

SENATE BILL 441

J1

1lr1624
CF HB 318

By: **Senator Lee**

Introduced and read first time: January 20, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Developmental Disabilities Administration – Self-Directed Services**

3 FOR the purpose of requiring the Maryland Department of Health to increase by a certain
4 amount certain funding to certain recipients of services funded through the
5 Developmental Disabilities Administration under certain circumstances; requiring
6 the Administration to provide to certain recipients of services certain options and
7 services under certain circumstances; requiring the Administration to provide
8 certain reimbursement to certain individuals under certain circumstances;
9 prohibiting the Department from requiring a certain person to obtain any additional
10 approval to provide certain services; establishing the State Advisory Council on
11 Self-Directed Services; providing for the composition, officers, and staffing of the
12 Advisory Council; providing that a certain member of the Advisory Council serves in
13 an advisory capacity only and may not vote on matters before the Advisory Council;
14 providing for the terms of appointed members of the Advisory Council; prohibiting a
15 certain member from being reappointed to the Advisory Council under certain
16 circumstances; requiring the Advisory Council to adopt certain rules; providing that
17 the members present at a meeting are a quorum; requiring the Advisory Council to
18 meet with certain frequency at the times and places and in the manner that it
19 determines; requiring that certain meetings be held in a certain manner; requiring
20 the Advisory Council to provide certain notice of a meeting before the meeting is
21 held; requiring the Advisory Council to make certain meeting minutes available to
22 the public except under certain circumstances; requiring the Administration to assist
23 the Advisory Council in notifying certain stakeholders of certain meetings and
24 opportunities to provide certain input to the Advisory Council; prohibiting a member
25 of the Advisory Council from receiving certain compensation, but authorizing the
26 reimbursement of certain expenses; establishing the duties of the Advisory Council;
27 requiring the Advisory Council to submit a certain report to the Governor and the
28 General Assembly on or before a certain date each year; exempting certain persons
29 from certain licensure requirements; specifying the terms of the initial appointed
30 members of the Advisory Council; requiring the Administration to coordinate with
31 the Advisory Council to request and implement a certain waiver; requiring the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Administration to provide a certain notice to the General Assembly under certain
2 circumstances on or before a certain date; requiring the General Assembly to convene
3 or reconvene a certain workgroup to evaluate a certain matter and make certain
4 recommendations under certain circumstances; requiring the submission of certain
5 recommendations to the Administration and the Advisory Council on or before a
6 certain date under certain circumstances; defining certain terms; providing for the
7 application of certain provisions of law; and generally relating to self-directed
8 services for people with developmental disabilities.

9 BY repealing and reenacting, with amendments,
10 Article – Health – General
11 Section 7–101, 7–903, and 7–1101(a)(1)
12 Annotated Code of Maryland
13 (2019 Replacement Volume and 2020 Supplement)

14 BY adding to
15 Article – Health – General
16 Section 7–309 and 7–408 through 7–410
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2020 Supplement)

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

21 **Article – Health – General**

22 7–101.

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

24 (b) “Administration” means the Developmental Disabilities Administration.

25 (c) (1) “Admission” means the process by which an individual with an
26 intellectual disability is accepted as a resident in a State residential center.

27 (2) “Admission” includes the physical act of the individual entering the
28 facility.

29 (d) (1) “Alternative living unit” means a residence that:

30 (i) Provides residential services for individuals who, because of
31 developmental disability, require specialized living arrangements;

32 (ii) Admits not more than 3 individuals; and

33 (iii) Provides 10 or more hours of supervision per unit, per week.

- 1 (2) “Alternative living unit” does not include a residence that is owned or
2 rented by:
- 3 (i) 1 or more of its residents; or
- 4 (ii) A person who:
- 5 1. Is an agent for any of the residents; but
- 6 2. Is not a provider of residential supervision.
- 7 (e) “Claim” has the meaning stated in § 2–601 of this article.
- 8 (f) “Deputy Secretary” means the Deputy Secretary for Developmental
9 Disabilities.
- 10 (g) “Developmental disability” means a severe chronic disability of an individual
11 that:
- 12 (1) Is attributable to a physical or mental impairment, other than the sole
13 diagnosis of mental illness, or to a combination of mental and physical impairments;
- 14 (2) Is manifested before the individual attains the age of 22;
- 15 (3) Is likely to continue indefinitely;
- 16 (4) Results in an inability to live independently without external support
17 or continuing and regular assistance; and
- 18 (5) Reflects the need for a combination and sequence of special,
19 interdisciplinary, or generic care, treatment, or other services that are individually planned
20 and coordinated for the individual.
- 21 (h) “External support” means:
- 22 (1) Periodic monitoring of the circumstances of an individual with respect
23 to:
- 24 (i) Personal management;
- 25 (ii) Household management; and
- 26 (iii) The use of community resources; and
- 27 (2) Rendering appropriate advice or assistance that may be needed.
- 28 (i) “Fee-for-service” means a method for payment that requires a person to

1 submit a claim for payment to the Department for each service performed.

2 (j) “Group home” means a residence that:

3 (1) Provides residential services for individuals who, because of
4 developmental disability, require specialized living arrangements;

5 (2) Admits at least 4 but not more than 8 individuals; and

6 (3) Provides 10 or more hours of supervision per home, per week.

