

Senate Bill 170

By: Senators Jackson of the 50th, Dean of the 31st, Zamarripa of the 36th, Gillis of the 20th, Starr of the 44th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so
2 as to enact the "Georgia Independence Plus Act"; to provide for certain intentions of the
3 General Assembly; to provide for the establishment of a consumer or family directed care
4 program; to provide for definitions; to provide for the roles and responsibilities of consumers,
5 departments, and fiscal intermediaries; to provide for reimbursement for the cost of
6 background screenings; to provide for review of the program and reports to the General
7 Assembly; to require a plan to reduce the number of certain nursing home bed days; to
8 require an evaluation of the cost effectiveness of the program; to provide for related matters;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
13 by adding a new Chapter 6A to read as follows:

14 "CHAPTER 6A

15 49-6A-1.

16 This chapter shall be known and may be cited as the 'Georgia Independence Plus Act.'

17 49-6A-2.

18 The General Assembly finds that alternatives to institutional care, such as in-home and
19 community based care, should be encouraged. The General Assembly further finds that
20 giving recipients of in-home and community based services the opportunity to select the
21 services they need and the providers they want, including services provided by family and
22 friends, enhances their sense of dignity and autonomy. The General Assembly also finds

1 that providing consumers with choice and control, as tested in current research and national
2 demonstration projects, has been beneficial and should be developed and implemented
3 statewide.

4 49-6A-3.

5 It is the intent of the General Assembly to nurture the autonomy of those citizens of this
6 state, of all ages, who have disabilities by providing the long-term care services they need
7 in an appropriate and least restrictive setting. It is the intent of the General Assembly to
8 give such individuals more choices in and greater control over the purchase of the
9 long-term care services they receive and to provide a much desired service in a cost neutral
10 manner for people with disabilities already receiving community services.

11 49-6A-4.

12 For purposes of this chapter, the term:

13 (1) 'Consumer' means a person or family member who has chosen to participate in a
14 program as defined in paragraph (6) of this Code section, has met the enrollment
15 requirements of such programs, and has received an approved individual budget
16 allowance.

17 (2) 'Counselor' means an individual who provides technical assistance to consumers in
18 meeting their responsibilities under this chapter.

19 (3) 'Departments' means the Department of Human Resources and the Department of
20 Community Health and includes their duly authorized agents and designees.

21 (4) 'Fiscal intermediary' means an entity approved by the departments that helps the
22 consumer manage the consumer's budget allowance; retains the consumer directed care
23 funds; processes employment information, if any, and tax information; reviews records
24 to ensure correctness; writes paychecks to providers; and delivers paychecks to the
25 consumer for distribution to providers and caregivers.

26 (5) 'Individual budget allowance' means the amount of money made available each year
27 to a consumer to purchase needed long-term care services, based on the results of a
28 functional needs assessment.

29 (6) 'Program' means the consumer directed care program established pursuant to
30 subsection (a) of Code Section 49-6A-5.

31 (7) 'Provider' means:

32 (A) A person licensed or otherwise permitted to render services eligible for
33 reimbursement under the program defined in paragraph (6) of this Code section for
34 whom the consumer is not the employer of record; or

1 (B) A consumer employed caregiver under the program defined in paragraph (6) of this
2 Code section for whom the consumer is the employer of record.

3 (8) 'Representative' means an uncompensated individual designated by the consumer to
4 assist in managing the consumer's individual budget allowance and needed services.

5 49-6A-5.

6 (a) The Department of Human Resources and the Department of Community Health shall
7 establish a consumer directed care program which shall be based on the principles of
8 consumer choice and control. The Department of Human Resources and the Department
9 of Community Health shall implement such program upon federal approval. The
10 departments shall establish interagency cooperative agreements, and their divisions and
11 programs, including the Division of Aging Services and the Division of Mental Health,
12 Developmental Disabilities, and Addictive Diseases of the Department of Human
13 Resources and the Division of Medical Assistance of the Department of Community
14 Health, shall work together to implement and administer the program. The consumer
15 directed care program shall allow enrolled persons to choose their providers of services and
16 to direct the delivery of services to best meet their long-term care needs. The program shall
17 operate within those funds appropriated by the General Assembly.

18 (b) Persons who are enrolled in one of the Medicaid supported home and community based
19 waiver programs and are able to direct their own care, or to designate an eligible
20 representative to direct their care, may choose to participate in the program.

21 49-6A-6.

22 (a) A consumer enrolled in the program shall receive an annual budget allowance based
23 on the results of his or her assessed functional needs and the financial resources of the
24 program. The departments shall develop purchasing guidelines to assist consumers in
25 using their budget allowances to purchase needed and cost-effective services.

