

No. 186. An act relating to the system of care for individuals with developmental disabilities.

(H.720)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) Individuals who qualify for developmental services and who meet a funding priority as outlined in the State system of care plan for developmental services receive full and complete information in plain language regarding their options and services.

(2) Individuals with developmental disabilities, their family members, allies, and advocates be respected and active participants in systems change activities, including payment reform, development of resources to comply with the federal home- and community-based services regulations, and development of additional residential service options. Information provided to stakeholders shall be in plain language.

* * * System of Care Plan * * *

Sec. 2. 18 V.S.A. § 8725 is amended to read:

§ 8725. SYSTEM OF CARE PLAN

(a) Every three years, the Department shall adopt a plan for the nature, extent, allocation, and timing of services consistent with the principles of service set forth in section 8724 of this title that will be provided to people

with developmental disabilities and their families. ~~Each plan shall include the following categories, which shall be adopted by rule pursuant to 3 V.S.A. chapter 25:~~

- ~~(1) priorities for continuation of existing programs or development of new programs;~~
- ~~(2) criteria for receiving services or funding;~~
- ~~(3) type of services provided; and~~
- ~~(4) a process for evaluating and assessing the success of programs.~~

* * *

(c) ~~Not~~ Not later than 60 days before adopting the proposed plan, the Commissioner shall submit it to the Advisory Board established in section 8733 of this title; for advice and recommendations, ~~except that the Commissioner shall submit those categories within the plan subject to 3 V.S.A. chapter 25 to the Advisory Board at least 30 days prior to filing the proposed plan in accordance with the Vermont Administrative Procedure Act. The Advisory Board shall provide the Commissioner with written comments on the proposed plan. It may also submit public comments pursuant to 3 V.S.A. chapter 25.~~

* * *

(f) If the Department requires an extension to complete the system of care plan, it shall submit a written request indicating the anticipated completion date to the House Committee on Human Services and to the Senate Committee

on Health and Welfare at least two months prior to the expiration of the existing system of care plan. The request for an extension may be granted upon the approval of both the Chairs of the House Committee on Human Services and the Senate Committee on Health and Welfare.

* * * Quality Services Reviews * * *

Sec. 3. REPORT; QUALITY ASSURANCE REVIEW

(a) On or before November 15, 2022, the Department of Disabilities, Aging, and Independent Living shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding the oversight of services for individuals with developmental disabilities. The report shall, at a minimum:

(1) identify the current level of quality service reviews required by the Department for home- and community-based services provided by the designated and specialized service agencies and other contracted agencies that provide services to individuals with developmental disabilities and recommend any modifications to these requirements or processes; and

(2) identify the current requirements for the designated and specialized service agencies and other providers to perform on-site visits to individuals with a developmental disability receiving Medicaid-funded residential services, including the residences of individuals residing with shared living providers; the residences of individuals receiving services in their own home or the home of their family; and the residences of individuals residing in

residential care homes, therapeutic community residences, nursing facilities, and any other residential settings.

(b) On or before January 15, 2023, the Department of Disabilities, Aging, and Independent Living shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding the oversight of services for individuals with developmental disabilities. The report shall develop an implementation plan that shall address the fiscal and workforce requirements for conducting a minimum of at least one annual on-site quality assurance and improvement visit by the Department to the designated and specialized service agencies and other providers serving individuals with developmental disabilities to address the quality of home- and community-based services, including health and safety, in accordance with personalized service plans for the individuals served.

* * * Creation of New Position * * *

Sec. 4. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT
LIVING; RESIDENTIAL PROGRAM DEVELOPER

(a) There is created a limited-service position of the Residential Program Developer within the Department of Disabilities, Aging, and Independent Living for the purposes of:

(1) expanding housing and residential services options for individuals with developmental disabilities, in accordance with federal home- and community-based services regulations;

(2) assisting individuals with developmental disabilities and their families navigate publicly and privately funded housing and residential services options;

(3) investigating public and private funding opportunities for residential program development for individuals with developmental disabilities;

(4) working with individuals with developmental disabilities, their families, and allies to identify potential models for residential services;

(5) developing requests for proposals and identifying at least three pilot planning grants for different regions of the State focused on the needs identified in those regions; and

(6) working with appropriate designated and specialized service agencies or other providers to implement selected pilots.

(b) In fiscal year 2023, \$102,000.00 is appropriated to the Department of Disabilities, Aging, and Independent Living from the Global Commitment Federal Medical Assistance Percentage (FMAP) home- and community-based services monies to fund the Residential Program Developer position established in subsection (a) of this section.

