

1 H.720

2 Introduced by Committee on Human Services

3 Date:

4 Subject: Human services; developmental disabilities; system of care

5 Statement of purpose of bill as introduced: This bill proposes to: (1)
6 eliminate the rulemaking requirement for portions of the system of care plan;
7 (2) require system of care plan extensions to be approved by the Chairs of the
8 House Committee on Human Services and the Senate Committee on Health
9 and Welfare; (3) establish the Residential Program Developer position and
10 require annual quality services reviews; (4) establish pilot planning grants to
11 develop housing and residential services programs for individuals with
12 developmental disabilities; and (5) implement processes for payment reform
13 and conflict-free case management.

14 An act relating to the system of care for individuals with developmental
15 disabilities

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Legislative Intent * * *

3 Sec. 1. LEGISLATIVE INTENT

4 It is the intent of the General Assembly that:

5 (1) Individuals who qualify for developmental services and who meet a
6 funding priority as outlined in the State system of care plan for developmental
7 services receive full and complete information in plain language regarding
8 their options and services.

9 (2) Individuals with developmental disabilities, their family members,
10 allies, and advocates be respected and active participants in systems change
11 activities, including payment reform, development of resources to comply with
12 the federal home- and community-based services regulations, and development
13 of additional residential service options. Information provided to stakeholders
14 shall be in plain language.

15 * * * System of Care Plan * * *

16 Sec. 2. 18 V.S.A. § 8725 is amended to read:

17 § 8725. SYSTEM OF CARE PLAN

18 (a) Every three years, the Department shall adopt a plan for the nature,
19 extent, allocation, and timing of services consistent with the principles of
20 service set forth in section 8724 of this title that will be provided to people
21 with developmental disabilities and their families. ~~Each plan shall include the~~

1 following categories, which shall be adopted by rule pursuant to ~~3 V.S.A.~~
2 ~~chapter 25:~~

3 (1) ~~priorities for continuation of existing programs or development of~~
4 ~~new programs;~~

5 (2) ~~criteria for receiving services or funding;~~

6 (3) ~~type of services provided; and~~

7 (4) ~~a process for evaluating and assessing the success of programs.~~

8 * * *

9 (c) ~~No~~ Not later than 60 days before adopting the proposed plan, the
10 Commissioner shall submit it to the Advisory Board established in section
11 8733 of this title, for advice and recommendations, ~~except that the~~
12 ~~Commissioner shall submit those categories within the plan subject to 3 V.S.A.~~
13 ~~chapter 25 to the Advisory Board at least 30 days prior to filing the proposed~~
14 ~~plan in accordance with the Vermont Administrative Procedure Act. The~~
15 ~~Advisory Board shall provide the Commissioner with written comments on the~~
16 ~~proposed plan. It may also submit public comments pursuant to 3 V.S.A.~~
17 ~~chapter 25.~~

18 * * *

19 (f) If the Department requires an extension to complete the system of care
20 plan, it shall submit a written request indicating the anticipated completion
21 date to the House Committee on Human Services and to the Senate Committee

1 on Health and Welfare at least two months prior to the expiration of the
2 existing system of care plan. The request for an extension may be granted
3 upon the approval of both the Chairs of the House Committee on Human
4 Services and the Senate Committee on Health and Welfare.

5 * * * Quality Services Reviews * * *

6 ~~Sec. 2, 18 V.S.A., chapter 204A, is amended to read:~~

7 CHAPTER 204A. SUPPORTING INDIVIDUALS WITH
8 DEVELOPMENTAL DISABILITIES ACT

9 Subchapter 1. Developmental Disabilities Act

10 * * *

11 § 8723. DEPARTMENT OF DISABILITIES, AGING, AND
12 INDEPENDENT LIVING; DUTIES

13 The Department shall plan, coordinate, administer, monitor, and evaluate
14 State and federally funded services for people with developmental disabilities
15 and their families within Vermont. The Department shall be responsible for
16 coordinating the efforts of all agencies and services, government and private,
17 on a statewide basis in order to promote and improve the lives of individuals
18 with developmental disabilities. Within the limits of available resources, the
19 Department shall:

20 (1) promote the principles stated in section 8724 of this title and shall

21 ~~carry out all functions, powers, and duties required by this chapter subchapter~~

1 ~~by collaborating and consulting with people with developmental disabilities,~~
2 their families, guardians, community resources, organizations, and people who
3 provide services throughout the State;

4 * * *

5 § 8724. PRINCIPLES OF SERVICE

6 Services provided to people with developmental disabilities and their
7 families shall foster and adhere to the following principles:

8 * * *

9 (11) Trained staff. In order to ~~assure~~ ensure that the goals of this
10 ~~chapter~~ subchapter are attained, all individuals who provide services to people
11 with developmental disabilities and their families must receive training as
12 required by section 8731 of this title.