7 (k) “Habilitation” means a process by which a provider of services enables an
8 individual to acquire and maintain life skills to cope more effectively with the demands of
9 the individual’s own person and environment and to raise the level of the individual’s
10 mental, physical, social, and vocational functioning.

11 (l) (1) “Individual support services” means an array of services that are
12 designed to increase or maintain an individual’s ability to live alone or in a family setting.

13 (2) “Individual support services” include:

14 (i) In-home assistance with meals and personal care;

15 (ii) Counseling;

16 (iii) Physical, occupational, or other therapies;

17 (iv) Architectural modification; and

18 (v) Any other services that the Administration considers
19 appropriate to meet the individual’s needs.

20 (3) “Individual support services” does not include full day or residential
21 services.

22 (m) “Intellectual disability” means a developmental disability that is evidenced by
23 significantly subaverage intellectual functioning and impairment in the adaptive behavior
24 of an individual.

25 (n) “Knowingly” has the meaning stated in § 2-601 of this article.

26 (o) “Live independently” means:

27 (1) For adults:

28 (i) Managing personal care, such as clothing and medication;

1 (ii) Managing a household, such as menu planning, food preparation
2 and shopping, essential care of the premises, and budgeting; and

3 (iii) Using community resources, such as commercial establishments,
4 transportation, and services of public agencies; or

5 (2) For minors, functioning in normal settings without the need for
6 supervision or assistance other than supervision or assistance that is age appropriate.

7 (p) “Meaningful day services” means employment supports or home- and
8 community-based supports, other than residential services, that assist an individual in
9 developing and maintaining skills, interests, and personalized connections that may create
10 opportunities for paid employment, increased independence, or meaningful relationships
11 with other individuals in the community.

12 (q) “Provider” means an individual who is licensed or certified under Subtitle 9 of
13 this title and provides services to:

14 (1) A recipient; or

15 (2) An individual with a developmental disability who receives funding for
16 services from a source other than the Administration.

17 (r) “Recipient” means an individual who receives services funded by the
18 Administration under this title.

19 (s) “Release” means a permanent, temporary, absolute, or conditional release of
20 an individual from a State residential center.

21 (t) “Residential services” means individualized support and services that assist
22 an individual in developing and maintaining skills in living in the community.

23 **(U) (1) “SELF-DIRECTED SERVICES” MEANS, WHEN PARTICIPATING IN A**
24 **WAIVER PROGRAM ADMINISTERED BY THE ADMINISTRATION, SERVICES:**

25 **(I) FOR WHICH PARTICIPANTS OR THEIR REPRESENTATIVES**
26 **HAVE DECISION-MAKING AUTHORITY OVER AND TAKE DIRECT RESPONSIBILITY FOR**
27 **MANAGEMENT OF THE SERVICES WITH THE ASSISTANCE OF A SYSTEM OF AVAILABLE**
28 **SUPPORTS; AND**

29 **(II) THAT ARE PROVIDED IN A MANNER THAT FURTHERS THE**
30 **RIGHT OF INDIVIDUALS WITH DISABILITIES, REGARDLESS OF THE PHYSICAL OR**
31 **INTELLECTUAL CAPACITY OF THE INDIVIDUALS, TO MAKE CHOICES ABOUT AND**
32 **DIRECT ALL ASPECTS OF THEIR LIVES, INCLUDING THROUGH CONTROL OVER**
33 **RECEIPT OF AND FUNDING FOR SUPPORT SERVICES.**

1 **(2) “SELF-DIRECTED SERVICES” INCLUDES SERVICES THAT:**

2 **(I) PROVIDE INDIVIDUALS WITH:**

3 **1. THE DECISION-MAKING EMPLOYER AUTHORITY TO**
4 **RECRUIT, HIRE, TRAIN, AND SUPERVISE THE INDIVIDUALS WHO FURNISH THEIR**
5 **SERVICES; AND**

6 **2. THE BUDGET AUTHORITY OVER HOW THE MEDICAID**
7 **WAIVER FUNDS IN A BUDGET ARE SPENT;**

8 **(II) MAXIMIZE THE OPPORTUNITIES OF INDIVIDUALS TO LIVE**
9 **AS INDEPENDENTLY AS POSSIBLE IN THE MOST INCLUSIVE COMMUNITY-BASED**
10 **SETTING OF THEIR CHOICE;**

11 **(III) EMPOWER INDIVIDUALS, WITH THE SUPPORT OF THEIR**
12 **CHOSEN TEAM, TO EXERCISE CHOICE AND CONTROL OVER THE LONG-TERM**
13 **SERVICES AND SUPPORT THEY NEED; AND**

14 **(IV) MAINTAIN AND IMPROVE HEALTH AND QUALITY OF LIFE IN**
15 **THE COMMUNITY OF INDIVIDUALS.**

16 **[(u)] (V)** “Services” means residential, day, or other services that provide for
17 evaluation, diagnosis, treatment, care, supervision, assistance, or attention to individuals
18 with developmental disability and that promote habilitation of these individuals.

