

House Bill 1085 (AS PASSED HOUSE AND SENATE)

By: Representatives Dempsey of the 13th, England of the 116th, Parrish of the 158th, Cooper of the 43rd, Hatchett of the 150th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 49 of the Official Code of Georgia Annotated, relating to
2 services for the aging, so as to transfer the oversight of such services to the Department of
3 Community Health; to provide for the department to establish a community care unit within
4 the Division of Medical Assistance; to delete certain provisions related to the implementation
5 of a community care system; to provide for an annual community care plan to be
6 incorporated into the State Plan for Medical Assistance; to change references to agency to
7 department; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 6 of Title 49 of the Official Code of Georgia Annotated, relating to services for the
11 aging, is amended by revising Article 5, relating to community care and services for the
12 elderly, as follows:

13 **"ARTICLE 5**

14 49-6-60.

15 The purpose of this article is to assist functionally impaired elderly persons in living
16 dignified and reasonably independent lives in their own homes or in the homes of relatives
17 or caregivers through the development, expansion, reorganization, and coordination of
18 various community based services. In recognition of the desire of older Georgians to reside
19 at home or with their families as long as possible, the General Assembly intends that a
20 continuum of care be established so that functionally impaired elderly persons age 60 and
21 older may be assured the least restrictive environment suitable to their needs. The General
22 Assembly further intends to maximize the utilization of existing community social and
23 health services in order to prevent unnecessary placement of individuals in long-term care
24 facilities. The development of innovative approaches to program management, staff
25 training, and service delivery that impact on cost avoidance, cost effectiveness, and

26 program efficiency shall be encouraged. It is further the intent of the General Assembly
 27 that the Department of ~~Human Resources~~ (now known as the Department of Human
 28 ~~Services~~) Community Health shall serve as the agency responsible for planning and
 29 implementing the provision of community based services to the elderly reimbursable under
 30 the 'Georgia Medical Assistance Act of 1977.'

31 49-6-61.

32 As used in this article, the term:

33 ~~(1) 'Aging section' means the single organizational unit within the Department of Human~~
 34 ~~Services responsible for the planning and administration of services under the Older~~
 35 ~~Americans Act of 1965.~~

36 ~~(2)~~(1) 'Department' means the Department of ~~Human Services~~ Community Health.

37 (2) 'Division' means the organizational unit within the Department of Community Health
 38 responsible for the administration of the Georgia Medical Assistance Act of 1977.

39 (3) 'Functionally impaired elderly person' means any person 60 years of age or older with
 40 physical or mental limitations that restrict individual ability to perform the normal
 41 activities of daily living and which impede individual capacity to live independently.

42 (4) The 'Georgia Medical Assistance Act of 1977' means Article 7 of Chapter 4 of this
 43 title.

44 (5) 'Lead agency' means one or more agencies designated by the Department of ~~Human~~
 45 ~~Services~~ Community Health to assess services needed by functionally impaired elderly
 46 persons, to coordinate and provide community care services to those persons, provide
 47 case management, and, where necessary, subcontract with providers of service. A lead
 48 agency shall be either a private nonprofit entity or any public entity, including but not
 49 limited to any organizational unit of the department.

50 (6) 'Older Americans Act of 1965' means P.L. 92-258, as amended, on July 1, 1982.

51 49-6-62.

52 (a) The department shall establish a community care unit within the ~~aging section~~ Division
 53 of Medical Assistance. The community care unit shall plan and oversee implementation
 54 of a system of coordinated community care and support services for the elderly. The
 55 community care unit shall develop uniform assessment criteria that shall be used to
 56 determine an individual's functional impairment and to evaluate on a periodic basis the
 57 individual's need for community support services or institutionalized long-term care. The
 58 community care unit shall also define each community care service and establish standards
 59 for the delivery of community care services. Where appropriate, the community care unit
 60 shall utilize existing standards and definitions.

61 (b) The department shall designate specified geographic service areas which shall be
62 defined in such a way as to ensure the efficient delivery of community care services.

