

HOUSE BILL 189

J1, J3

(PRE-FILED)

4lr1216

CF 4lr1218

By: ~~Delegate R. Lewis~~ **Delegates R. Lewis, Pena-Melnyk, Cullison, Alston, Bagnall, Bhandari, Guzzone, S. Johnson, Kaiser, Kerr, Lopez, Martinez, and Rosenberg**

Requested: October 27, 2023

Introduced and read first time: January 10, 2024

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 20, 2024

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program – ~~Provider Agencies and~~ Personal Care**
3 **Aides – ~~Reimbursement and Wage Reports~~**
4 **~~(Homecare Workers Employment Act of 2024)~~**

5 FOR the purpose of requiring ~~provider~~ residential service agencies to submit certain reports
6 to the Maryland Department of Labor regarding wage rates for personal care aides;
7 ~~requiring the Maryland Department of Health to submit certain reports regarding~~
8 ~~reimbursement rates for provider agencies~~ requiring the Maryland Department of
9 Health to report to certain committees of the General Assembly within a certain time
10 period after the release of the final federal Ensuring Access to Medicaid Services rule
11 on an overview of the final rule and plans or steps that the Department will take to
12 operationalize the rule; and generally relating to personal care services reimbursed
13 by the Maryland Medical Assistance Program.

14 BY adding to
15 Article – Health – General
16 Section 15–155
17 Annotated Code of Maryland
18 (2023 Replacement Volume)

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

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.



1 Article – Health – General

2 15-155.

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

5 ~~(2) “PERSONAL CARE, “PERSONAL CARE AIDE” MEANS AN~~
 6 ~~INDIVIDUAL WHO PROVIDES PERSONAL ASSISTANCE SERVICES THROUGH A~~
 7 ~~RESIDENTIAL SERVICE AGENCY.~~

8 ~~(3) “PROVIDER AGENCY” MEANS AN ENTITY THAT PAYS A PERSONAL~~
 9 ~~CARE AIDE TO PROVIDE PERSONAL ASSISTANCE SERVICES THAT ARE~~
 10 ~~REIMBURSABLE BY THE PROGRAM UNDER A MEDICAID HOME AND~~
 11 ~~COMMUNITY BASED SERVICES PROGRAM.~~

12 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
 13 THIS SECTION APPLIES ONLY TO PERSONAL ASSISTANCE SERVICES PROVIDED
 14 THROUGH A RESIDENTIAL SERVICE AGENCY UNDER COMMUNITY FIRST CHOICE,
 15 COMMUNITY OPTIONS, COMMUNITY PERSONAL ASSISTANCE SERVICES, AND ANY
 16 OTHER HOME- AND COMMUNITY-BASED SERVICES ADMINISTERED BY THE
 17 DEPARTMENT.

18 (2) THIS SECTION DOES NOT APPLY TO PERSONAL CARE SERVICES
 19 PROVIDED THROUGH THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

20 (C) (1) ON OR BEFORE SEPTEMBER 1 EACH YEAR, BEGINNING IN 2025,
 21 ~~EACH PROVIDER~~ RESIDENTIAL SERVICE AGENCY SHALL SUBMIT TO THE MARYLAND
 22 DEPARTMENT OF LABOR A REPORT IN THE FORM AND MANNER REQUIRED BY THE
 23 MARYLAND DEPARTMENT OF LABOR.

24 (2) THE ANNUAL REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
 25 SUBSECTION SHALL INCLUDE:

26 (I) DOCUMENTATION OF THE ~~PROVIDER~~ RESIDENTIAL
 27 SERVICE AGENCY’S:

28 1. AVERAGE WAGE RATE FOR PERSONAL CARE AIDES;
 29 AND

30 2. HIGHEST AND LOWEST WAGE RATES FOR PERSONAL
 31 CARE AIDES; AND

1 (II) ANY OTHER INFORMATION THAT THE MARYLAND
2 DEPARTMENT OF LABOR DETERMINES APPROPRIATE.

3 (3) THE ANNUAL REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION SHALL BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE
5 ~~PROVIDER~~ RESIDENTIAL SERVICE AGENCY.

