

## Chapter 7

**(Senate Bill 796 of the 2020 Regular Session)**

AN ACT concerning

**Developmental Disabilities Administration – Program Changes and Required Reports**

FOR the purpose of requiring the Maryland Department of Health to ensure that providers of and individuals who receive certain services are not negatively impacted when using a certain software system or function; requiring that an individual receiving certain services who receives a certain notice have a certain time period to appeal a certain eligibility determination; requiring certain services to continue uninterrupted under certain circumstances until the outcome of a certain appeal is complete; requiring the Department to ensure that certain providers are notified of a certain eligibility determination; ~~prohibiting the Department from implementing certain changes to Developmental Disabilities Administration programs and billing system requirements before a certain date;~~ requiring the Department to ensure that providers are able to exchange electronic data with the Department through an application program interface with the Department's Long Term Services and Supports software system; requiring the Department to meet certain requirements at least a certain number of days before requiring providers to use a certain software system for certain individuals; requiring the Department to develop and distribute certain materials to certain users and individuals; requiring the Department to ensure that certain numbers are approved and entered into a certain software system, that certain individuals have a certain plan in a certain software system, that individuals have certain authorization, that certain rates are finalized and certain analyses are completed, and that certain errors are corrected in a certain manner; requiring the Department to delay the implementation of certain changes to a certain electronic visit verification function until a certain date; requiring the Department, on or before a certain date, to ensure that certain devices are distributed, that a certain plan has been developed, that certain providers receive a certain guide, and that a certain pilot program is completed; requiring the Department to conduct a certain pilot program for at least a certain period of time; requiring the Department to include certain participation and allow each provider to make a certain selection in conducting a certain pilot program; requiring the Department to ensure that an individual's choice of provider or service is not restricted by the Developmental Disabilities Administration as the result of certain actions; requiring the Department to submit certain reports to the General Assembly on or before a certain date; and generally relating to developmental disabilities services.

BY adding to  
 Article – Health – General  
 Section 7–309

Annotated Code of Maryland  
(2019 Replacement Volume)

Preamble

WHEREAS, Over 24,000 Marylanders who rely on Developmental Disabilities Administration (DDA) services, and over 4,000 people with intellectual and developmental disabilities on the DDA Waiting List, and their families, need a strong, stable system of supports and services; and

WHEREAS, There are over 1,000 people with intellectual and developmental disabilities who currently self-direct their supports, and rely on the DDA for funding, policies, and procedures to use support; and

WHEREAS, There are over 200 community-based provider agencies, employing thousands of direct support professionals working in the State, that rely on the DDA for funding, policies, and procedures to provide quality supports; and

WHEREAS, There are hundreds of family members of people with intellectual and developmental disabilities who depend on reliable DDA services and supports for their family members in order to continue to work in Maryland; and

WHEREAS, The DDA has a budget of over \$1.3 billion, representing a significant investment of federal and State resources; and

WHEREAS, The DDA is engaging in complete systems change involving all aspects of the provision of supports and services to over 24,000 Marylanders with intellectual and developmental disabilities and their families; and

WHEREAS, The total systems change effort will affect all parts of community supports, and has created system instability that will jeopardize community supports and services if allowed to continue in the current manner and pace to meet the Department's implementation goal of July 1, 2020; now, therefore,

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

**Article – Health – General**

**7-309.**

**(A) THE DEPARTMENT SHALL ENSURE THAT PROVIDERS OF AND INDIVIDUALS WHO RECEIVE ADMINISTRATION SERVICES ARE NOT ADVERSELY IMPACTED WHEN USING THE LONG TERM SERVICES AND SUPPORTS SOFTWARE SYSTEM OR THE ELECTRONIC VISIT VERIFICATION FUNCTION.**

(B) (1) AN INDIVIDUAL RECEIVING ADMINISTRATION SERVICES WHO RECEIVES NOTICE FROM THE DEPARTMENT THAT THE INDIVIDUAL HAS LOST ELIGIBILITY TO RECEIVE MARYLAND MEDICAL ASSISTANCE PROGRAM SERVICES SHALL HAVE ~~30~~ 90 DAYS AFTER THE DATE ON WHICH THE NOTIFICATION LETTER WAS MAILED TO APPEAL THE DETERMINATION.

