

01/22/2024

Honorable Chair Pena-Melnyk and esteemed delegates,

Thank you for allowing me a few moments and express our opposition to HB39

We have been in business providing care for the elderly Medicaid recipients since 2002 and have seen many trends over the years. Currently, we are seeing a push from a 1099 to W-2 employment model. We strongly believe this is a mistake that could lead to much higher caregiver shortages for our already underserved community.

There are more than 900 Medicaid reimbursed RSA agencies in Maryland with roughly 50% that use 1099 contractors as caregivers. That's hundreds of agencies that would be negatively affected by these changes. The ability to use 1099 is embedded in the Medicaid Waiver, Community First Choice (CFC), Community Options (CO) and Community Personal Assistance (CPAS) programs.

- This transition would shock the home care industry with substantial additional costs for the underfunded agencies.

In 2018 The House and Senate passed a bill to authorize a study of agencies' cost called HB1696. Based on this study, called the Hilltop Study, we are underpaid substantially. Back then the difference was \$8.04 per hour! In 2024 the costs of providing quality services have gone up substantially to \$10-\$12 per hour (my experience). This year our increase from Medicaid reimbursement was only \$1.86 per hour.

- The Hilltop study highlighted our underfunding and therefore we cannot successfully navigate this transition at current rates.

To transition without a substantial reimbursement increase would be overwhelming, burdensome, and will negatively affect senior home care for years to come. The home care industry is already struggling with caregiver retention.

- Taking away the ability to use 1099 contractors would greatly affect so many companies, causing them to lower hourly pay to stay in business.

In our experience, caregivers work for more than one agency at the same time. They call around to see who has cases near where they live or with desirable hours. They enjoy the flexibility of choosing their hours (night, morning while kids are at school). Often, they work as caregivers part-time in the evening after their other full-time W2 jobs. They are known as gig workers and want the ability to write off milage, gas and other expenses. Many caregivers prefer to get all their money upfront, rather than having taxes taken out of every paycheck. They are willing to take on these jobs for freedom of choice and forgo some of the traditional safety nets of w2 employee work.

- Many caregivers prefer to work as 1099 and call around looking for this as an option. If they want to be an employee there are agencies who operate under that model. We think agencies should continue to have a choice of operating as 1099 for more flexibility and choice for the caregiver.

One area of the Medicaid program where this matters most is in the family caregiving program. This program allows family members of Medicaid recipients to get reimbursed for caring for their loved ones. In Maryland, the family member must be approved by the State and must work through an RSA. These paid family caregivers typically have other full-time work and want to keep as much money as possible from the hours they spend caring for their loved ones.

- Choice of delivery of home care for Medicaid participants.

Individual home-care providers who choose to offer their services as self-employed independent contractors – so they can enjoy the flexibility of choosing their own clients, negotiating their own pay rates, and working hours that fit their schedule – would be denied access to consumers whose home-care is reimbursed by a state-funded home-care program if H.B. 39 were enacted. The bill would deny rights to those home-care providers who choose to offer their services as self-employed independent contractors.

- The Bill would discriminate against self-employed providers of home care. As *consumer direct care begins* in Maryland this bill would enable all works to have to work for an agency.

The list of unintended consequence can go on but I think you a good idea of all the risks involved.

Sincerely,

Alex Petukhov
Circle of Friends, LLC
President, Managing Partner
alex@cofllc.com