

**HEALTH AND GOVERNMENT OPERATIONS COMMITTEE
HOUSE BILL 039: RESIDENTIAL SERVICE AGENCIES - REIMBURSEMENT -
PERSONAL ASSISTANCE SERVICES
(HOMECARE WORKER RIGHTS ACT OF 2024)**

JANUARY 24, 2024

POSITION: SUPPORT

Thank you Madam Chair Peña-Melnyk and Committee Members for the opportunity to provide written testimony in support of House Bill 039: The Homecare Worker Rights Act Of 2024. Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be integrated in their communities, live independently and access high-quality, affordable health care.

We are swiftly approaching the 25th anniversary of the Supreme Court’s decision in *Olmstead v. L.C.*, in which the Court ruled that the Americans with Disabilities Act (ADA) prohibits the unnecessary segregation of people with disabilities. In states across our nation, the Justice Department has enforced this civil rights mandate, creating real choice for people with disabilities in where they receive services. But all too often, people with disabilities cannot secure the critical home and community-based services (HCBS) that they need not just to thrive in the community, but also to survive. Consequently, many people with disabilities find that institutionalization is their only real option, due to the inadequate homecare workforce infrastructure.

Demand for health care workers is high, but job quality is too often low, resulting in poor outcomes for people with disabilities that require care. Steps must be taken to improve the homecare industry and enforce the rights of home care workers in order to address the current staff shortages. HB 039 will ensure that personal care aides (PCAs) who work for home care agencies (called “residential service agencies” – RSAs – by the Health Code) under applicable Medicaid programs are properly classified as employees, and not illegally misclassified as independent contractors.

When PCAs are misclassified as independent contractors, it is illegal and harmful; they are cut out of the social safety net and lose protections like sick leave, workers’ compensation, health insurance, and more – and they face a higher “self-employment” tax when they should be getting a tax refund. This illegal misclassification is a contributing factor to the PCA shortages and the shrinking homecare workforce.

DRM’s clients bear the brunt of the personal care aide shortages, which for one client resulted in being unable to leave their home for a week and delays in receiving their medically necessary medications. While staff shortages and call-outs are not new problems, these issues worsened

over the public health emergency, where personal care aides left the field for other work. The lack of equity and labor protections for personal care aides reflects a system that does not value this workforce or the people they serve. People with disabilities deserve a care system that invests in and protects personal care aides so they are able to receive the medically necessary care they are entitled to.

Health care is a critical public service, and staffing shortages are placing Marylanders with disabilities in danger of unnecessary institutionalization and significant gaps in care. HB 039 will have the impact of improving Maryland's homecare system, which furthers the goals of and compliance with the *Olmstead* decision and community integration mandate of the Americans with Disabilities Act (ADA).¹

For these reasons, DRM strongly supports House Bill 039 and urges a favorable report.

Respectfully,

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¹ *Olmstead v. L.C.*, 527 U.S. 581 (1999); 42 U.S.C. § 12101.