19 **[(v)] (W)** “Services coordination” means a service that consists of the following 3
20 major functions that are designed to assist an individual in obtaining the needed services
21 and programs that the individual desires in order to gain as much control over the
22 individual’s own life as possible:

23 (1) Planning services;

24 (2) Coordinating services; and

25 (3) Monitoring service delivery to the individual.

26 **[(w)] (X)** “State residential center” means a licensed facility operated by the
27 State that provides residential and habilitation services to individuals with an intellectual
28 disability who are at least 18 years old and meet the criteria set forth in § 7-502 of this
29 title.

30 **(Y) “SUPPORT BROKER” MEANS A PERSON WHO HAS A FIDUCIARY DUTY TO**
31 **ADVOCATE ON BEHALF OF AND IS DIRECTED BY AN INDIVIDUAL WHO USES**
32 **SELF-DIRECTED SERVICES, INCLUDING BY ASSISTING THE INDIVIDUAL OR THE**

1 INDIVIDUAL'S FAMILY OR OTHER REPRESENTATIVE WITH:

2 (1) MAKING INFORMED DECISIONS IN ARRANGING FOR, DIRECTING,
3 AND MANAGING SERVICES THE INDIVIDUAL RECEIVES;

4 (2) IDENTIFYING IMMEDIATE AND LONG-TERM NEEDS AND
5 DEVELOPING OPTIONS TO MEET THOSE NEEDS;

6 (3) ACCESSING IDENTIFIED SUPPORTS AND SERVICES BEST SUITED
7 FOR THE INDIVIDUAL;

8 (4) MANAGING EMPLOYER AND BUDGET AUTHORITY TASKS AND
9 RESPONSIBILITIES;

10 (5) MANAGING DAY-TO-DAY ASPECTS OF THE INDIVIDUAL'S
11 PROGRAM; AND

12 (6) PERFORMING OTHER TASKS AS ASSIGNED BY THE INDIVIDUAL,
13 INCLUDING BY SERVING AS A DESIGNATED REPRESENTATIVE.

14 [(x)] (Z) "Support services" means supports that assist an individual to maintain
15 or improve the individual's functional abilities, enhance interactions, or engage in
16 meaningful relationships in the home or community.

17 (AA) "TEAM" MEANS A GROUP OF INDIVIDUALS CHOSEN BY AN INDIVIDUAL
18 WHO USES SELF-DIRECTED SERVICES FOR THE PURPOSE OF SUPPORTING THE
19 INDIVIDUAL IN SELF-DIRECTING SERVICES AND THAT:

20 (1) INCLUDES THE INDIVIDUAL AND A COORDINATOR OF COMMUNITY
21 SERVICES; AND

22 (2) MAY INCLUDE FAMILY MEMBERS, FRIENDS OF THE INDIVIDUAL, A
23 SUPPORT BROKER, A DESIGNATED REPRESENTATIVE, OR OTHERS.

24 [(y)] (BB) "Treatment" means any education, training, professional care or
25 attention, or other program that is given to an individual with developmental disability.

26 [(z)] (CC) "Vocational services" means a service that provides job training and
27 placement, supported employment and training in acceptable work behaviors, and
28 vocationally-related social and other skills.

29 [(aa)] (DD) "Waiver program" means each Medicaid Home- and
30 Community-Based Services Waiver funding program submitted by the Department and
31 approved by the federal Centers for Medicare and Medicaid Services in accordance with §

1 1915(c) of the Social Security Act that is overseen and administered by the Administration.

2 [(bb)] (EE) "Waiver program services" means services funded by the
3 Administration in accordance with a waiver program, including:

- 4 (1) Meaningful day services;
- 5 (2) Residential services; and
- 6 (3) Support services.

7 **7-309.**

8 IF THE DEPARTMENT PROVIDES COST-OF-LIVING WAGE OR SALARY
9 INCREASES TO PROVIDERS UNDER THIS TITLE, THE DEPARTMENT SHALL INCREASE
10 FUNDING TO A RECIPIENT WHO USES SELF-DIRECTED SERVICES BY A COMPARABLE
11 AMOUNT FOR EACH PERSON THAT:

12 (1) PROVIDES SERVICES TO THE RECIPIENT; AND

13 (2) WOULD NOT OTHERWISE RECEIVE THE DEPARTMENT'S
14 COST-OF-LIVING INCREASE TO THE PERSON'S WAGES OR SALARY.

15 **7-408.**

16 (A) THE ADMINISTRATION SHALL PROVIDE TO A RECIPIENT:

17 (1) AN OPTION FOR A FAMILY MEMBER, INCLUDING A STEPPARENT,
18 FOSTER PARENT, ADOPTIVE PARENT, OR SIBLING OF THE RECIPIENT, OR A LEGAL
19 GUARDIAN OF THE RECIPIENT, TO PROVIDE SUPPORT SERVICES FOR THE
20 RECIPIENT, REGARDLESS OF WHETHER THE FAMILY MEMBER OR LEGAL GUARDIAN
21 HAS A FIDUCIARY DUTY TO OR SERVES AS A DESIGNATED REPRESENTATIVE FOR THE
22 RECIPIENT, IF:

23 (I) THE RECIPIENT OR AN INDIVIDUAL AUTHORIZED TO MAKE
24 CARE DECISIONS ON BEHALF OF THE RECIPIENT CHOOSES THE FAMILY MEMBER TO
25 PROVIDE THE SERVICES; AND

