

# SENATE BILL 843

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By: **Senators Kelley, Garagiola, Mathias, Middleton, and Pugh**

Introduced and read first time: February 14, 2011

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Eligibility Determinations**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to send a  
4 certain notice of a right to appeal if the Department does not render an  
5 eligibility determination for an applicant for benefits and services from the  
6 Maryland Medical Assistance Program within a certain period of time;  
7 requiring the Department to render an eligibility determination for an applicant  
8 at a certain hearing under certain circumstances; requiring the Department to  
9 provide a certain applicant with a detailed list of certain information; requiring  
10 the Department to give an applicant a certain period of time to provide certain  
11 information before rendering an eligibility determination; requiring the  
12 Department to render an eligibility determination for an applicant within 30  
13 days after receiving certain information; requiring the Department and the  
14 Department of Human Resources to submit certain budget estimates in a  
15 certain manner; providing that a certain budget estimate shall be considered a  
16 certain estimate prescribed by law; requiring the Department and the  
17 Department of Human Resources to report certain information to the General  
18 Assembly on or before the first day of each month; defining a certain term; and  
19 generally relating to eligibility determinations for the Maryland Medical  
20 Assistance Program.

21 BY adding to

22 Article – Health – General

23 Section 15–147

24 Annotated Code of Maryland

25 (2009 Replacement Volume and 2010 Supplement)

26 Preamble

27 WHEREAS, Despite State regulations that require applications for benefits  
28 through the Maryland Medical Assistance Program to be processed within 30 days or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 60 days if a disability determination is necessary, the applications are not processed  
2 by the State within the required time frames; and

3 WHEREAS, Despite federal regulations that require applications for long-term  
4 care services through Medicaid to be processed within 45 days, the applications are  
5 not processed by the State within the required time frame; and

6 WHEREAS, Chapters 613 and 614 of the Acts of the General Assembly of 2008  
7 required the Department of Health and Mental Hygiene and the Department of  
8 Human Resources to create uniform procedures, guidelines, and forms to be used by  
9 all employees in the determination of Maryland Medical Assistance Program eligibility  
10 for long-term care services; and

11 WHEREAS, Marylanders in need of long-term care services through the  
12 Maryland Medical Assistance Program are not having their applications for benefits  
13 processed in accordance with the timelines prescribed in federal law and State  
14 regulations; and

15 WHEREAS, Eligibility determinations for many applications for long-term care  
16 services through the Maryland Medical Assistance Program have not been made for 6  
17 months, 12 months, or even longer time periods after the applications are received;  
18 and

19 WHEREAS, Marylanders in need of long-term care services through the  
20 Maryland Medical Assistance Program are facing involuntary discharge from nursing  
21 homes for nonpayment as a result of their applications not being processed by the  
22 State in a timely manner; and

23 WHEREAS, Marylanders who are receiving long-term care services through the  
24 Maryland Medical Assistance Program are having their benefits improperly  
25 discontinued because applications for redetermination of eligibility are not being  
26 processed by the State in a timely manner; and

27 WHEREAS, Many nursing facilities participating in the Maryland Medical  
28 Assistance Program do not receive timely payment for the critically essential medical  
29 services that they provide; and

30 WHEREAS, Marylanders enrolled in the Maryland Medical Assistance Program  
31 are facing undue delays in obtaining access to Medicaid home- and community-based  
32 services waivers under § 15-137 of the Health - General Article and are unable to  
33 exercise their right to a timely transition from a nursing home as a result of their  
34 eligibility applications not being processed in a timely manner; and

35 WHEREAS, The right to a hearing before an administrative law judge under  
36 the Administrative Procedure Act for failing to act promptly on an eligibility  
37 application is not resulting in expedited eligibility determinations, but instead is  
38 adding months of additional delay; now, therefore,

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

3 **Article – Health – General**

4 **15–147.**

5 (A) IN THIS SECTION, “APPLICANT” MEANS AN INDIVIDUAL APPLYING  
6 TO RECEIVE BENEFITS AND SERVICES THROUGH THE PROGRAM.

7 (B) IF THE DEPARTMENT DOES NOT RENDER AN ELIGIBILITY  
8 DETERMINATION UNDER THE PROGRAM FOR AN APPLICANT WITHIN THE TIME  
9 SPECIFIED IN THE CODE OF MARYLAND REGULATIONS OR UNDER FEDERAL  
10 LAW, THE DEPARTMENT PROMPTLY SHALL SEND A NOTICE TO THE APPLICANT  
11 AND THE REPRESENTATIVE OF THE APPLICANT OF THE RIGHT OF THE  
12 APPLICANT TO APPEAL FOR FAILURE OF THE DEPARTMENT TO ACT WITH  
13 REASONABLE PROMPTNESS.

