



**TESTIMONY BEFORE THE
HOUSE JUDICIARY COMMITTEE**

February 23, 2022

House Bill 990: Estates and Trusts - Guardianship of the Property of
Disabled Persons - Court-Appointed Attorneys

Written Testimony Only

POSITION: FAVORABLE WITH AMENDMENT

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support with amendment for House Bill 990. HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction in the state.

House Bill 990 requires the State to pay a reasonable attorney's fee for an alleged disabled person that is indigent, in a protective proceeding (to protect the property of the alleged disabled person). In any action in which payment for the services of a court-appointed attorney for the alleged disabled person is the responsibility of the local department of social services, the bill requires the court to appoint an attorney who is under contract with the Department of Human Services (DHS) to provide legal representation for the alleged disabled person, unless the court finds that the appointment would not be in the best interests of the alleged disabled person. In such an action, if an attorney has previously been appointed, the court must strike and replace the previously appointed attorney with an attorney who is under contract with DHS, unless the previously appointed attorney is willing to accept the same fee and the court does not find a conflict of interest.

Financial Indigency, specifically regarding assisting Marylanders in need to become qualified for Medicaid services for which they are eligible, is often an extremely complicated process. This is often made more complicated through the necessary and important process of court-appointed attorneys and guardianship. The issue of guardianship is unfortunately a major issue for older Marylanders who have limited financial means and sometimes lack decision making capacity, and who seek eligibility for care underwritten by Medicaid. Just as important are situations where an individual lacks a health care agent or surrogate and is in need of a guardian of the person.

HFAM supports this legislation with this technical amendment: Amending this bill and the resulting Act to include a definition of Indigency, to conform with existing language under the Medical Assistance Program term used for nursing facilities under Health-General Article, Section 15-116 whether or not the Petitioner would otherwise be eligible for Medical Assistance.

For these reasons and with this amendment, we request a favorable report on House Bill 990.

Submitted by:

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