

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 507

(Senator Kelley, *et al.*)

Finance

Health and Government Operations

Division of Consumer Protection - Assisted Living Programs

This bill requires an assisted living program that was appointed as a representative payee for residents to report specified information to the Consumer Protection Division (CPD) of the Office of Attorney General (OAG) by June 1 each year. An assisted living program must report on the use of the following benefits by residents during the immediately preceding year: (1) Social Security benefits; and (2) other federal, State, or local government funds that are allocated for the purpose of assisting individuals who are aged, disabled, or blind. The Office of Health Care Quality (OHCQ) must notify CPD of the appointment of an assisted living program as the resident's representative payee within a reasonable time after being made aware of the appointment. OHCQ must refer an allegation of an unfair, abusive, or deceptive trade practice by an assisted living program to CPD and to the Office of Inspector General within the Maryland Department of Health.

Fiscal Summary

State Effect: The bill generally codifies existing practice. OAG can receive notifications and annual reports from assisted living programs who serve as representative payees using existing budgeted resources. Any potential imposition of existing penalty provisions is not anticipated to have a material impact on State finances or operations.

Local Effect: Any potential imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: An “assisted living program” is a residential or facility-based program that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination of such services that meets the needs of individuals who need assistance with the activities of daily living. In Maryland, assisted living programs are licensed by OHCQ.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA) includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind, which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

CPD is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Representative Payees

While most individuals receive their benefit payments directly, some need assistance in managing their benefits. Payments to these individuals are paid through a representative payee (including organizational representative payees) who receives the benefit check on behalf of the beneficiary and provides for the beneficiary’s personal needs. For Social Security benefits, a representative payee must keep separate records for each beneficiary for whom they are payee for at least two years and complete an annual representative payee report for the Social Security Administration.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 554 (Delegate Pena-Melnyk) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: rh/jc
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