26 (b) A consumer shall use his or her budget allowance only to pay for home and community
27 based services that meet the consumer's long-term care needs and are a cost-efficient use
28 of funds. Such services may include, but are not limited to, the following:

29 (1) Personal support services including, but not limited to, supplying adaptive devices to
30 aid independence or assistance with bathing, dressing, grooming, homemaking services,
31 household chores, meals, shopping, transportation, home modifications, self-administered
32 medication, respite care, employment training, or other day support services; and

33 (2) Counseling in self-directed care.

1 49-6A-7.

2 (a) A consumer shall be allowed to choose his or her providers of services, as well as when
3 and how such services are provided. Providers may include a consumer's neighbor, friend,
4 or relative to the extent allowed under federal Medicaid funding regulations.

5 (b) In cases where a consumer is the employer of record, the consumer's roles and
6 responsibilities include, but are not limited to, the following:

7 (1) Developing a job description;

8 (2) Selecting caregivers and submitting information for background screenings;

9 (3) Communicating needs, preferences, and expectations about the services being
10 purchased;

11 (4) Providing the fiscal intermediary with all information necessary for provider
12 payments and to meet tax requirements;

13 (5) Ending the employment of an unsatisfactory provider; and

14 (6) Adhering to budget limitations as set forth in the individual budget allowance.

15 (c) In cases where a consumer is not the employer of record, the consumer's roles and
16 responsibilities include, but are not limited to, the following:

17 (1) Communicating needs, preferences, and expectations about the services being
18 purchased;

19 (2) Selecting and approving a provider;

20 (3) Ending the services of an unsatisfactory provider; and

21 (4) Providing the fiscal intermediary agent with all information necessary for provider
22 payments and to meet tax requirements.

23 49-6A-8.

24 The departments' roles and responsibilities include, but are not limited to, the following:

25 (1) Assessing each consumer's functional needs, helping to develop his or her service
26 plan, and providing ongoing assistance with the service plan;

27 (2) Offering the services of counselors who shall provide training, technical assistance,
28 and support to the consumer;

29 (3) Completing the background screening of providers;

30 (4) Approving fiscal intermediaries; and

31 (5) Establishing the minimum qualifications for all providers and being the final arbiter
32 of the fitness of any individual to be a provider.

33 49-6A-9.

34 The fiscal intermediary's roles and responsibilities include, but are not limited to, the
35 following:

- 1 (1) Providing record-keeping services;
- 2 (2) Retaining the consumer directed care funds;
- 3 (3) Processing employment and tax information, if any;
- 4 (4) Reviewing records to ensure correctness;
- 5 (5) Writing paychecks to providers; and
- 6 (6) Delivering paychecks to the consumer for distribution.

7 49-6A-10.

8 (a) All persons who render care under this chapter shall comply with all requirements
9 established by the departments and state laws.

10 (b) The departments shall, as allowable, reimburse consumer employed providers for the
11 cost of conducting background screenings as required by this chapter. For purposes of this
12 chapter, a person who has undergone a background screening, is qualified for employment
13 under this chapter and applicable rules and regulations, and has not been unemployed as
14 a provider for more than 180 days following such screening is not required to be
15 rescreened. Such person must attest under penalty of perjury that he or she has not been
16 convicted of a disqualifying offense since completing such screening.

17 49-6A-11.

18 In order to implement this chapter, the Department of Human Resources and the
19 Department of Community Health shall take all necessary action, including promulgation
20 of rules, regulations, and policies, so as to allow for the implementation of the consumer
21 directed care program. The departments shall apply for any necessary federal waivers or
22 waiver amendments needed to implement the program.

23 49-6A-12.

24 The departments, on an ongoing basis, shall review and assess the implementation of the
25 consumer directed care program. No later than December 1 of each year, the agencies shall
26 submit a written report to the General Assembly that includes each department's review
27 of the program and contains recommendations for improvements to the program.

28 49-6A-13.

29 (a) Prior to December 1, 2003, the departments shall submit to the Governor, the President
30 of the Senate, and the Speaker of the House of Representatives a plan to reduce the number
31 of nursing home bed days purchased by the state Medicaid program and to replace such
32 nursing home care with care provided in less costly alternative settings.

1 (b) The plan required under subsection (a) of this Code section shall include specific goals
2 for reducing Medicaid funded bed days and recommend specific statutory and operational
3 changes necessary to achieve such reduction.

4 (c) The plan required under subsection (a) of this Code section shall include an evaluation
5 of the cost effectiveness and the relative strengths and weaknesses of programs that serve
6 as alternatives to nursing homes."

7 **SECTION 2.**

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