13 * * *

14 § 8727. COMPLAINTS; APPEALS

15 (a) Notice. The Department or agency or program funded by the
16 Department shall provide notice:

17 (1) To an applicant or the applicant's guardian, as applicable, of the
18 rights provided under this ~~chapter~~ subchapter, State and federal law, and any
19 other available rights of appeal for violations of any of those rights.

20

1 ~~§ 8722. ADVISORY BOARD~~

2 * * *

3 (e) Members shall be entitled to reimbursement for necessary and actual
4 expenses incurred in performance of their duties under this ~~chapter~~ subchapter.

5 Subchapter 2. Supports for Individuals with Developmental Disabilities

6 § 8741. QUALITY SERVICES REVIEWS

7 The Department shall perform at least annual on-site quality assurance and
8 improvement visits to the designated and specialized service agencies and
9 other contracted agencies. The Department shall, at a minimum, assess the
10 quality of services provided, including health and safety, in accordance with
11 personalized service plans for the individuals served.

Sec. 3. REPORT; QUALITY ASSURANCE REVIEW

(a) On or before November 15, 2022, the Department of Disabilities,
Aging, and Independent Living shall submit a written report to the House
Committee on Human Services and to the Senate Committee on Health and
Welfare regarding the oversight of services for individuals with developmental
disabilities. The report shall, at a minimum:

(1) identify the current level of quality service reviews required by the
Department for home- and community-based services provided by the
designated and specialized service agencies and other contracted agencies that

provide services to individuals with developmental disabilities and recommend any modifications to these requirements or processes; and

(2) identify the current requirements for the designated and specialized service agencies and other providers to perform on-site visits to individuals with a developmental disability receiving Medicaid-funded residential services, including the residences of individuals residing with shared living providers; the residences of individuals receiving services in their own home or the home of their family; and the residences of individuals residing in residential care homes, therapeutic community residences, nursing facilities, and any other residential settings.

(b) On or before January 15, 2023, the Department of Disabilities, Aging, and Independent Living shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding the oversight of services for individuals with developmental disabilities. The report shall develop an implementation plan that shall address the fiscal and workforce requirements for conducting a minimum of at least one annual on-site quality assurance and improvement visit by the Department to the designated and specialized service agencies and other providers serving individuals with developmental disabilities to address the quality of home- and community-based services, including health and safety, in accordance with personalized service plans for the individuals served.

1 (b) In fiscal year 2023, \$102,000.00 is appropriated to the Department of
2 Disabilities, Aging, and Independent Living from the Global Commitment
3 Federal Medical Assistance Percentage (FMAP) home- and community-based
4 services monies to fund the Residential Program Developer position
5 established in subsection (a) of this section.

6 * * * Housing and Residential Service Pilot Planning Grants * * *

7 Sec. 5. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT
8 LIVING; DEVELOPMENT OF HOUSING AND RESIDENTIAL
9 SERVICES PILOT PLANNING GRANTS

10 (a) The Department of Disabilities, Aging, and Independent Living shall
11 work with the Vermont Developmental Disabilities Council and a statewide
12 self-advocacy group to review housing models in other states for the purpose
13 of informing the pilot planning grants developed pursuant to subsection (b) of
14 this section.

15 (b)(1) In fiscal year 2023, \$500,000.00 is appropriated to the Department
16 of Disabilities, Aging, and Independent Living from the Global Commitment
17 Federal Medical Assistance Percentage (FMAP) home- and community-based
18 services monies to develop housing and residential service pilot planning
19 grants in at least three regions of the State, in partnership with designated and
20 specialized service agencies, for individuals with developmental disabilities
21 and their families. The Department shall issue a request for proposals seeking

1 entities to develop regional pilot planning grants with not more than one grant
2 per designated agency catchment area.