6 ~~(D) (1) THE DEPARTMENT SHALL:~~

7 ~~(i) FOR HOME AND COMMUNITY-BASED SERVICES PROVIDED~~
8 ~~UNDER PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS~~
9 ~~MEDICAL CARE PROGRAMS ADMINISTRATION OF THE RARE AND EXPENSIVE CASE~~
10 ~~MANAGEMENT PROGRAM;~~

11 ~~1. COMPARE THE RATE OF REIMBURSEMENT WITH THE~~
12 ~~ACTUAL COST TO PROVIDER AGENCIES, TO THE EXTENT INFORMATION IS PUBLICLY~~
13 ~~AVAILABLE, FOR:~~

14 ~~A. PROVIDING CARE TO INDIVIDUALS APPROVED FOR~~
15 ~~DIRECT CARE SERVICES;~~

16 ~~B. COORDINATING CARE SERVICES; AND~~

17 ~~C. PROVIDING ANY OTHER SERVICES; AND~~

18 ~~2. REVIEW:~~

19 ~~A. SPECIFIC SERVICES REQUIRED TO BE PROVIDED;~~

20 ~~B. ANY LICENSURE REQUIREMENTS IMPOSED ON~~
21 ~~ENTITIES THAT PROVIDE THE HOME AND COMMUNITY-BASED SERVICES;~~

22 ~~C. ANY REQUIREMENTS IMPOSED BY A HEALTH~~
23 ~~OCCUPATIONS BOARD THAT ARE SPECIFIC TO INDIVIDUALS PROVIDING HOME AND~~
24 ~~COMMUNITY-BASED SERVICES; AND~~

25 ~~D. ANY OTHER STATE OR LOCAL REQUIREMENTS~~
26 ~~ASSOCIATED WITH THE COST OF PROVIDING THE SERVICES IN THE STATE;~~

27 ~~(H) DETERMINE, TO THE EXTENT INFORMATION IS PUBLICLY~~
28 ~~AVAILABLE, THE COSTS ASSOCIATED WITH PROVIDING SERVICE AND CARE UNDER~~
29 ~~OTHER HOME AND COMMUNITY-BASED PROGRAMS;~~

~~(III) IN MAKING THE DETERMINATION UNDER ITEM (II) OF THIS PARAGRAPH, CONSULT WITH PERSONS PROVIDING THE SERVICES REQUIRED UNDER EACH HOME AND COMMUNITY-BASED PROGRAM, INCLUDING:~~

~~1. ENTITIES PROVIDING ADULT MEDICAL DAY CARE;~~

~~2. PRIVATE DUTY NURSES;~~

~~3. ASSISTED LIVING PROVIDERS; AND~~

~~4. PERSONAL CARE ASSISTANCE PROVIDERS;~~

~~(IV) COMPARE THE RATE OF REIMBURSEMENT VERSUS THE ACTUAL COST TO PROVIDE PERSONAL ASSISTANCE SERVICES TO INDIVIDUALS UNDER THE COMMUNITY FIRST CHOICE, COMMUNITY OPTIONS, COMMUNITY PERSONAL ASSISTANCE SERVICES, AND ANY OTHER HOME OR COMMUNITY-BASED SERVICES ADMINISTERED BY THE DEPARTMENT;~~

~~(V) DEVELOP A PLAN TO CLOSE ANY IDENTIFIED DIFFERENTIAL GAP IN REIMBURSEMENT RATES, INCLUDING BY CONSIDERING WAGES AND BENEFITS PAID TO PERSONAL CARE AIDES OR SIMILAR WORKERS IN OTHER STATES OR IN OTHER HEALTH CARE SETTINGS; AND~~

~~(VI) DETERMINE THE AMOUNT OF ANY ADJUSTMENT NEEDED IN REIMBURSEMENT RATES TO INCREASE WAGES AND BENEFITS TO PERSONAL CARE AIDES TO AT LEAST 150% OF THE STATE MINIMUM WAGE.~~

~~(2) ON OR BEFORE SEPTEMBER 30, 2026, AND EVERY 2 YEARS THEREAFTER, THE DEPARTMENT SHALL SUBMIT ITS FINDINGS AND RECOMMENDATIONS, INCLUDING ANY PROPOSED LEGISLATIVE OR REGULATORY CHANGES, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before the 180th day after the release of the final federal Ensuring Access to Medicaid Services rule, the Maryland Department of Health shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, on an overview of the final rule and plans or steps that the Department will take to operationalize the rule.

(b) The report required under subsection (a) of this section shall include:

1 (1) the process that the Department will use to review wage reports of
2 personal care aides; and

3 (2) how the data will be used to review Medicaid reimbursement rates as
4 outlined in the rule.

5 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.