



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary
March 21, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

RE: SB 884 – Maryland Department of Health – Workgroup to Study the Establishment of an Affordable Assisted Living Enhanced Care Program – Letter of Concern

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of concern for Senate Bill (SB) 884 – MDH – Workgroup to Study the Establishment of an Affordable Assisted Living Enhanced Care Program. MDH is required to staff the workgroup and submit findings and recommendations by November 1, 2023.

MDH notes that nearly all services defined as being “enhanced care” under the bill are already included within the scope of coverage for assisted living facilities as defined in COMAR 10.07.14.¹ The exceptions are: “Health and wellness programs to help residents manage chronic illness, reduce the risk of falling, and live a healthy lifestyle” and “use of electronic medical records to improve care monitoring, improve quality oversight, and support the tracking and reporting of quality indicators.” As such, coverage for these services does not merit creation of a new class of or separate reimbursement rate for assisted living facilities offering “enhanced care.”

MDH is further concerned that establishing a new class of assisted living facilities subject to separate reimbursement and eligibility criteria for residents will negatively impact Medicaid participants on the existing home- and community-based services waitlists. Pursuant to the requirements of SB 636 (Chapter 464 of the Acts of 2022), MDH’s Office of Long Term Services and Supports within Maryland Medicaid, in conjunction with the Developmental Disabilities Administration, the Behavioral Health Administration and the Maryland State Department of Education, submitted plans to reduce the waitlist or registries for the waiver programs by 50% over a five year period.² Updated estimates reflecting the cost to implement

¹ See COMAR 10.07.14.17(4)(c), 10.07.14.15.C (e-g), and 10.07.14.26. A -B addressing person centered individualized care planning; COMAR 10.07.14.28.C, 10.07.14.28.F, 10.07.14.13.A (1-2), 10.07.14.13.14.E-F, and 10.07.14.20 addressing ii. regular, proactive monitoring of health status to promote early detection and resolution of medical issues; COMAR 10.07.14.2(27)(a), 10.07.14.28.F, and 10.07.14.15.C(e-g) addressing care management to ensure timely referral and access to medical treatment and health-related services; COMAR 10.07.14.29 A-P and see also COMAR 10.27.11 and 10.07.14.17(5) addressing medication management to improve adherence and reduce medication errors; COMAR 10.07.14.26, 10.07.14.28.F, and 10.07.14.15.C (e-g) addressing assessment and referral to therapy and restorative nursing programs; COMAR 10.07.14.05.G addressing health and wellness programs to help residents manage chronic illness, reduce the risk of falling, and live a healthy lifestyle; COMAR 10.07.14.29(G), 10.07.14.48.C, and 10.07.14.17.A(4) addressing activities programs to reduce social isolation and help seniors maintain an active lifestyle; and COMAR 10.07.14.28.A addressing dietary services including nutritious meals and snacks.

² SB 636 (Chapter 464 of the Acts of 2022) - Waiver Programs - Waitlist and Registry Reduction (End the Wait Act) report, <https://health.maryland.gov/mmcp/Documents/JCRs/2023/SB%20636%20of%20the%20Acts%20of%202022>

these activities and reduce the waitlists by the end of Fiscal Year (FY) 2029 have been submitted to the Maryland Department of Budget Management. Establishing a new and separate waitlist process will undermine the critical priority of working the existing waitlist while creating inequitable results for the population already on an existing waitlist. The new program will in effect bypass the existing waitlists, negatively impacting people who are already on the registry and bypassing them in favor of new applicants.

Lastly, to convene the workgroup and complete the reporting requirements by November 1, 2023, MDH will need to hire at least a 0.5 full-time equivalent (FTE) health policy analyst to assist with the duties of this Workgroup.

If you need more information, please contact Megan Peters, Acting Director of Governmental Affairs, at Megan.Peters@maryland.gov or (410) 260-3190.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary