



DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

February 16, 2021

The Honorable Delores Kelley, Chair
Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 441 - Developmental Disabilities Administration - Self-Directed Services (Self-Direction Act) – Letter of Opposition

Dear Chair Kelley and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of opposition for Senate Bill 441 (SB 441) – Developmental Disabilities Administration - Self-Directed Services (Self-Direction Act) and requests an unfavorable report from the Committee.

While MDH supports and encourages self-direction as a service delivery model, the proposed legislation would create unreasonable operational challenges that are contrary to the recommendations from the Office of Legislative Audits. Moreover, the changes proposed by this legislation are contrary to requirements of The Centers for Medicare and Medicaid Services (CMS) waiver programs under Home and Community-Based Services (HCBS) and jeopardize federal matching funds. If passed, this service may be in jeopardy for possibly losing up to \$31 million in federal matching funds (FY 2020), with a corresponding impact on state general funds. Maryland ‘advances’ state general funds and then submits to the federal government for the federal review, authorization, and match.

SB 441 enables Support Brokers to have a fiduciary duty to the individual to whom they provide services, which is prohibited by CMS. Support Brokers may not make any decision for the participant, sign off on service delivery or timesheets, or hire or fire workers. The proposed legislation creates a conflict of interest by allowing Support Brokers to validate their own provision of service and payment. CMS requires the separation of these duties and therefore requires the administrative function of a Financial Management Service (FMS) to handle the person’s funds,

timesheets, payment of services including the withholding and submission of taxes. This builds a financial integrity system that assists DDA in meeting federal assurances.

Pursuant to federal requirements, MDH seeks stakeholder input on the development and enhancement to Medicaid programs. Since 2013, MDH has continually enhanced the self-directed waiver program, implementing new services and practices and met with the Self-Directed Advocacy Network of Maryland (SDAN) quarterly.

The Office of the Inspector General (OIG) believes that removing license requirements for certain services under DDA creates multiple risks. In the past, the OIG has reviewed cases involving abuse and neglect, and absent certain licensures, it is hard to ascertain who can/cannot provide services and track who is delivering them.

SB 441 as written, also applies a duplicative rate increase. Currently, provider rates are developed based on rates for Traditional Services which already has the rate increase built in. If this legislation passes as introduced, the rate increase will be applied twice.

I hope this information is useful. If you would like to discuss this further, please do not hesitate to contact me at webster.ye@maryland.gov / (410) 260-3190 or Heather Shek, Deputy Director of Governmental Affairs at heather.shek@maryland.gov and at the same phone number.

Sincerely,

A handwritten signature in blue ink that reads "Webster Ye". The signature is written in a cursive style.

Webster Ye
Assistant Secretary, Health Policy