* * * Housing and Residential Service Pilot Planning Grants * * *

Sec. 5. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT
LIVING; DEVELOPMENT OF HOUSING AND RESIDENTIAL
SERVICES PILOT PLANNING GRANTS

(a) The Department of Disabilities, Aging, and Independent Living shall work with the Vermont Developmental Disabilities Council and a statewide self-advocacy group to review housing models in other states for the purpose of informing the pilot planning grants developed pursuant to subsection (b) of this section.

(b)(1) In fiscal year 2023, \$500,000.00 is appropriated to the Department of Disabilities, Aging, and Independent Living from the Global Commitment Federal Medical Assistance Percentage (FMAP) home- and community-based services monies to develop housing and residential service pilot planning grants in at least three regions of the State, in partnership with designated and specialized service agencies, for individuals with developmental disabilities and their families. The Department shall issue a request for proposals seeking entities to develop regional pilot planning grants with not more than one grant per designated agency catchment area.

(2) The pilot planning grants shall:

(A) reflect the diversity of needs expressed by individuals with developmental disabilities and their families, including individuals with high support needs who require 24-hour care and those with specific communication needs;

(B) be consistent with the federal home- and community-based services regulations;

(C) include new service-supported housing models; and

(D) include a vision statement, the number of and description of the support needs of individuals with developmental disabilities anticipated to be served, a draft budget, and an implementation plan.

(c)(1) The Department shall convene a steering committee to provide advice and guidance as it develops and selects the pilot planning grants required pursuant to this section.

(2) The steering committee shall be composed of the following members:

(A) three individuals with a developmental disability, appointed by the Green Mountain Self Advocates;

(B) two family members of individuals with a developmental disability, appointed by the Vermont Family Network;

(C) two advocates who are either individuals with a developmental disability or a family member of an individual with a developmental disability, appointed by the State Program Standing Committee and the Advisory Board established pursuant to 18 V.S.A. § 8733; and

(D) two representatives of the designated and specialized service agencies, appointed by Vermont Care Partners.

(3)(A) The steering committee shall have the technical, legal, and administrative assistance of the Department.

(B) The steering committee shall cease to exist on January 1, 2024.

(4) Information provided for the steering committee's consideration shall be in plain language.

(5) Members of the steering committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the Department.

(d) On or before April 15, 2023, the Department shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare describing the pilot planning grant selection process, the implementation plan, and any resources necessary for implementation of selected pilots.

* * * Payment Reform and Conflict-Free Case Management * * *

Sec. 6. PAYMENT REFORM AND CONFLICT-FREE CASE
MANAGEMENT

(a) Prior to implementing system-wide payment reform impacting individuals with developmental disabilities, their families, and designated and specialized service agencies, the Department of Disabilities, Aging, and Independent Living shall seek approval from the General Assembly. At a minimum, the following shall be included in the payment reform process:

(1) in addition to any standardized assessment utilized by the Department, a process for consideration of additional information relevant to the life circumstances of service recipients or applicants;

(2) in addition to any standardized rates or rate ranges developed by the Department, a process for consideration of budgets to reflect the individualized support needs of service recipients or applicants; and

(3) a process for evaluating the fiscal and service impact on individual service recipients and the designated and specialized service agencies.

(b)(1) Prior to implementing the federally required conflict-free case management system, the Department shall seek and consider input from a variety of stakeholders, including individuals with developmental disabilities, their families, designated and specialized service agencies, and other providers and advocates and seek approval from the General Assembly.

(2) As part of the changes necessary to come into federal compliance, consideration shall be given to performing initial clinical eligibility and service planning within the Department.

* * * HCBS Spending Plan Amendment * * *

Sec. 7. HOME- AND COMMUNITY-BASED SERVICE SPENDING PLAN
AMENDMENT

The Agency of Human Services shall seek to amend its federal Home- and Community-Based Service Spending Plan to enable the Department of Disabilities, Aging, and Independent Living to use Global Commitment Federal Medical Assistance Percentage (FMAP) home- and community-based services monies to fund the new Residential Program Developer position created in Sec. 4 of this act and the pilot planning grants in Sec. 5 of this act.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

This section and Sec. 2 (system of care plan) shall take effect on passage,
and the remaining sections shall take effect on July 1, 2022.

Date on which Governor allowed bill to become law without his signature:

June 9, 2022