

# SENATE BILL 742

J1

(6lr2252)

*ENROLLED BILL*  
*— Finance/Health —*

Introduced by **Senators Guzzone and Zucker**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

6 FOR the purpose of altering the time within which an individual receiving services from  
7 the Developmental Disabilities Administration must appeal a loss of eligibility for  
8 services; establishing requirements related to eligibility determinations and  
9 redeterminations under the Maryland Medical Assistance Program; requiring the  
10 Maryland Department of Health to provide certain accessible information to  
11 Program recipients and any other individuals on request; prohibiting the  
12 Department from procedurally disenrolling individuals from the Program or  
13 home- and community-based services solely on a certain basis except under certain  
14 circumstances; requiring the Department, subject to federal approval, to reserve  
15 certain home- and community-based services waiver slots for Program recipients

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 who lost eligibility under certain circumstances; and generally relating to  
2 determinations of eligibility for home- and community-based services.

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

8 BY repealing and reenacting, without amendments,  
9 Article – Health – General  
10 Section 15–101(a), (h), and (i)  
11 Annotated Code of Maryland  
12 (2023 Replacement Volume and 2025 Supplement)

13 BY adding to  
14 Article – Health – General  
15 Section 15–103.9  
16 Annotated Code of Maryland  
17 (2023 Replacement Volume and 2025 Supplement)

18 Preamble

19 WHEREAS, The landmark decision of the U.S. Supreme Court in *Olmstead v. L.C.*  
20 *ex rel. Zimring*, 527 U.S. 581 (1999) affirmed that unjustified segregation of individuals  
21 with disabilities constitutes discrimination in violation of Title II of the federal Americans  
22 with Disabilities Act; and

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

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

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

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

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

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

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

12 **Article – Health – General**

13 7–309.

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

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

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

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

29 15–101.

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

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

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

1 15-103.9.

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

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

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

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

15 (B) THE DEPARTMENT SHALL COMPLY WITH THE REQUIREMENTS OF 42  
16 C.F.R. § 435.912 RELATED TO THE TIMELY DETERMINATION AND  
17 REDETERMINATION OF PROGRAM ELIGIBILITY, INCLUDING PROCESSING AN  
18 APPLICATION:

19 (1) IF A DETERMINATION OF DISABILITY IS NOT REQUIRED, WITHIN  
20 45 DAYS AFTER THE RECEIPT OF THE APPLICATION; AND

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

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

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

32 (1) REQUIREMENTS FOR PROGRAM ELIGIBILITY;

1           (2) AVAILABLE PROGRAM SERVICES; AND

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

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

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

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

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

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

18                   (II) HOW TO ACCESS THE INFORMATION AND SERVICES.

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

25           ~~(G)~~ (1) IF A PROGRAM RECIPIENT IS PROCEDURALLY DISENROLLED  
26 FROM HOME- AND COMMUNITY-BASED SERVICES DUE TO A FAILURE BY THE  
27 DEPARTMENT TO REDETERMINE ELIGIBILITY IN A TIMELY MANNER *AFTER THE*  
28 *RECIPIENT HAS TIMELY RETURNED INFORMATION REQUIRED UNDER 42 C.F.R. §*  
29 *435.916(B)(2)(1)(B) AND 42 C.F.R. § 435.952(C) AND THE DELAY IN THE*  
30 *REDETERMINATION WAS NO FAULT OF THE PROGRAM RECIPIENT*, THE  
31 DEPARTMENT SHALL REINSTATE THE PROGRAM RECIPIENT'S ELIGIBILITY AND THE  
32 PROVISION OF HOME- AND COMMUNITY-BASED SERVICES AND AUTHORIZE

1 ENROLLMENT RETROACTIVELY TO THE DATE OF DISENROLLMENT PENDING THE  
2 DEPARTMENT'S COMPLETION OF THE REDETERMINATION PROCESS.

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

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

14 (1) WERE DISENROLLED FROM THE MARYLAND MEDICAID HOME  
15 AND COMMUNITY-BASED SERVICES WAIVER PROGRAM ON OR AFTER JANUARY 1,  
16 2024;

17 (2) HAVE HAD PROGRAM ELIGIBILITY REINSTATED; AND

18 (3) HAVE REQUESTED THE REINSTATEMENT OF WAIVER SERVICES.

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

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

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

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

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

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

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

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

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

12 (2) TREAT THE PROGRAM RECIPIENT AS CONTINUOUSLY ENROLLED.

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

15 Article – Health – General

16 15-103.9.

17 ~~(H)~~ (J) (1) ON OR BEFORE JANUARY 1, 2027, AND QUARTERLY  
18 THEREAFTER, THE DEPARTMENT SHALL:

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

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

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

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

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

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

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

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

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

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

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

16 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2026. Section 2 of this Act shall remain effective for a period of 3 years and, at  
18 the end of September 30, 2029, Section 2 of this Act, with no further action required by the  
19 General Assembly, shall be abrogated and of no further force and effect.

20 Approved:

21 \_\_\_\_\_  
Governor.

22 \_\_\_\_\_  
President of the Senate.

23 \_\_\_\_\_  
Speaker of the House of Delegates.