

By: Representative Evans

To: Public Health and
Welfare; Appropriations

HOUSE BILL NO. 929

1 AN ACT TO CREATE AND EXPAND HOME-BASED LONG-TERM CARE SUPPORT
2 SERVICES FOR INDIVIDUALS WITH DISABILITIES AND THE FAMILIES OF
3 THOSE INDIVIDUALS; TO PROVIDE DEFINITIONS; TO PROVIDE PRINCIPLES
4 FOR THE HOME-BASED LONG-TERM CARE SUPPORT SERVICES; TO PROVIDE
5 MINIMUM STANDARDS FOR THE HOME-BASED LONG-TERM CARE SUPPORT
6 SERVICES; TO PROVIDE A SCHEDULE FOR CREATING AND EXPANDING
7 SUFFICIENT HOME-BASED LONG-TERM CARE SUPPORT SERVICES; AND FOR
8 RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. To conform with the U.S. Supreme Court decision
11 in Olmstead v. L.C. 527 U.S.581, 119S.Ct.2176, 144L.Ed.2d (1999),
12 the State of Mississippi commits to provide sufficient home-based
13 long-term care service options to persons with disabilities and
14 families that include members who are persons with disabilities.
15 The effort is intended to expand opportunities for persons with
16 disabilities to receive services in the most integrated setting
17 appropriate to their needs and, by so doing, to empower those
18 citizens to have a higher quality of life by being more
19 independent in their communities and avoiding institutional
20 placement. The effort will be accomplished by (a) redirecting
21 existing long-term care dollars and/or developing new long-term
22 care dollars and (b) redesigning regulations to encourage
23 home-based individual and family support services in lieu of
24 institutional services that conform to principles ensuring
25 consumer-control, choice of service models, availability to
26 eligible recipients and eligibility based on functional needs, not
27 medical diagnosis, type of disability or age. This effort is
28 based on the premise that recipients who so desire should be able
29 to avoid nursing home and other institutional placement and choose
30 their own preferred mode of noninstitutional long-term care.



31 SECTION 2. The following definitions shall apply to this
32 act:

33 (a) "Activities of daily living (A.D.L.s)" means
34 personal care activities that are routinely part of daily living,
35 including, but not limited to: eating, toileting, dressing,
36 grooming, personal hygiene, bathing and transferring.

37 (b) "Agency" or "agencies" means any and all state
38 agencies that provide long-term care support services to persons
39 with disabilities and their families now or in the future.

40 (c) "Consumer" means an individual with a disability of
41 any age who needs or uses support services.

42 (d) "Consumer-directed" means a mode of service
43 delivery that gives the recipient of individual and family support
44 services (the consumer) maximum control to select and manage his
45 or her own service plan. This is the preferred mode of service
46 delivery.

47 (e) "Disability" means a severe chronic cognitive,
48 psychiatric, emotional, sensory and/or physical disability of a
49 person that:

50 (i) Limits ability to perform one or more
51 activities of daily living (A.D.L.s); or

52 (ii) Limits ability to perform at least two (2)
53 instrumental activities of daily living (I.A.D.L.s); and

54 (iii) Requires substantial supervision, episodic
55 or short-term crisis assistance; and

56 (iv) Needs assistance with the performance of
57 health-related tasks; or

58 (v) (A child under the age of six (6) who is at
59 risk of developing a disability. A child is determined to be at
60 risk if the child has substantial developmental delay or specific
61 congenital or acquired condition that has a high probability of
62 resulting in a developmental disability if services are not
63 provided.)



64 (f) "Family" means the person or persons with whom the
65 person with a disability resides and who are primarily responsible
66 for the physical care, health and nurturing of the individual with
67 a disability. The term does not include hospitals, sanitariums,
68 nursing homes, group homes, or any other similar institution.

69 (g) "Financial assistance" means a monetary payment to
70 an eligible person with a disability or the family of a person
71 with a disability needed to defray the cost of support services
72 related to the disability. Financial assistance includes, but is
73 not limited to, cash subsidies, cash allowances, cash vouchers or
74 reimbursement to enable eligible persons to acquire support
75 services.

76 (h) "Functional need" means the need for personal
77 assistance based on abilities and limitations of individual
78 consumer, regardless of age, medical diagnosis, or other category
79 of disability.

80 (i) (i) "Individual and family support services" means
81 goods, services and financial assistance to an individual with a
82 disability or the family of such an individual that are provided
83 to meet the goals of:

- 84 1. Providing a quality of life comparable to
85 that of similarly situated individuals not having a disability and
86 families not having an individual with a disability; and
87 2. Preventing premature or inappropriate
88 out-of-home placement.

89 (ii) Individual and family support services include,
90 but are not limited to, the following:

- 91 1. Communication services.
92 2. Parent education and training.
93 3. Counseling services.
94 4. Crisis intervention.
95 5. Day care.



