

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 819 – *Department of Health and Mental Hygiene – Federal Waivers – Waiver for Older Adults and Medicaid Managed Care Pilot Program*.

Senate Bill 819 requires the Department of Health and Mental Hygiene (DHMH) to apply to the Centers for Medicare and Medicaid Services (CMS) for a waiver to establish the Community Choice Program, a managed care system designed to provide long-term care services to eligible Medicaid enrollees. Under this model, recipients are required to enroll in a community care organization (CCO), which promotes the delivery of services in the most appropriate, cost-effective setting, including nursing facilities and community-based services. The bill also requires DHMH to apply for an amendment to expand the medical and financial eligibility standards for the Older Adults Waiver Medicaid program. The Community Choice Program as defined in Senate Bill 819 terminates May 31, 2008.

There are serious issues with regard to long-term care in the State of Maryland as our senior citizen and disabled population continues to increase significantly. Many of these individuals will need the help of the State to pay for long-term health care. The State Medicaid program, however, will not be able to afford it. Today, approximately 30% of Medicaid's budget is used to cover long-term care costs for only 4% of Medicaid's population.

I have decided to veto Senate Bill 819 because the State must build a Medicaid long-term care program focused on consumers, and I believe this approach needs more time for thoughtful consideration, collaboration, and planning prior to action. Clearly, the current program, despite the resources we have dedicated to it, does not meet the needs of Medicaid beneficiaries. It is too inflexible in how services are provided. Accordingly, the State must seek federal regulatory relief in order to construct a program that works. In this regard, please be assured this Administration is interested in submitting a waiver for a long-term managed care program because this program would offer significant benefits for the State and our citizens. In the spirit of *Olmstead*, this kind of waiver offers more flexibility in delivering services in the least restrictive setting, yielding more access to home and community-based services. Additionally, this approach will provide savings that could be utilized for other important State purposes, including the potential of reopening the Older Adults Waiver.

Unfortunately, the rushed process surrounding the development of Senate Bill 819 did not allow for adequate consideration and development of a consensus approach to this critical issue. While the Department of Health and Mental Hygiene strongly supported an early version of the bill, the Department had significant concerns about some of the amendments, ultimately forcing the Department to oppose the bill as unworkable in its final form. The process necessary to develop an approach to solving Maryland's crisis in long-term care requires the time, resources, and full participation of all affected stakeholders and decision makers before embarking on a major policy change as envisioned in Senate Bill 819.

In its final form, passage of Senate Bill 819 brings about four significant unintended consequences. First, Senate Bill 819 could reduce access to care. The bill unnecessarily regulates provider rates, e.g., it prohibits community care