26 (II) THE OPTION IS IN THE BEST INTERESTS OF THE RECIPIENT;
27 AND

28 (2) IF SELF-DIRECTED SERVICES ARE PROVIDED TO THE RECIPIENT,
29 SERVICES THAT INCLUDE:

1 **(I) PERSONAL SUPPORTS THAT ENCOURAGE HABILITATION**
2 **FOR THE RECIPIENT, INCLUDING PERSONAL SUPPORTS IN THE RECIPIENT'S HOME**
3 **AND COMMUNITY AND OVERNIGHT;**

4 **(II) COMMUNITY INTEGRATION AND DEVELOPMENT SUPPORTS**
5 **THAT PROVIDE THE INDIVIDUAL WITH WORK OR VOLUNTEER TASKS AT HOME OR IN**
6 **THE COMMUNITY, INCLUDING A HOME-BASED BUSINESS, CRAFT, HOBBY, OR**
7 **VOLUNTEER TASK FOR A LOCAL NONPROFIT ENTITY OR BUSINESS; AND**

8 **(III) ENHANCED SERVICES FROM A SUPPORT BROKER WHO, ON**
9 **BEHALF AND UNDER THE DIRECTION OF THE RECIPIENT AND THE RECIPIENT'S**
10 **TEAM, ASSISTS THE RECIPIENT TO:**

11 **1. PERFORM DUTIES SIMILAR TO THOSE OF A PROGRAM**
12 **DIRECTOR OR HOUSE MANAGER UNDER A TRADITIONAL SERVICE MODEL;**

13 **2. MAINTAIN THE RECIPIENT'S HOME, INCLUDING BY**
14 **KEEPING INVENTORY OF FOOD AND SUPPLIES FOR HOME LIVING;**

15 **3. MANAGE THE RECIPIENT'S EMPLOYEE SCHEDULES;**

16 **4. SCHEDULE MEDICAL APPOINTMENTS AND OTHER**
17 **INTERACTIONS WITH HEALTH CARE PROFESSIONALS FOR THE RECIPIENT; AND**

18 **5. MANAGE THE RECIPIENT'S OTHER NEEDS ON A DAILY**
19 **BASIS, INCLUDING MANAGING THE RECIPIENT'S HEALTH AND SAFETY NEEDS AND**
20 **ENSURING THAT THE RECIPIENT'S SUPPORT SERVICES ARE FUNCTIONING**
21 **EFFICIENTLY.**

22 **(B) FOR A RECIPIENT WHO USES SELF-DIRECTED SERVICES, THE**
23 **ADMINISTRATION SHALL PROVIDE REIMBURSEMENT TO A MEMBER OF THE**
24 **RECIPIENT'S FAMILY, REGARDLESS OF WHETHER THE FAMILY MEMBER IS A LEGAL**
25 **GUARDIAN, FOR USE OF AND MODIFICATIONS TO THE FAMILY MEMBER'S VEHICLE**
26 **TO ACCOMMODATE A NEED OF THE RECIPIENT RELATED TO THE RECIPIENT'S**
27 **DISABILITY.**

28 **7-409.**

29 **THE DEPARTMENT MAY NOT REQUIRE A PERSON AUTHORIZED TO PROVIDE**
30 **SERVICES TO A RECIPIENT IN THE STATE TO OBTAIN ANY ADDITIONAL APPROVAL TO**
31 **PROVIDE THE SAME SERVICES TO A RECIPIENT WHO USES SELF-DIRECTED**
32 **SERVICES UNDER THIS TITLE.**

1 **7-410.**

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

4 (2) "ADVISORY COUNCIL" MEANS THE STATE ADVISORY COUNCIL ON
5 SELF-DIRECTED SERVICES.

6 (3) "FAMILY MEMBER" MEANS A PARENT, STEPPARENT, FOSTER
7 PARENT, ADOPTIVE PARENT, OR SIBLING OF AN INDIVIDUAL WITH DISABILITIES
8 WHO WORKS AS DIRECT STAFF OR AS A MEMBER OF A TEAM TO PROVIDE THROUGH
9 HOME- AND COMMUNITY-BASED SERVICES EXTRAORDINARY CARE TO THE
10 INDIVIDUAL THAT IMPOSES A DISPROPORTIONATELY GREATER BURDEN ON THE
11 FAMILY MEMBER OF THE INDIVIDUAL COMPARED TO THE FAMILY MEMBER OF A
12 NONDISABLED PERSON OF THE SAME AGE.

13 (B) THERE IS A STATE ADVISORY COUNCIL ON SELF-DIRECTED SERVICES.

