriers remain when administrative inefficiencies and delays in Medicaid eligibility determinations or redeterminations cause individuals to lose critical home- and community-based services or remain institutionalized after they are medically ready for discharge; and~~

WHEREAS, Ensuring timely Medicaid eligibility determinations, preventing procedural terminations, and protecting continuity of home- and community-based services coverage are necessary to fulfill the promise of Olmstead and uphold Maryland's commitment to dignity, inclusion, and equality for all people with disabilities; and

WHEREAS, Maryland law requires the Developmental Disabilities Administration and the Department of Disabilities to compile statewide and regional data from written plans of habilitation, including barriers to community placement, and to incorporate the data annually into the State's Olmstead Plan together with recommendations for addressing those barriers; now, therefore,

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

Article – Health – General

7–309.

(b) (1) An individual receiving Administration services who receives notice from the Department that the individual has lost eligibility to receive Maryland Medical Assistance Program services [shall have 90 days after the date on which the notification letter was mailed to] **MAY** appeal the determination.

(2) If an individual appeals a loss of eligibility within the time period required under [paragraph (1) of this subsection] § 42 C.F.R. 431.231, Administration services for the individual shall continue uninterrupted until the outcome of the appeal is complete.

(3) The Department shall ensure that providers of Administration services to an individual affected by a loss of eligibility are notified of the individual's loss of eligibility when notice is sent to the individual.

(4) The Department shall ensure that providers, including coordinators of community services, have the ability to automatically exchange electronic data with the Department through an application program interface with the Department's Long Term Services and Supports software system.

15-101.

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

(h) "Program" means the Maryland Medical Assistance Program.

(i) "Program recipient" means an individual who receives benefits under the Program.

15-103.9.

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

(2) "EX PARTE REDETERMINATION" MEANS A PROCESS BY WHICH THE DEPARTMENT DETERMINES A PROGRAM RECIPIENT'S ELIGIBILITY TO CONTINUE TO RECEIVE SERVICES USING EXISTING DATA, WITHOUT REQUIRING THE PROGRAM RECIPIENT TO SUBMIT ADDITIONAL INFORMATION.

(3) "HOME- AND COMMUNITY-BASED SERVICES" MEANS SERVICES AUTHORIZED UNDER A MEDICAID STATE PLAN OPTION OR WAIVER UNDER § 1115 OR § 1915(C), (I), OR (K) OF THE FEDERAL SOCIAL SECURITY ACT.

(4) "PROCEDURAL DISENROLLMENT" MEANS THE TERMINATION OF A PROGRAM RECIPIENT'S ELIGIBILITY TO RECEIVE SERVICES BASED ON REASONS RELATED TO THE RENEWAL PROCESS AND NOT ON A DETERMINATION OF INELIGIBILITY.

(B) THE DEPARTMENT SHALL COMPLY WITH THE REQUIREMENTS OF 42 C.F.R. § 435.912 RELATED TO THE TIMELY DETERMINATION AND

REDETERMINATION OF PROGRAM ELIGIBILITY, INCLUDING PROCESSING AN APPLICATION:

(1) IF A DETERMINATION OF DISABILITY IS NOT REQUIRED, WITHIN 45 DAYS AFTER THE RECEIPT OF THE APPLICATION; AND

(2) IF A DETERMINATION OF DISABILITY IS REQUIRED, WITHIN 90 DAYS AFTER THE RECEIPT OF THE APPLICATION.

(C) THE DEPARTMENT SHALL CONDUCT EX PARTE REDETERMINATIONS AND USE ALL PROCEDURES AUTHORIZED UNDER 42 C.F.R. § 435.916 TO PREVENT PROCEDURAL DISENROLLMENT OF INDIVIDUALS RECEIVING HOME- AND COMMUNITY-BASED SERVICES.

(D) IN ACCORDANCE WITH 42 C.F.R. § 435.905 AND SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE, IN ELECTRONIC AND PAPER FORMATS, AND ORALLY AS ~~APPROPRIATE~~ AN ACCOMMODATION, THE FOLLOWING INFORMATION TO ALL APPLICANTS AND OTHER INDIVIDUALS ON REQUEST:

(1) REQUIREMENTS FOR PROGRAM ELIGIBILITY;

(2) AVAILABLE PROGRAM SERVICES; AND

(3) THE RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND PROGRAM RECIPIENTS.

