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H.B. 287
133rd General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsors: Reps. Russo and Perales

Effective date: September 15, 2020

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UPDATED VERSION*

SUMMARY

- Requires each home and community-based services Medicaid waiver component to reserve a portion of the participant capacity for eligible individuals whose spouse, parent, or legal guardian is an active duty military member who recently transferred to Ohio.

DETAILED ANALYSIS

Waiver reservations

The act requires that every home and community-based services Medicaid waiver component reserve a portion of its capacity for certain eligible individuals. To be eligible for a reserved position, an individual must (1) have a spouse, parent, or legal guardian who is an active duty military service member who has recently transferred to Ohio and (2) at the time of the service member's transfer to Ohio, the eligible individual was receiving home and community-based services in another state.¹

Ohio's home and community-based services waiver components include: Individual Options Waiver, Level 1 Waiver, SELF Waiver, Ohio Home Care Waiver, PASSPORT Waiver, and Assisted Living Waiver.

Background

According to guidance documents prepared by the Centers for Medicare and Medicaid Services (CMS), states have the option to reserve a portion of a Medicaid waiver's capacity for

* This version updates the effective date.

¹ R.C. 5166.09.

specified purposes. Reserving capacity in a home and community-based services waiver is used to hold waiver openings for specific groups of individuals. States are not permitted to reserve a portion of a waiver's capacity in any way that would limit the number of individuals who may access certain types of services. For example, states may not use reserved capacity to limit the number of individuals who receive assisted living services.²

Whenever there is a change proposed to a previously approved Medicaid waiver, a state must submit a waiver amendment to CMS. Amendments that propose substantive changes to a waiver may take effect only after CMS approval. According to federal regulations and CMS guidance, reserving a portion of a Medicaid waiver's capacity without also increasing the total overall capacity of the waiver is considered a substantive change.³

HISTORY

Action	Date
Introduced	06-18-19
Reported, H. Health	10-30-19
Passed House (91-0)	11-06-19
Reported, S. Finance Subcommittee on Health & Medicaid	05-20-20
Passed Senate (32-0)	05-20-20

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² Centers for Medicare and Medicaid Services, *Application for a §1915(c) Home and Community-Based Waiver: Instructions, Technical Guide and Review Criteria*, Version 3.6 (January 2019), 75-76, available at <https://wms-mmdl.cms.gov/WMS/faces/portal.jsp>.

³ See 42 Code of Federal Regulations 441.304(d).