14 (C) THE ADVISORY COUNCIL CONSISTS OF:

15 (1) THE SECRETARY OF HUMAN SERVICES, OR THE SECRETARY'S
16 DESIGNEE;

17 (2) THE DEPUTY SECRETARY OF THE DEVELOPMENTAL
18 DISABILITIES ADMINISTRATION, OR THE DEPUTY SECRETARY'S DESIGNEE;

19 (3) ONE REPRESENTATIVE FROM EACH OF THE ADMINISTRATION'S
20 FOUR REGIONAL OFFICES, DESIGNATED BY THE REGIONAL DIRECTOR OF EACH
21 OFFICE;

22 (4) ONE REPRESENTATIVE FROM THE DEPARTMENT OF
23 DISABILITIES, DESIGNATED BY THE SECRETARY OF DISABILITIES;

24 (5) ONE REPRESENTATIVE FROM NURSING AND WAIVER SERVICES
25 WITHIN MARYLAND MEDICAID'S OFFICE OF LONG TERM SUPPORT SERVICES,
26 DESIGNATED BY THE DEPUTY DIRECTOR OF NURSING AND WAIVER SERVICES;

27 (6) ONE REPRESENTATIVE FROM THE INTERAGENCY TRANSITION
28 COUNCIL FOR YOUTH WITH DISABILITIES, DESIGNATED BY THE CHAIR OF THE
29 COUNCIL;

30 (7) ONE REPRESENTATIVE FROM THE DIVISION OF REHABILITATIVE
31 SERVICES IN THE STATE DEPARTMENT OF EDUCATION, DESIGNATED BY THE

1 ASSISTANT STATE SUPERINTENDENT;

2 (8) THE CHAIR OF THE MARYLAND COMMISSION ON CAREGIVING,
3 OR THE CHAIR'S DESIGNEE;

4 (9) THE BOARD OF DIRECTORS OF THE SELF-DIRECTED ADVOCACY
5 NETWORK OF MARYLAND, INC., OR THEIR DESIGNEES WHO SHALL BE FROM EACH
6 REGION OF THE ADMINISTRATION'S REGIONAL OFFICES, INCLUDING, TO THE
7 EXTENT PRACTICABLE:

8 (I) AT LEAST FOUR INDIVIDUALS WITH DEVELOPMENTAL
9 DISABILITIES WHO USE SELF-DIRECTED SERVICES;

10 (II) AT LEAST TWO, BUT NOT MORE THAN FOUR, FAMILY
11 MEMBERS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES WHO USE
12 SELF-DIRECTED SERVICES;

13 (III) ONE INDIVIDUAL WHO PROVIDES SUPPORT BROKER
14 SERVICES;

15 (IV) ONE INDIVIDUAL WHO HAS EXPERIENCE AS A
16 COORDINATOR OF COMMUNITY SERVICES; AND

17 (V) ONE INDIVIDUAL WHO PROVIDES NURSE DELEGATION OR
18 NURSING CASE MANAGEMENT SERVICES TO INDIVIDUALS WHO USE SELF-DIRECTED
19 SERVICES;

20 (10) THE EXECUTIVE DIRECTOR OF THE MARYLAND
21 DEVELOPMENTAL DISABILITIES COUNCIL, OR THE EXECUTIVE DIRECTOR'S
22 DESIGNEE;

23 (11) THE EXECUTIVE DIRECTOR OF DISABILITY RIGHTS MARYLAND,
24 OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

25 (12) THE PUBLIC POLICY DIRECTOR OF PEOPLE ON THE GO
26 MARYLAND, OR THE PUBLIC POLICY DIRECTOR'S DESIGNEE;

27 (13) THE EXECUTIVE DIRECTOR OF THE ARC MARYLAND, OR THE
28 EXECUTIVE DIRECTOR'S DESIGNEE;

29 (14) THE PRESIDENT OF MARYLAND WORKS, OR THE PRESIDENT'S
30 DESIGNEE; AND

1 **(15) THE FOLLOWING MEMBERS NOMINATED BY THE ADVISORY**
2 **COUNCIL AND SELECTED BY THE CHAIR OF THE ADVISORY COUNCIL:**

3 **(I) A REPRESENTATIVE FROM A FISCAL MANAGEMENT**
4 **PROVIDER; AND**

5 **(II) AN INDIVIDUAL WHO IS DIRECT SUPPORT STAFF FOR**
6 **SOMEONE WHO USES SELF-DIRECTED SERVICES.**

7 **(D) THE STATE AGENCY MEMBERS OF THE ADVISORY COUNCIL SERVE IN**
8 **AN ADVISORY CAPACITY ONLY AND MAY NOT VOTE ON MATTERS BEFORE THE**
9 **ADVISORY COUNCIL.**

10 **(E) (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.**

11 **(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS**
12 **REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL ON**
13 **JULY 1, 2021.**

14 **(3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO**
15 **SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

16 **(4) AN APPOINTED MEMBER WHO IS DESIGNATED AFTER A TERM HAS**
17 **BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS**
18 **APPOINTED AND QUALIFIES.**

19 **(5) AN APPOINTED MEMBER MAY SERVE TWO CONSECUTIVE FULL**
20 **TERMS.**

21 **(6) AN APPOINTED MEMBER WHO SERVES TWO CONSECUTIVE FULL**
22 **TERMS MAY NOT BE REAPPOINTED WITHIN 4 YEARS AFTER THE END OF THE SECOND**
23 **TERM.**

24 **(7) THE ADVISORY COUNCIL SHALL ADOPT RULES FOR THE**
25 **REMOVAL OF ITS MEMBERS.**

26 **(F) (1) THE ADVISORY COUNCIL SHALL ELECT A CHAIR AND OTHER**
27 **OFFICERS FROM AMONG ITS MEMBERS.**

28 **(2) THE MEMBERS PRESENT AT A MEETING ARE A QUORUM.**

29 **(G) (1) SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION,**
30 **THE ADVISORY COUNCIL SHALL MEET AT LEAST QUARTERLY EACH YEAR AT THE**

1 TIMES AND PLACES AND IN THE MANNER THAT IT DETERMINES.

2 (2) THE ADVISORY COUNCIL'S MEETING SHALL BE:

3 (I) ACCESSIBLE TO THE PUBLIC; AND

4 (II) HELD, TO THE EXTENT PRACTICABLE, AT LOCATIONS AND
5 TIMES THAT ARE CONVENIENT TO INTERESTED STAKEHOLDERS.