63 (c) The department shall contract with a lead agency to coordinate and provide community
64 care services within each specified geographic service area.

65 (d) Each lead agency shall annually submit to the community care unit for approval a
66 service plan evaluating the community care needs of the functionally impaired elderly,
67 identifying priority services and target client groups, and detailing the means by which
68 community care services will be delivered for the service area of that agency. The plan
69 shall also include projected program costs and fees to be charged for services. The lead
70 agency may exclude from the service plan those individuals eligible for benefits under the
71 'Georgia Medical Assistance Act of 1977,' as amended, for whom there is a reasonable
72 expectation that community based services would be more expensive than services the
73 individual would otherwise receive which would have been reimbursable under the
74 'Georgia Medical Assistance Act of 1977,' as amended.

75 ~~(e) The department shall develop a plan which shall provide for the implementation of a~~
76 ~~community care system in each of the specified geographic service areas by July 1, 1985.~~
77 ~~The three-year plan shall be developed concurrent with and integrated into the state plan~~
78 ~~on aging required under the Older Americans Act of 1965 and shall provide for~~
79 ~~coordination of all community based services for the elderly. The three-year plan shall~~
80 ~~include an inventory of existing services and an analysis comparing the cost of institutional~~
81 ~~long-term care and the cost of community care and other community based services for the~~
82 ~~elderly. The multiyear plan shall be presented to the Board of Human Services no later~~
83 ~~than July 31, 1983.~~

84 ~~(f)~~(e) The division shall prepare ~~At the end of the three-year implementation period an~~
85 ~~annual community care service plan shall to be incorporated into the state plan on aging~~
86 State Plan for Medical Assistance, as defined in the 'Georgia Medical Assistance Act of
87 1977.'

88 ~~(g)~~(f) The department shall submit on January 1 of each year, beginning in ~~1984~~ 2017, a
89 progress report on the implementation of the plan required by subsection (e) of this Code
90 section to the Speaker of the House of Representatives, the ~~Senate Committee on~~
91 ~~Assignments, the chairman~~ President of the Senate, the chairperson of the House
92 Committee on Health and Human Services, and the ~~chairman~~ chairperson of the Senate
93 Health and Human Services Committee.

94 ~~(h)~~(g) In accordance with rules promulgated by the department, lead agencies may collect
95 fees for community care case management and other services. Such fees shall be
96 established on a sliding scale based upon income and economic need. Fees will not be
97 charged those individuals for the mandatory assessment described in subsection (e) of Code

98 Section 49-6-63. Lead agencies may accept contributions of money or contributions in
 99 kind from functionally impaired elderly persons, members of their families, or other
 100 interested persons or organizations. Such contributions may not be a condition of services
 101 and shall only be used to further the provision of community care services.

102 ~~(i)~~(h) Funding for services under this article shall be in addition to and not in lieu of
 103 funding for existing community services for the elderly. The department and the lead
 104 agency shall ensure that all other funding sources available, including reimbursement under
 105 the 'Georgia Medical Assistance Act of 1977' and the Older Americans Act of 1965, have
 106 been used prior to utilizing state funds for community care for the elderly.

107 49-6-63.

108 (a) Each lead agency shall be responsible for the establishment of a community care
 109 service system which shall have as its primary purpose the prevention of unnecessary
 110 institutionalization of functionally impaired elderly persons through the provision of
 111 community based services. Each community care service system shall provide no fewer
 112 than six of the services listed in subsection (c) of this Code section, four of which shall
 113 include case management, assessment of functional impairment and needed community
 114 services, homemaker, and home health care services. Case management services shall be
 115 provided to each community care service recipient to ensure that arrangements are made
 116 for appropriate services. If independent living is no longer possible for a functionally
 117 impaired elderly person, the case manager shall assist the person in locating the most
 118 appropriate, least restrictive, and most cost beneficial alternative living arrangement.

119 (b) All existing community resources available to the functionally impaired elderly person
 120 shall be coordinated into the community care service system to provide a continuum of care
 121 to such persons. The lead agency shall establish agreements, policies, and procedures for
 122 service integration and referral mechanisms with such programs.

