

# CHAPTER 244

(House Bill 594)

AN ACT concerning

~~Maryland Medical Assistance Program~~ **Department of Health and Mental Hygiene – Long-Term Care Services for Cognitive and Functional Impairments – Study and Analysis**

FOR the purpose of ~~requiring certain conditions under which an individual shall be determined medically eligible to receive certain services under the Maryland Medical Assistance Program; requiring certain physicians to make a certain certification; defining certain terms; and generally relating to the Maryland Medical Assistance Program and~~ requiring the Department of Health and Mental Hygiene, in consultation with certain stakeholders, to conduct a certain study and analysis of options available to the State to increase access to certain long-term care services for certain individuals with cognitive and functional impairments; requiring the Department to submit certain reports to the Governor and certain committees of the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to a Department of Health and Mental Hygiene study and analysis of increasing options for accessing long-term care services for cognitive and functionally impaired individuals.

~~BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 15 – 101(a) and (h)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2006 Supplement)~~

~~BY adding to  
Article – Health – General  
Section 15 – 115.1  
Annotated Code of Maryland  
(2005 Replacement Volume and 2006 Supplement)~~

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

~~Article – Health – General~~

~~15-101.~~

- (a) ~~In this title the following words have the meanings indicated.~~
- (h) ~~“Program” means the Maryland Medical Assistance Program.~~

~~15-115.1.~~

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

~~(2) “HANDS ON ASSISTANCE” MEANS THE PHYSICAL ASSISTANCE OF ANOTHER INDIVIDUAL WITHOUT WHICH AN INDIVIDUAL WOULD BE UNABLE TO PERFORM THE ACTIVITIES OF DAILY LIVING.~~

~~(3) “SEVERE COGNITIVE IMPAIRMENT” MEANS A LOSS OR DETERIORATION IN AN INDIVIDUAL’S INTELLECTUAL CAPACITY THAT IS:~~

~~(I) COMPARABLE TO AND INCLUDES ALZHEIMER’S DISEASE AND SIMILAR FORMS OF IRREVERSIBLE DEMENTIA; AND~~

~~(II) MEASURED BY CLINICAL EVIDENCE AND STANDARDIZED TESTS THAT RELIABLY MEASURE IMPAIRMENT IN AN INDIVIDUAL’S:~~

~~1. SHORT TERM OR LONG TERM MEMORY;~~

~~2. ORIENTATION AS TO PEOPLE, PLACES, AND TIME;~~

~~AND~~

~~3. DEDUCTIVE OR ABSTRACT REASONING.~~

~~(4) “STANDBY ASSISTANCE” MEANS THE PRESENCE OF ANOTHER INDIVIDUAL WITHIN ARM’S REACH OF AN INDIVIDUAL THAT IS NECESSARY TO PREVENT, BY PHYSICAL INTERVENTION, INJURY TO THE INDIVIDUAL WHILE THE INDIVIDUAL IS PERFORMING AN ACTIVITY OF DAILY LIVING.~~

~~(5) (I) “SUBSTANTIAL SUPERVISION” MEANS CONTINUAL SUPERVISION BY ANOTHER INDIVIDUAL THAT IS NECESSARY TO PROTECT AN~~

~~INDIVIDUAL WITH SEVERE COGNITIVE IMPAIRMENT FROM THREATS TO HEALTH OR SAFETY.~~

~~(H) "SUBSTANTIAL SUPERVISION" INCLUDES CUING BY VERBAL PROMPTING, GESTURING, OR OTHER DEMONSTRATIONS OR 24 HOUR SUPERVISION.~~

~~(B) AN INDIVIDUAL SHALL BE DETERMINED MEDICALLY ELIGIBLE TO RECEIVE HOME AND COMMUNITY BASED LONG TERM CARE SERVICES UNDER THE PROGRAM IF THE INDIVIDUAL REQUIRES HEALTH RELATED SERVICES ABOVE THE LEVEL OF ROOM AND BOARD THAT ARE AVAILABLE OUTSIDE OF A NURSING FACILITY, INCLUDING INDIVIDUALS WHO, BECAUSE OF SEVERE COGNITIVE IMPAIRMENT, MENTAL ILLNESS, OR OTHER CONDITIONS:~~

~~(1) (I) ARE CURRENTLY UNABLE TO PERFORM AT LEAST TWO ACTIVITIES OF DAILY LIVING WITHOUT HANDS ON ASSISTANCE OR STANDBY ASSISTANCE FROM ANOTHER INDIVIDUAL; AND~~

~~(II) HAVE BEEN OR WILL BE UNABLE TO PERFORM AT LEAST TWO ACTIVITIES OF DAILY LIVING FOR A PERIOD OF AT LEAST 90 DAYS DUE TO A LOSS OF FUNCTIONAL CAPACITY; OR~~

~~(2) NEED SUBSTANTIAL SUPERVISION FOR PROTECTION AGAINST THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT OR MENTAL ILLNESS.~~

~~(C) THE INDIVIDUAL'S PHYSICIAN, TO THE EXTENT FEASIBLE, SHALL CERTIFY THAT THE INDIVIDUAL REQUIRES THE SERVICES DESCRIBED IN SUBSECTION (B) OF THIS SECTION.~~

(a) (1) The Department of Health and Mental Hygiene, in consultation with interested stakeholders, shall conduct a study and a comprehensive analysis of the options that may be available to the State to increase access to long-term services, including home- and community-based services such as adult medical day care, for individuals at high risk of institutionalization because of cognitive impairments, mental illness, traumatic brain injury, or other conditions, who meet financial eligibility criteria in effect as of June 1, 2007.

(2) The study and analysis shall include:

(i) a review of the practices of other states regarding the provision of long-term care services;

(ii) a determination of the feasibility of developing criteria for an alternative level of care;

(iii) a determination of the feasibility of increasing access to long-term care services through the Federal Deficit Reduction Act, the State Plan Amendments, the Older Adults Waiver, and other options available to the State; and

(iv) a cost-benefit analysis of the options examined, including the projected long-term savings to the State realized by the delay or reduction in need for the provision of care in hospitals or other institutional settings.

(b) The Department shall submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Budget and Taxation Committee, the House Health and Government Operations Committee, and the House Appropriations Committee:

(1) an interim report on or before October 1, 2007; and

(2) a final report on or before December 1, 2007.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007. It shall remain effective for a period of 1 year and, at the end of May 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, April 24, 2007.**