(E) (1) THE DEPARTMENT SHALL PROVIDE THE INFORMATION REQUIRED UNDER SUBSECTION (D) OF THIS SECTION IN PLAIN LANGUAGE AND IN A MANNER THAT IS TIMELY AND ACCESSIBLE TO INDIVIDUALS WHO ARE:

(I) LIMITED ENGLISH PROFICIENT THROUGH THE PROVISION OF LANGUAGE SERVICES, INCLUDING ORAL INTERPRETATION AND WRITTEN TRANSLATIONS, AT NO COST TO THE INDIVIDUAL; OR

(II) LIVING WITH DISABILITIES THROUGH THE PROVISION OF AUXILIARY AIDS AND SERVICES AT NO COST TO THE INDIVIDUAL IN ACCORDANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT AND § 504 OF THE FEDERAL REHABILITATION ACT OF 1973.

(2) THE DEPARTMENT SHALL PROVIDE TAGLINES IN NON-ENGLISH LANGUAGES TO INFORM INDIVIDUALS OF:

(I) THE AVAILABILITY OF THE ACCESSIBLE INFORMATION AND LANGUAGE SERVICES UNDER THIS SECTION; AND

(II) HOW TO ACCESS THE INFORMATION AND SERVICES.

~~(F) IF THE DEPARTMENT DETERMINES THAT THE INFORMATION NECESSARY TO CONFIRM A PROGRAM RECIPIENT'S ELIGIBILITY TO CONTINUE TO RECEIVE SERVICES IS INCOMPLETE, THE DEPARTMENT SHALL CONTINUE TO PROVIDE THE HOME AND COMMUNITY-BASED SERVICES AND OTHER SERVICES UNDER THE PROGRAM UNTIL THE PROGRAM RECIPIENT HAS EXHAUSTED ALL DUE PROCESS RIGHTS AND A FINAL DETERMINATION IS ISSUED.~~

~~(G)~~ (1) IF A PROGRAM RECIPIENT IS PROCEDURALLY DISENROLLED FROM HOME- AND COMMUNITY-BASED SERVICES DUE TO A FAILURE BY THE DEPARTMENT TO REDETERMINE ELIGIBILITY IN A TIMELY MANNER AFTER THE RECIPIENT HAS TIMELY RETURNED INFORMATION REQUIRED UNDER 42 C.F.R. § 435.916(B)(2)(1)(B) AND 42 C.F.R. § 435.952(C) AND THE DELAY IN THE REDETERMINATION WAS NO FAULT OF THE PROGRAM RECIPIENT, THE DEPARTMENT SHALL REINSTATE THE PROGRAM RECIPIENT'S ELIGIBILITY AND THE PROVISION OF HOME- AND COMMUNITY-BASED SERVICES AND AUTHORIZE ENROLLMENT RETROACTIVELY TO THE DATE OF DISENROLLMENT PENDING THE DEPARTMENT'S COMPLETION OF THE REDETERMINATION PROCESS.

(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT THE DEPARTMENT'S AUTHORITY OR DIMINISH THE DEPARTMENT'S RESPONSIBILITY TO REINSTATE THE ELIGIBILITY OF AND THE PROVISION OF HOME- AND COMMUNITY-BASED SERVICES TO A PROGRAM RECIPIENT WHO HAS BEEN DISENROLLED FOR A REASON OTHER THAN A FAILURE BY THE DEPARTMENT TO REDETERMINE ELIGIBILITY IN A TIMELY MANNER.

~~(H)~~ (G) SUBJECT TO FEDERAL APPROVAL, THE DEPARTMENT SHALL RESERVE ~~A PORTION OF THE PARTICIPANT CAPACITY IN THE HOME- AND COMMUNITY-BASED SERVICES WAIVER UNDER § 1915(C) OF THE FEDERAL SOCIAL SECURITY ACT~~ WAIVERS FOR SERVICES NEEDED BY PROGRAM RECIPIENTS WITH DEVELOPMENTAL DISABILITIES WHO:

(1) WERE DISENROLLED FROM THE MARYLAND MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAM ON OR AFTER JANUARY 1, 2024;

(2) HAVE HAD PROGRAM ELIGIBILITY REINSTATED; AND

(3) HAVE REQUESTED THE REINSTATEMENT OF WAIVER SERVICES.

