

SUPPORT

HB92 - Maryland General and Limited Power of Attorney Act - Assistance with Governmental Benefits and Programs

March 22, 2022

Dear Chairman Smith, Vice-chairman Waldstreicher, and Committee Members,

HB92 alters Maryland limited and general power of attorney (POA) short forms to provide the option for a principal to permit their agent to apply on their behalf for governmental benefits and programs, such as Medicaid, and to otherwise assist in the process of securing such benefits. The bill passed the House unanimously both this and last session, and is a work product of the Life and Health Planning Committee of the Attorney General's 2020 COVID-19 Access to Justice Taskforce.

HB92, modifies Maryland's POA long and short forms to permit someone to direct their agent to:

- access the financial, medical and other supporting documentation required in applying for Medicaid on behalf of the principal;
- hire a Medicaid planner and pay for Medicaid planning services using the principal's income or assets to further help them gain Medicaid eligibility; and
- avoid the potentially expensive and lengthy process of pursuing guardianship, should the principle, usually a loved one, become incapacitated.

Currently, a person can use Maryland's Financial POA statutory form to name an agent and choose amongst a menu of services to allow their agent to assist with, including assistance with the management of personal property and finances. The form menu, however, does not include an option to grant their agent the authority to facilitate or otherwise assist in Medicaid Planning or in the decisions around, and actions of, asset management that may be necessary for the person to qualify for public or government benefits. Without such assistance, individuals miss eligibility opportunities to certain care benefits. As a result they either go without the care or receive it because family covers the cost.

As well-explained by the American Council on Aging (<https://medicaidplanningassistance.org>), for many senior and non-elderly disabled Marylanders the process of qualifying for, applying for, and maintaining Medicaid eligibility and other government benefits are important and often daunting tasks for which a POA can be of critical assistance. To mitigate risks of exploitation of vulnerable persons, I worked with the Elder Law and Estates and Trust sections of the Maryland Bar Association to ensure the legislation provides a principal the flexibility to assign needed authority without being overly-broad with respect to the authority to transfer or gift assets. There's no opposition and I ask for a favorable report on **HB92**.

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