



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

January 24, 2014

The Honorable Thomas M. Middleton  
Chairman  
Senate Finance Committee  
3 East Miller Senate Office Bldg.  
Annapolis, MD 21401-1991

The Honorable Norman H. Conway  
Chairman  
House Appropriations Committee  
121 House Bldg.  
Annapolis, MD 21401-1991

**Re: HB 171 (Chapter 171 of the Acts of 2011) – Report on the Status of Independent Home Care Providers Participating in Waiver Programs**

Dear Chairmen Middleton and Conway:

Enclosed please find a report pursuant to HB 171 – *Collective Bargaining – Independent Home Care Providers*, which passed during the 2011 session the General Assembly. The report addresses the status of home care providers who participate in the Medicaid Waiver for Older Adults, the Medicaid Personal Care Program, the Living at Home Waiver Program and the In-Home Aide Service Program.

If you have any questions or need more information on this subject, please do not hesitate to contact Christi Megna, Assistant Director of Governmental Affairs at (410) 767-6509.

Sincerely,

Joshua M. Sharfstein, M.D.  
Secretary

Enclosure

cc: Chuck Milligan  
Mark Leeds  
Christi Megna  
Sara Albert, MSAR #8802



## **INTRODUCTION**

HB 171 enacted during the 2011 legislative session requires that the Department of Health and Mental Hygiene (the Department) report on the status of the independent home care providers participating in the following programs: the Medicaid Waiver for Older Adults, the Living at Home Waiver Program, the Medicaid Personal Care Program and the Department of Human Resources' In-Home Aide Service Program.

## **BACKGROUND**

On August 6, 2007, the Governor signed an Executive Order granting collective bargaining rights to independent home care providers and established a process to vote on a representative body. The representative body elected by independent home care providers was the American Federation of State, County and Municipal Employees (AFSCME).

On July 26, 2010, the Governor and independent home care providers signed a memorandum of understanding with AFSCME representing provider interests. This collective bargaining agreement expired on June 30, 2012. Negotiations for a new agreement are currently underway.

HB 171 took effect on July 1, 2011. The legislation requires an annual report on (1) the number of independent home care providers participating in the programs and the number of consumers served by the programs; (2) the number of independent home care providers who join the collective bargaining unit established under this Act and the number of consumers served by each of the providers; and (3) an analysis of any positive or negative trends resulting from the implementation of this Act. An initial report was submitted to the legislature in December 2011 with a subsequent report submitted in December 2012.

## **REPORT REQUIREMENTS**

(1) In the past year, there were 4,043 (959 in the Living at Home and Older Adults waivers and 3,084 in the Personal Care Program) independent home care providers actively enrolled in the programs. The three Medicaid programs provided personal care services to approximately 9,019 participants (4,502 in the waivers and 4,517 in the Personal Care program), including participants receiving services through provider agencies. In the Medicaid Waiver for Older Adults the number of agency-employed home care providers are higher than that of independent home care providers, however the majority of home care in the Living at Home Waiver and Personal Care program is provided by independent providers. The In-Home Aide Service Program provided services to an average of 1,187 participants per month with only 15 percent (178 participants) receiving services from an independent provider.

(2) As of December 2013, approximately 909 independent home care providers have joined the union and are paying dues through the fiscal intermediary, Administrative Services, Inc. The union members monthly dues are \$25.00. These providers serve approximately 37 percent of the consumers receiving Medicaid-covered services.

(3) On January 1, 2014, the Medicaid program implemented the Community First Choice program. Community First Choice (CFC) is a new Medicaid State Plan program created by the Affordable Care Act. CFC is expected to leverage approximately \$24M of additional federal dollars to expand services to current participants, and will allow the State to add participants. It emphasizes person-centered planning and self-directed budgeting for older adults and younger adults with disabilities. The Department expects that this will transform how people receive long-term services and supports in the State of Maryland and gives Maryland a leading role in health care reform nationwide.

Insofar as how this impacts independent home care workers, participants under the self-direction model will have the discretion to pay providers within an established min/max hourly rate. Previously, providers were paid based on either a set hourly rate or on a per-visit basis, depending on which programs participants were included. Moving forward, all programs are consolidated into a single waiver program (i.e. "State Waiver"), whereby all independent providers will be paid on a fee-based system. From January 1, 2014 to June 30, 2014, the State-AFSCME agreed-upon minimum rate is \$10.22/hr. and the maximum rate is \$14.26/hr. Starting July 1, 2014, the minimum and maximum rates will be \$11.75/hr. and \$14.63/hr., respectively, and the Governor's FY 2015 budget will contain sufficient funds for the increased rates without diminishing the consumers' hours of service. These rates are established in the latest Memorandum of Understanding (MOU) agreement, which is effective through June 30, 2015. The legislation made official the collective bargaining unit's right to represent independent home care providers, which was already part of the Governor's Executive Order and the first MOU.

The Department has added AFSCME representatives to several work groups. The Department will continue to work with the representatives on all issues affecting independent home care providers.

### **CONCLUSIONS AND NEXT STEPS**

After approximately six months, the Department will be able to assess the initial effects of these changes in terms of the overall impacts to participants and to providers themselves. Results of this assessment will be provided in the Department's subsequent HB 171 report.