~~(I) THE DEPARTMENT MAY NOT PLACE AN INDIVIDUAL ON A WAITING LIST OR REQUIRE A NEW WAIVER APPLICATION IF THE DISENROLLMENT OF THE INDIVIDUAL RESULTED FROM A DELAY OR AN ERROR BY THE DEPARTMENT.~~

~~(J)~~ (H) (1) THE DEPARTMENT MAY NOT PROCEDURALLY DISENROLL AN INDIVIDUAL FROM THE PROGRAM OR HOME- AND COMMUNITY-BASED SERVICES SOLELY BASED ON MISSING DOCUMENTATION, A MISSING SIGNATURE, OR INCOMPLETE INFORMATION UNLESS THE DEPARTMENT HAS:

(I) EXHAUSTED ALL EX PARTE VERIFICATION PROCESSES REQUIRED UNDER 42 C.F.R. § 435.916;

(II) PROVIDED A CLEAR, SPECIFIC, AND ACCESSIBLE WRITTEN NOTICE IDENTIFYING THE EXACT INFORMATION REQUIRED; AND

(III) PROVIDED THE PROGRAM RECIPIENT WITH A REASONABLE OPPORTUNITY TO SUPPLY THE INFORMATION; AND

~~(IV) VERIFIED THAT THE INDIVIDUAL RECEIVED THE NOTICE REQUIRED UNDER ITEM (H) OF THIS PARAGRAPH AND DOCUMENTED THE VERIFICATION.~~

(2) IF THE DEPARTMENT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION, A PROGRAM RECIPIENT'S HOME- AND COMMUNITY-BASED SERVICES SHALL CONTINUE WITHOUT INTERRUPTION.

~~(K)~~ (I) IF THE DEPARTMENT DISENROLLS A PROGRAM RECIPIENT IN VIOLATION OF THIS SECTION, THE DEPARTMENT SHALL:

(1) AUTOMATICALLY REINSTATE PROGRAM AND HOME- AND COMMUNITY-BASED SERVICES RETROACTIVE TO THE DATE OF DISENROLLMENT; AND

(2) TREAT THE PROGRAM RECIPIENT AS CONTINUOUSLY ENROLLED.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

15-103.9.

~~(I)~~ **(J)** (1) ON OR BEFORE JANUARY 1, 2027, AND QUARTERLY THEREAFTER, THE DEPARTMENT SHALL:

(I) SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, A REPORT REGARDING PROGRAM RECIPIENTS WHO RECEIVE HOME- AND COMMUNITY-BASED SERVICES; AND

(II) POST EACH REPORT SUBMITTED UNDER ITEM (I) OF THIS PARAGRAPH ON THE DEPARTMENT'S WEBSITE.

(2) THE REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE TOTAL NUMBER OF PROGRAM RECIPIENTS FOR WHOM A REDETERMINATION OF ELIGIBILITY WAS INITIATED;

(II) THE TOTAL NUMBER OF PROGRAM RECIPIENTS FOR WHOM PROGRAM COVERAGE IS RENEWED;

(III) OF THE PROGRAM RECIPIENTS WHOSE ELIGIBILITY IS RENEWED, THE TOTAL NUMBER WHOSE COVERAGE WAS RENEWED BASED ON AN EX PARTE REDETERMINATION;

(IV) THE TOTAL NUMBER OF PROGRAM RECIPIENTS WHOSE ELIGIBILITY WAS REINSTATED IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION;

~~(IV)~~ (V) THE TOTAL NUMBER OF PROGRAM RECIPIENTS WHOSE ELIGIBILITY WAS TERMINATED;

~~(V)~~ (VI) THE TOTAL NUMBER OF PROGRAM RECIPIENTS WHOSE ELIGIBILITY WAS TERMINATED FOR PROCEDURAL REASONS;

(VII) THE TOTAL NUMBER OF PROGRAM RECIPIENTS WHOSE ELIGIBILITY WAS TERMINATED DUE TO A FAILURE BY THE DEPARTMENT TO REDETERMINE ELIGIBILITY IN A TIMELY MANNER; AND

~~(VI)~~ (VIII) THE MEAN AND MEDIAN PROCESSING TIMES FOR REDETERMINATIONS OF ELIGIBILITY.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2026. Section 2 of this Act shall remain effective for a period of 3 years and, at

the end of September 30, 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, April 28, 2026.