6 (3) THE ADVISORY COUNCIL SHALL PROVIDE ADEQUATE PUBLIC
7 NOTICE OF A MEETING BEFORE THE MEETING IS HELD.

8 (4) EXCEPT AS OTHERWISE PROVIDED UNDER THE OPEN MEETINGS
9 ACT, THE ADVISORY COUNCIL SHALL MAKE ALL MEETING MINUTES AVAILABLE TO
10 THE PUBLIC.

11 (H) THE ADMINISTRATION SHALL ASSIST THE ADVISORY COUNCIL IN
12 NOTIFYING STAKEHOLDERS, INCLUDING CONSUMERS OF ADMINISTRATION
13 SERVICES, THEIR FAMILY MEMBERS AND CAREGIVERS, AND HEALTH CARE
14 PROVIDERS, OF MEETINGS AND OTHER OPPORTUNITIES TO PROVIDE INPUT TO THE
15 ADVISORY COUNCIL.

16 (I) A MEMBER OF THE ADVISORY COUNCIL:

17 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
18 ADVISORY COUNCIL; BUT

19 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
20 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

21 (J) THE ADMINISTRATION SHALL PROVIDE STAFF FOR THE ADVISORY
22 COUNCIL, IN CONSULTATION WITH THE SELF-DIRECTED ADVOCACY NETWORK OF
23 MARYLAND, INC., AND ANY OTHER ADVOCACY ORGANIZATION WITH A MEMBER ON
24 THE ADVISORY COUNCIL.

25 (K) THE ADVISORY COUNCIL SHALL:

26 (1) EXAMINE POLICIES, PROCEDURES, AND PROPOSALS RELATED TO
27 SELF-DIRECTED SERVICES;

28 (2) ANNUALLY CONDUCT A STATE SURVEY OF THE SELF-DIRECTED
29 SERVICES PROCESS AS IMPLEMENTED BY THE ADMINISTRATION;

1 **(3) MAKE RECOMMENDATIONS TO THE DEPUTY SECRETARY**
2 **REGARDING HOW TO IMPROVE THE SELF-DIRECTED SERVICES PROCESS AND THE**
3 **EXPERIENCE OF USING SELF-DIRECTED SERVICES;**

4 **(4) PROVIDE A FORUM FOR INPUT FROM THE RESIDENTS OF THE**
5 **STATE RELATED TO SELF-DIRECTED SERVICES;**

6 **(5) INVENTORY AND TRACK SERVICES AND SUPPORTS AVAILABLE**
7 **THROUGH THE HOME- AND COMMUNITY-BASED SERVICES PROGRAMS IN THE**
8 **STATE, INCLUDING THE NUMBER, DURATION, AND SCOPE OF THE SERVICES AND**
9 **SUPPORTS, AND ASSESS ANY GAPS IN OR BARRIERS TO RECEIVING SERVICES AND**
10 **SUPPORTS THROUGH THOSE PROGRAMS;**

11 **(6) REVIEW AND MAKE RECOMMENDATIONS REGARDING**
12 **DISPARITIES BETWEEN THE SERVICES AND SUPPORTS RECEIVED BY INDIVIDUALS**
13 **WHO USE SELF-DIRECTED SERVICES AND THE SERVICES AND SUPPORTS RECEIVED**
14 **BY INDIVIDUALS WHO USE SERVICES PROVIDED BY THE STATE, INCLUDING:**

15 **(I) AUTHORIZATION RATES;**

16 **(II) PAY RATES FOR CAREGIVERS; AND**

17 **(III) THE AMOUNT PAID BY THE STATE FOR SERVICES PER**
18 **INDIVIDUAL;**

19 **(7) REVIEW AND MAKE RECOMMENDATIONS REGARDING POLICIES,**
20 **INCLUDING POLICIES THAT REQUIRE THE USE OF MEDICAID STATE PLAN SERVICES**
21 **IN ADDITION TO OR IN LIEU OF HOME- AND COMMUNITY-BASED SERVICES, THAT:**

22 **(I) PROHIBIT OR RESTRICT INDIVIDUALS FROM RECEIVING**
23 **CERTAIN TYPES OF NECESSARY CARE; OR**

24 **(II) COMPLICATE OR CREATE BARRIERS TO AN INDIVIDUAL'S**
25 **USE OF SELF-DIRECTED SERVICES;**

26 **(8) ADVISE THE GENERAL ASSEMBLY ON ISSUES RELATING TO**
27 **SELF-DIRECTED SERVICES, INCLUDING:**

28 **(I) COMMUNICATIONS BETWEEN THE ADMINISTRATION AND**
29 **SELF-DIRECTED SERVICES PARTICIPANTS AND THEIR FAMILIES;**

30 **(II) THE ADMINISTRATION'S AND THE MARYLAND MEDICAL**
31 **ASSISTANCE PROGRAM'S EFFORTS TO WORK IN PARTNERSHIP WITH**