(2) IF AN INDIVIDUAL APPEALS A LOSS OF ELIGIBILITY WITHIN THE TIME PERIOD REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, ADMINISTRATION SERVICES FOR THE INDIVIDUAL SHALL CONTINUE UNINTERRUPTED UNTIL THE OUTCOME OF THE APPEAL IS COMPLETE.

(3) THE DEPARTMENT SHALL ENSURE THAT PROVIDERS OF ADMINISTRATION SERVICES TO AN INDIVIDUAL AFFECTED BY A LOSS OF ELIGIBILITY ARE NOTIFIED OF THE INDIVIDUAL’S LOSS OF ELIGIBILITY WHEN NOTICE IS SENT TO THE INDIVIDUAL.

(4) THE DEPARTMENT SHALL ENSURE THAT PROVIDERS, INCLUDING COORDINATORS OF COMMUNITY SERVICES, HAVE THE ABILITY TO AUTOMATICALLY EXCHANGE ELECTRONIC DATA WITH THE DEPARTMENT THROUGH AN APPLICATION PROGRAM INTERFACE WITH THE DEPARTMENT’S LONG TERM SERVICES AND SUPPORTS SOFTWARE SYSTEM.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) ~~(1)~~ The Maryland Department of Health ~~may not, before July 1, 2021, implement:~~

~~(i) the transition to waiver service definitions planned to take effect in fiscal 2021 under the current waiver application, as approved by the Centers for Medicare and Medicaid Services, or in any subsequent waiver application made by the Department;~~

~~(ii) new billing system requirements; or~~

~~(iii) a transition to the Long Term Services and Supports software system.~~

~~(b)~~ shall meet the requirements established under subsection (b) of this section at least 90 days before requiring providers to use the Long Term Services and Supports software system for all individuals they serve.

(b) (1) The Department shall develop and distribute:

(i) to Long Term Services and Supports software system users related to Developmental Disabilities Administration services, a Long Term Services and Supports software system operations manual for Administration services;

(ii) to providers and individuals served by providers, written policies and procedures for all developmental disability waiver services;

(iii) to individuals supported by provider services, a comprehensive guide that describes the services available through the Developmental Disabilities Administration, including services available under family supports, community supports, and community pathways waivers, with the relevant funding parameters, definitions, and examples; and

(iv) to individuals determined to be eligible for Developmental Disabilities Administration services:

1. a list of providers authorized to provide services under each waiver, with contact information for each provider;

2. detailed information on self-directed services options; and

3. detailed information regarding:

A. how individuals can access specific services;

B. the eligibility requirements and process for determining eligibility for services; and

C. the anticipated time between the initial determination of an individual's eligibility and the individual's access to Administration services.

(2) The Department shall ensure that:

(i) all base and site ePREP numbers are approved by all parties and entered into the Long Term Services and Supports software system;

(ii) individuals receiving Developmental Disabilities Administration services have a current, approved person-centered plan in the Long Term Services and Supports software system;

(iii) individuals receiving Developmental Disabilities Administration services have an accurate and current service authorization signed by the service provider and approved by the Developmental Disabilities Administration;

(iv) rates for a provider are finalized and a provider impact analysis is completed for each provider;

(v) all known Long Term Services and Supports software system functionality errors are corrected systematically.

(3) The Department shall conduct an analysis of coordinator of community service job responsibilities to identify coordinator of community services capacity needed to implement the Long Term Services and Supports software system.

(c) The Maryland Department of Health shall delay implementation of changes to the Electronic Visit Verification function until ~~January 1, 2021~~ December 1, 2020, in accordance with the extension requested by the Department and approved by the Centers for Medicare and Medicaid Services.

(d) On or before October 31, 2020, the Department shall ensure:

(1) all one-time password devices are distributed as necessary to implement electronic visit verification;

(2) a plan has been developed for timely distribution of replacement one-time password devices; and

(3) all providers of personal supports receive an operations guide for the implementation of electronic visit verification that includes procedures:

(i) for documentation of services;

(ii) for billing;

(iii) for obtaining replacement one-time password devices; and

(iv) to follow when electronic visit verification systems are not operational.