14 (C) (1) THE DEPARTMENT SHALL RENDER AN ELIGIBILITY  
15 DETERMINATION FOR AN APPLICANT AT AN ADMINISTRATIVE HEARING HELD  
16 FOR FAILURE TO ACT WITH REASONABLE PROMPTNESS, UNLESS:

17 (I) THE DEPARTMENT NEEDS ADDITIONAL INFORMATION  
18 FROM THE APPLICANT TO MAKE THE ELIGIBILITY DETERMINATION; AND

19 (II) THE APPLICANT DOES NOT HAVE THE ADDITIONAL  
20 INFORMATION NEEDED AT THE HEARING.

21 (2) (I) IF THE DEPARTMENT NEEDS ADDITIONAL  
22 INFORMATION TO MAKE AN ELIGIBILITY DETERMINATION AT AN  
23 ADMINISTRATIVE HEARING HELD FOR FAILURE TO ACT WITH REASONABLE  
24 PROMPTNESS, THE DEPARTMENT SHALL:

25 1. PROVIDE TO THE APPLICANT AT THE HEARING A  
26 DETAILED LIST OF ALL INFORMATION THAT IS NEEDED; AND

27 2. GIVE THE APPLICANT 30 DAYS TO PROVIDE THE  
28 INFORMATION BEFORE THE DEPARTMENT RENDERS AN ELIGIBILITY  
29 DETERMINATION.

30 (II) THE DEPARTMENT SHALL RENDER AN ELIGIBILITY  
31 DETERMINATION FOR THE APPLICANT WITHIN 30 DAYS AFTER RECEIVING THE  
32 ADDITIONAL INFORMATION REQUESTED.

1           **(D) (1) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN**  
2 **RESOURCES SHALL SUBMIT BUDGET ESTIMATES TO THE GOVERNOR THAT**  
3 **ENABLE THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES TO**  
4 **ACHIEVE TIMELY AND ACCURATE ELIGIBILITY DETERMINATIONS WITHIN THE**  
5 **TIMELINES ESTABLISHED UNDER THE CODE OF MARYLAND REGULATIONS AND**  
6 **FEDERAL LAW.**

7           **(2) A BUDGET ESTIMATE REQUIRED UNDER THIS SUBSECTION**  
8 **SHALL BE CONSIDERED AN ESTIMATE PRESCRIBED BY LAW UNDER ARTICLE III,**  
9 **§ 52(12) OF THE MARYLAND CONSTITUTION.**

10          **(E) ON OR BEFORE THE FIRST DAY OF EACH MONTH, THE DEPARTMENT**  
11 **AND THE DEPARTMENT OF HUMAN RESOURCES SHALL REPORT TO THE**  
12 **GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE**  
13 **GOVERNMENT ARTICLE, ON:**

14           **(1) THE NUMBER OF APPLICATIONS PENDING FOR THE PROGRAM**  
15 **AND THE LENGTH OF TIME EACH APPLICATION HAS BEEN PENDING;**

16           **(2) THE NUMBER OF APPLICATIONS THAT WERE APPROVED IN**  
17 **THE PREVIOUS MONTH;**

18           **(3) THE NUMBER OF APPLICATIONS THAT WERE DENIED IN THE**  
19 **PREVIOUS MONTH AND THE REASONS FOR THE DENIALS;**

20           **(4) THE NUMBER OF PROGRAM RECIPIENTS WHO PREVIOUSLY**  
21 **APPLIED FOR A REDETERMINATION AND WHOSE BENEFITS WERE TERMINATED**  
22 **IN THE PREVIOUS MONTH AND THE REASONS FOR THE TERMINATIONS; AND**

23           **(5) THE MEASURES TAKEN BY THE DEPARTMENT AND THE**  
24 **DEPARTMENT OF HUMAN RESOURCES TO:**

25           **(I) STREAMLINE THE APPLICATION PROCESS FOR**  
26 **LONG-TERM CARE SERVICES THROUGH THE PROGRAM; AND**

27           **(II) ELIMINATE DELAYS IN PROCESSING APPLICATIONS FOR**  
28 **LONG-TERM CARE SERVICES THROUGH THE PROGRAM.**

29          **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
30 **July 1, 2011.**