1 SELF-DIRECTED SERVICES PARTICIPANTS AND THEIR FAMILIES AND CAREGIVERS
2 TO IMPROVE THE SELF-DIRECTED SERVICES PROCESS AND THE EXPERIENCE OF
3 USING SELF-DIRECTED SERVICES; AND

4 (III) ANY LEGISLATION THAT SHOULD BE ENACTED TO
5 IMPLEMENT THE RECOMMENDATIONS MADE BY THE ADVISORY COUNCIL;

6 (9) REVIEW AND MAKE RECOMMENDATIONS REGARDING THE
7 FOLLOWING CRITICAL NEEDS RELATED TO SELF-DIRECTED SERVICES:

8 (I) SUPPORT BROKER DUTIES AND RESPONSIBILITIES WHEN
9 PROVIDING SERVICES TO A WAIVER PARTICIPANT, INCLUDING A REQUIREMENT
10 THAT SUPPORT BROKERS RECEIVE TRAINING AND COORDINATE WITH
11 COORDINATORS OF COMMUNITY SERVICE;

12 (II) PERSON-CENTERED PLANS THAT COMPREHENSIVELY
13 ADDRESS AN INDIVIDUAL'S NEEDS IN THE INDIVIDUAL'S COMMUNITY AND THAT
14 TAKE INTO ACCOUNT THE INDIVIDUAL'S PERSONAL GOALS, PREFERENCES,
15 COMMUNITY SUPPORTS, FINANCIAL RESOURCES, AND OTHER FACTORS THAT ARE
16 IMPORTANT TO THE INDIVIDUAL;

17 (III) INDIVIDUAL BUDGETS THAT ARE SUFFICIENT TO MEET THE
18 UNIQUE NEEDS AND CIRCUMSTANCES OF THE INDIVIDUAL, AS OUTLINED IN A PLAN
19 DESCRIBED UNDER ITEM (II) OF THIS ITEM, THAT ARE CREATED USING THE
20 TRADITIONAL HEALTH CARE PROVIDER BUDGET AND THE PLAN DESCRIBED UNDER
21 ITEM (II) OF THIS ITEM AS A BASELINE FOR THE APPROPRIATE FUNDING
22 ALLOCATIONS UNDER THE BUDGET;

23 (IV) NONMEDICAL TRANSPORTATION SERVICES AS A DEFINED
24 SERVICE CATEGORY;

25 (V) PERSONAL HABILITATION SUPPORTS PROVIDED IN
26 ACCORDANCE WITH A PLAN DESCRIBED UNDER ITEM (II) OF THIS ITEM;

27 (VI) ACCESS TO COMMUNITY DEVELOPMENT SERVICES IN THE
28 LOCATION AND MANNER THAT THE INDIVIDUAL CHOOSES;

29 (VII) BUDGETS RELATED TO SELF-DIRECTED SERVICES AND
30 INDIVIDUALIZED ALLOTMENTS OF COST-OF-LIVING ADJUSTMENTS;

31 (VIII) USE OF SELF-DIRECTED SERVICES, REGARDLESS OF THE
32 SEVERITY AND TYPE OF DISABILITY;

1 **(IX) STREAMLINED PROCESSES FOR CHOOSING VENDORS OF**
2 **PROFESSIONAL SERVICES OR PRODUCTS, INCLUDING THE AUTHORIZATION FOR**
3 **VENDORS APPROVED TO PROVIDE SERVICES IN THE STATE TO PROVIDE SERVICES**
4 **TO AN INDIVIDUAL UNDER A HOME- AND COMMUNITY-BASED SERVICES PROGRAM**
5 **WITHOUT OBTAINING ANY ADDITIONAL APPROVAL;**

6 **(X) MEASURES TO ASSESS THE QUALITY AND OTHER ASPECTS**
7 **OF SELF-DIRECTED SERVICES; AND**

8 **(XI) THE INCLUSION OF FISCAL MANAGEMENT SERVICES AS A**
9 **WAIVER SERVICE, WHEREBY THE INDIVIDUAL MAY CHOOSE TO RECEIVE THE**
10 **SERVICES FROM AT LEAST TWO PROVIDERS, INCLUDING SERVICES THAT ASSIST AN**
11 **INDIVIDUAL WITH:**

12 **1. MANAGING AND DIRECTING THE DISBURSEMENT OF**
13 **FUNDS IN THE INDIVIDUAL'S BUDGET;**

14 **2. PERFORMING EMPLOYER RESPONSIBILITIES,**
15 **INCLUDING PAYROLL PROCESSING, TAX WITHHOLDING, AND MAKING PAYMENTS ON**
16 **TAXES OWED; AND**

17 **3. PROVIDING ACCOUNTING SERVICES AND PREPARING**
18 **EXPENDITURE REPORTS FOR THE INDIVIDUAL AND THEIR TEAM, AND STATE**
19 **AUTHORITIES; AND**