123 (c) Services to be coordinated by the lead agency shall include, without being limited to,
 124 the following:

- 125 (1) Case management;
- 126 (2) Assessment of functional impairment and needed community services;
- 127 (3) Homemaker services;
- 128 (4) Home health care services;
- 129 (5) In-home personal care services;
- 130 (6) Adult day health services;
- 131 (7) Adult day care;
- 132 (8) Habilitation services;
- 133 (9) Respite care;

- 134 (10) Older Americans Act services, including transportation, nutritional, social, and other
 135 services;
- 136 (11) Title XX services;
- 137 (12) Senior center services;
- 138 (13) Protective services;
- 139 (14) Financial assistance services, including, but not limited to, food stamps, Medicaid,
 140 medicare, and Supplemental Security Income;
- 141 (15) Health maintenance services; and
- 142 (16) Other community services.
- 143 (d) Priority in provision of community care services shall be given to those individuals
 144 who have been certified for skilled or intermediate institutional nursing care service
 145 benefits conferred by the 'Georgia Medical Assistance Act of 1977' and who need home
 146 and community based services in order to avoid institutionalization. Services may be
 147 provided to other functionally impaired persons as resources allow, as determined by the
 148 department. Priority in provision of community care services to such other persons ~~will~~
 149 shall be based on economic, social, and medical needs.
- 150 (e) All individuals seeking certification for benefits conferred by the 'Georgia Medical
 151 Assistance Act of 1977,' as amended, to be used to pay the cost of placement in a long-term
 152 care facility or individuals who would be eligible for such benefits within 180 days of
 153 nursing home admission, shall, as a precondition to ~~that~~ such certification, undergo
 154 evaluation by an assessment team designated by the lead agency to determine if
 155 institutionalization can be avoided by provision of more cost-effective community based
 156 services. If the individual being evaluated requires community based services which, over
 157 a 12 month period, would cost more than the cost of care in a long-term care facility, then
 158 such community based services shall not be deemed cost effective. Such cost-effective
 159 determination shall apply to each case management evaluation. The assessment team shall,
 160 at a minimum, consist of a physician, a registered nurse, and a social worker. Whenever
 161 possible, the assessment team shall be responsible for the precertification for nursing home
 162 placement and determination of the appropriate level of care, as required by the State Plan
 163 for Medical Assistance, as defined in the 'Georgia Medical Assistance Act of 1977.'
- 164 (f) The decision of the assessment team shall be forwarded to the ~~agency~~ department
 165 designated in the State Plan for Medical Assistance, as defined in the 'Georgia Medical
 166 Assistance Act of 1977,' as responsible for the certification of benefits for individuals. If
 167 the assessment team and the case manager have determined that an individual could be
 168 better and more cost effectively served in the community, ~~said agency~~ the department shall
 169 not certify ~~said~~ such individual for skilled or intermediate institutional nursing care service
 170 benefits until the lead agency has informed ~~that~~ such individual of the availability of

171 community based services within the lead agency's geographic service area and of the right
172 of ~~that~~ such individual to choose to receive those services as an alternative to placement
173 in a long-term care facility. ~~That~~ Such individual shall advise the lead agency of ~~that~~
174 ~~individual's~~ his or her choice of service alternatives. If ~~that~~ such individual is otherwise
175 eligible for those benefits for which certification is sought, the ~~agency responsible for~~
176 ~~certification of benefits~~ department shall certify the individual either for placement in a
177 long-term care facility or for receiving community based services, as the individual advised
178 the lead agency. The evaluation and certification shall be completed in a timely manner.
179 (g) The lead agency shall seek to utilize volunteers to provide community services for
180 functionally impaired elderly persons. The department may provide appropriate insurance
181 coverage to protect volunteers from personal liability while acting within the scope of their
182 volunteer assignments in the community care service system. Coverage may also include
183 excess automobile liability protection."

184

SECTION 2.

185

All laws and parts of laws in conflict with this Act are repealed.