3 (2) The pilot planning grants shall:

4 (A) reflect the diversity of needs expressed by individuals with
5 developmental disabilities and their families, including individuals with high
6 support needs who require 24-hour care and those with specific
7 communication needs;

8 (B) be consistent with the federal home- and community-based
9 services regulations;

10 (C) include new service-supported housing models; and

11 (D) include a vision statement, the number of and description of the
12 support needs of individuals with developmental disabilities anticipated to be
13 served, a draft budget, and an implementation plan.

14 (c)(1) The Department shall convene a steering committee to provide
15 advice and guidance as it develops and selects the pilot planning grants
16 required pursuant to this section.

17 (2) The steering committee shall be composed of the following
18 members:

19 (A) three individuals with a developmental disability, appointed by
20 the Green Mountain Self Advocates;

1 (B) two family members of individuals with a developmental
2 disability, appointed by the Vermont Family Network;

3 (C) two advocates who are either individuals with a developmental
4 disability or a family member of an individual with a developmental disability,
5 appointed by the State Program Standing Committee and the Advisory Board
6 established pursuant to 18 V.S.A. § 8733; and

7 (D) two representatives of the designated and specialized service
8 agencies, appointed by Vermont Care Partners.

9 ~~(3) The steering committee shall have the technical, legal, and~~
10 ~~administrative assistance of the Department.~~

(3)(A) The steering committee shall have the technical, legal, and
administrative assistance of the Department.

11 *(B) The steering committee shall cease to exist on January 1, 2024.*

12 (4) Information provided for the steering committee's consideration
13 shall be in plain language.

14 (5) Members of the steering committee shall be entitled to per diem
15 compensation and reimbursement of expenses as permitted under 32 V.S.A.
16 § 1010 for not more than eight meetings. These payments shall be made from
17 monies appropriated to the Department.

18 (d) On or before April 15, 2023, the Department shall submit a report to
19 the House Committee on Human Services and to the Senate Committee on

1 Health and Welfare describing the pilot planning grant selection process, the
2 implementation plan, and any resources necessary for implementation of
3 selected pilots.

4 * * * Payment Reform and Conflict-Free Case Management * * *

5 Sec. 6. PAYMENT REFORM AND CONFLICT-FREE CASE
6 MANAGEMENT

7 (a) Prior to implementing system-wide payment reform impacting
8 individuals with developmental disabilities, their families, and designated and
9 specialized service agencies, the Department of Disabilities, Aging, and
10 Independent Living shall seek approval from the General Assembly. At a
11 minimum, the following shall be included in the payment reform process:

12 (1) in addition to any standardized assessment utilized by the
13 Department, a process for consideration of additional information relevant to
14 the life circumstances of service recipients or applicants;

15 (2) in addition to any standardized rates or rate ranges developed by the
16 Department, a process for consideration of budgets to reflect the individualized
17 support needs of service recipients or applicants; and

18 (3) a process for evaluating the fiscal and service impact on individual
19 service recipients and the designated and specialized service agencies.

20 (b)(1) Prior to implementing the federally required conflict-free case
21 management system, the Department shall seek and consider input from a

1 variety of stakeholders, including individuals with developmental disabilities,
2 their families, designated and specialized service agencies, and other providers
3 and advocates and seek approval from the General Assembly.

4 (2) As part of the changes necessary to come into federal compliance,
5 consideration shall be given to performing initial clinical eligibility and service
6 planning within the Department.

7 * * * HCBS Spending Plan Amendment * * *

8 Sec. 7. HOME- AND COMMUNITY-BASED SERVICE SPENDING PLAN
9 AMENDMENT

10 The Agency of Human Services shall seek to amend its federal Home- and
11 Community-Based Service Spending Plan to enable the Department of
12 Disabilities, Aging, and Independent Living to use Global Commitment
13 Federal Medical Assistance Percentage (FMAP) home- and community-based
14 services monies to fund the new Residential Program Developer position
15 created in Sec. 4 of this act and the pilot planning grants in Sec. 5 of this act.

16 * * * Effective Dates * * *

17 Sec. 8. EFFECTIVE DATES

18 This section and Sec. 2 (system of care plan) shall take effect on passage,
19 and the remaining sections shall take effect on July 1, 2022.