20 **(10) PERFORM ANY OTHER DUTIES THE ADVISORY COUNCIL**
21 **CONSIDERS APPROPRIATE.**

22 **(L) (1) ON OR BEFORE DECEMBER 1 EACH YEAR, THE ADVISORY**
23 **COUNCIL SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH**
24 **§ 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

25 **(2) THE REPORT SHALL INCLUDE:**

26 **(I) INFORMATION ON HOW WELL THE SELF-DIRECTED**
27 **SERVICES PROCESS IS MEETING THE NEEDS OF THE SELF-DIRECTED SERVICES**
28 **RECIPIENTS, INCLUDING:**

29 **1. ANY GAPS IN SERVICES FOR RECIPIENTS;**

30 **2. ANY BARRIERS TO THE RECEIPT OF SERVICES BY**
31 **RECIPIENTS; AND**

- 1 (v) More than 1 family support service, as defined in § 7–701 of this
2 title;
- 3 (vi) More than 1 individual support service; and
- 4 (vii) More than 1 community supported living arrangements service,
5 as defined in § 7–709 of this title.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
7 appointed members of the State Advisory Council on Self–Directed Services shall expire as
8 follows:

- 9 (1) a number of the initial members equal to the total number of the initial
10 members divided by three and rounded to the nearest whole number in 2022;
- 11 (2) the same number of members as the number of members whose terms
12 expired under item (1) of this section in 2023; and
- 13 (3) the remaining initial members in 2024.

14 SECTION 3. AND BE IT FURTHER ENACTED, That:

15 (a) The Developmental Disabilities Administration shall coordinate with the
16 State Advisory Council on Self–Directed Services established under § 7–410 of the Health
17 – General Article, as enacted under Section 1 of this Act, to request from the federal Centers
18 on Medicare and Medicaid Services a Medicaid § 1915(c) home and community–based
19 services waiver for self–directed services and, if approved, implement the waiver, that:

- 20 (1) includes the following elements of the formerly designated New
21 Directions Independence Plus waiver:
- 22 (i) all waiver participants have the opportunity to direct some or all
23 of their waiver services;
- 24 (ii) all waiver participants live with their families, in their own
25 private residence, in a unit of a larger complex, or in a living arrangement where services
26 are provided to fewer than four persons who are not members of the proprietor’s family;
- 27 (iii) the service planning process is participant–led and
28 person–centered;
- 29 (iv) use of self–directed services is available for all waiver services,
30 including services that are used most frequently by a significant number of waiver
31 participants;

1 (v) all waiver participants who elect to direct their waiver services
2 may exercise the full range of their employer authority to recruit, hire, train, and supervise
3 the individuals who provide their services and have access to the full array of supports
4 available to participants who exercise employer authority;

5 (vi) all waiver participants who elect to direct their waiver services
6 may exercise complete decision-making budget authority over how the Medicaid waiver
7 funds in a budget are spent and have access to the full array of supports available to
8 participants who exercise budget authority;

9 (vii) an appropriate method is used to determine the
10 participant-centered budget; and

11 (viii) a separate advocacy function is provided to waiver participants
12 who direct their services to be performed by a person who does not provide other direct
13 services to, perform assessments for, or have monitoring, oversight, or fiscal responsibilities
14 to the participant; and

15 (2) is available on or before July 1, 2022.

16 (b) If the Administration determines it will be unable to obtain and implement
17 the waiver under subsection (a) of this section by July 1, 2022, the Administration shall, in
18 accordance with § 2-1257 of the State Government Article, notify the General Assembly of
19 the determination on or before April 1, 2022, including in the notification the reasons for
20 the Administration's determination.

21 (c) (1) If the General Assembly receives notice under subsection (b) of this
22 section, the General Assembly shall establish a workgroup of members of the General
23 Assembly, including at least one member each from the Senate Education, Health, and
24 Environmental Affairs Committee, the House Health and Government Operations
25 Committee, and the Joint Committee on Children, Youth, and Families, to evaluate and
26 make recommendations on whether the Administration should request and implement the
27 waiver under subsection (a) of this section notwithstanding the determination under
28 subsection (b) of this section.

29 (2) If established, the workgroup shall submit its recommendations to the
30 Administration and the State Advisory Council on Self-Directed Services on or before
31 October 1, 2022.

32 (d) (1) If the workgroup established under subsection (c) of this section
33 recommends that the Administration request and implement the waiver and the
34 Administration determines it will be unable to establish the waiver by July 1, 2023, the
35 Administration shall, in accordance with § 2-1257 of the State Government Article, notify
36 the General Assembly of its determination on or before April 1, 2023, including in the
37 notification the reasons for the Administration's determination.

1 (2) If the General Assembly receives notice under paragraph (1) of this
2 subsection, the workgroup established under subsection (c) of this section shall reconvene
3 and include the same members of the General Assembly, to the extent practicable.

4 (3) If the workgroup is reconvened under paragraph (2) of this subsection,
5 the workgroup shall submit recommendations, including recommendations for legislation,
6 for addressing the issues that may have been addressed if the waiver had been
7 implemented to the Administration and the State Advisory Council on Self-Directed
8 Services on or before October 1, 2023.

9 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2021.