~~(e)~~ (e) (1) The Department shall conduct a pilot program of the Long Term Services and Supports software system for at least 6 months.

(2) In conducting the pilot program, the Department shall:

(i) include the participation of each Developmental Disabilities Administration licensed provider and certified provider; and

(ii) allow each provider to select the number of individuals supported by the provider that the provider wishes to be included in the pilot program.

(f) The Department shall ensure that an individual's choice of provider or service is not restricted by the Developmental Disabilities Administration as a result of

implementation of the Long Term Services and Supports software system pilot program, or any phase-in of waiver service definitions, billing processes, or operational changes.

(g) On or before December 1, 2020, the Maryland Department of Health shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the status of the pilot program ~~to transition Developmental Disabilities Administration services to the Long Term Services and Supports software system~~ required under subsection (e) of this section, including:

(1) the status of all functions of the software system that are used to provide supports for people using Administration services, including:

- (i) the coordination of community services function;
- (ii) the person-centered plan function;
- (iii) the attendance and billing function;
- (iv) the documentation function; ~~and~~
- (v) the fiscal reconciliation report function; and

(vi) the ability of providers to automatically exchange electronic data with the Department through an application program interface with the software system; and

(2) the average amount of time required to process and complete payments for services rendered.

~~(d)~~ (h) On or before December 1, 2020, the Department shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, that includes:

(1) the time, deadlines, and resources required for a provider, including a direct support professional, to complete the training and obtain equipment required to use the Long Term Services and Supports software system and to complete responsibilities for billing and documentation;

(2) actions taken by the Developmental Disabilities Administration to:

(i) ensure the transition to the Long Term Services and Supports software system does not limit a person's full use, in a timely manner, of services authorized through the person-centered plan; and

(ii) remove any barriers that may be presented by the Administration's monthly or more frequent service authorization requirements;

(3) actions taken by the Developmental Disabilities Administration to ensure that:

(i) supports for individuals with intellectual and developmental disabilities are not disrupted by a transition to the Long Term Services and Supports software system;

(ii) providers and vendors receive timely payment for approved services rendered; and

(iii) a plan is in place to ensure continuity of services and payment for services rendered in the event of system functionality issues, errors, or delays caused by the Administration or coordinators of community services;

(4) actions taken by the Developmental Disabilities Administration to ensure the system allows for flexibility in service start dates, including services started on a day other than the first of the month, and to ensure the ability of providers to bill for approved services rendered, regardless of start date;

(5) actions taken by the Maryland Department of Health to ensure that all licensed providers have base and site electronic provider revalidation and enrollment portal numbers with accurate service addresses;

(6) a description of the reporting and audit standards that will be required of providers, and the associated report templates;

(7) written policies, procedures, and guidelines for the transition to, and implementation of, the Long Term Services and Supports software system and all facets of service system change, including the transition to the use of the Electronic Visit Verification system;

(8) a comprehensive guide for individuals and the families of individuals that use Developmental Disabilities Administration supports that describes the services that are available through the Administration including:

(i) services available under each of the Family Supports, Community Supports, and Community Pathways waivers with funding parameters, definitions, and examples;

(ii) a list of providers who are licensed or certified to provide services in each waiver with contact information and detailed information on self-directed services options; and

(iii) information detailing:

1. how individuals may access needed services;
  2. the eligibility requirements and the process for determining eligibility for services; and
  3. the timelines from initial determination of eligibility to the access of Administration services;
- (9) the status of delays on person-centered plan approvals or service authorizations and actions needed to eliminate the backlog of delayed plans;
- (10) an impact analysis of the effect of a new rate system, service definitions, and eligibility guidelines for individuals who access Developmental Disabilities Administration services;
- (11) an analysis of the impact of the implementation of new rates by individual provider and by service;
- (12) how the Developmental Disabilities Administration will ensure that providers have sufficient working capital to transition successfully from a prospective payment system to a fee-for-service system; and
- (13) the funding needed to enable community providers to successfully transition to:
- (i) the Long Term Services and Support software system; and
  - (ii) any new rate and billing systems.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2020.

**Gubernatorial Veto Override, February 11, 2021.**