- 96 6. Dental and medical care that are not
97 otherwise covered.
- 98 7. Equipment and supplies and other assistive
99 technology.
- 100 8. Financial assistance.
- 101 9. Home and vehicle modifications.
- 102 10. Home health services.
- 103 11. Homemaker services.
- 104 12. Parent education and training.
- 105 13. Personal assistance services.
- 106 14. Recreation.
- 107 15. Respite care.
- 108 16. Self-advocacy training.
- 109 17. Service coordination.
- 110 18. Specialized diagnosis and evaluation.
- 111 19. Specialized nutrition and clothing.
- 112 20. Specified utility costs.
- 113 21. Therapeutic and nursing services.
- 114 22. Transportation.
- 115 23. Vocational and employment supports.

116 (j) "Instrumental activities of daily living
117 (I.A.D.L.s)" means activities that support the activities of daily
118 living, including, but not limited to: taking medications,
119 managing money, preparing meals, shopping, child care, light
120 housekeeping, using the telephone, or getting around the
121 community.

122 (k) "Program" means the effort to create and expand
123 long-term care service options established and committed to in
124 Section 1 of this act.

125 SECTION 3. The following principles shall be adhered to in
126 the development and ongoing management of the program:

127 (a) Individuals with disabilities and their families
128 are best able to determine their own needs and should be empowered



129 to make decisions concerning necessary, desirable, and appropriate
130 services.

131 (b) Individuals with disabilities should receive the
132 support necessary for them to live as independently as possible at
133 home if they choose.

134 (c) Family support should be responsive to the needs of
135 the entire family unit.

136 (d) Supports should be sensitive to the unique needs
137 and strengths of individuals and families.

138 (e) Supports should build on existing social networks
139 and natural sources of support.

140 (f) Supports will usually be needed throughout the
141 life-span of the individual who has a disability.

142 (g) Supports should encourage the integration of people
143 with disabilities into the community as much as possible and when
144 the consumer prefers that integration.

145 (h) Support services should be flexible enough to
146 accommodate unique needs of individuals and families as they
147 evolve over time.

148 (i) Support services should be consistent with the
149 cultural preferences and orientations of individuals and families.

150 (j) Support services should be comprehensive and
151 coordinated across the agencies that provide resources and
152 services, or both, to individuals and families.

153 (k) Individual and family home-based support services
154 should be based on the principles for sharing ordinary places,
155 developing meaningful relationships, learning things that are
156 useful, and making choices, as well as increasing the self-esteem
157 and status, and enhancing the reputation of the individuals
158 served.

159 (l) Supports should be developed and expanded in the
160 state that are necessary, desirable, and appropriate to support
161 individuals and families.



162 (m) The policies of the program should enhance the
163 development of the individual with a disability and the family.

164 (n) A comprehensive, coordinated system of supports to
165 families effectively uses existing resources and minimizes gaps in
166 supports to families and individuals in all areas of the state.

167 (o) Service coordination is a goal-oriented process for
168 coordination of the range of services needed and wanted by persons
169 with disabilities and their families, and is independent of
170 service provision.

171 (p) No resident who wishes to remain in an
172 institutional setting will be forced to receive support services
173 in a noninstitutional or home-based setting.

174 SECTION 4. (1) All home-based individual and family support
175 service providers through or by the agency or agencies shall meet
176 the following minimum standards:

177 (a) To the maximum extent possible, consumers who so
178 desire shall select, manage, and control their individual and
179 family support services.

180 (b) Eligibility shall be based on functional needs, not
181 medical diagnosis, type of disability, or age.

182 (c) Options for services will be available in the
183 individuals= and families= homes and other independent living
184 environments including, but not limited to, school, work, and
185 recreational settings.

186 (d) The service system shall be capable of providing
187 individual and family support services twenty-four (24) hours a
188 day, seven (7) days a week, and, when necessary, provide back-up
189 and emergency services.

190 (e) Co-payments and cost-sharing will be required of
191 individuals and families whose adjusted gross incomes exceed two
192 hundred twenty-five percent (225%) of the federal poverty level.
193 However, co-payments and cost-sharing requirements will be
194 structured so that they are not a disincentive to participation.



195 (f) Each consumer's program of services will be based
196 upon a mutually-agreed upon individual service plan jointly
197 developed by the individual or family and the provider-agency.
198 The individual or family will be given an opportunity to choose
199 between different service delivery options including vouchers,
200 consumer-directed individual provider models, and
201 consumer-directed agency models. To the maximum extent possible,
202 consumers will be able to select and to hire whomever they choose
203 as personal assistants, including family members.

204 (g) Consumers will be offered training on how to manage
205 and coordinate their service program (e.g., select and dismiss
206 their support service provider, financial management).

207 (h) All providers of individual and family support
208 services shall assure that consumers are fully informed of and
209 accorded their rights and options with respect to selecting,
210 managing, and changing their service providers and their rights to
211 privacy and confidentiality. Consumers who are dissatisfied with
212 their services have the right of appeal to the appropriate agency
213 governing board.

214 (i) All persons providing personal assistance shall be
215 paid at least one hundred fifty percent (150%) of the federal
216 minimum wage or a comparable daily rate and be offered health
217 insurance and other benefits.

218 (2) Eligibility for individual and family support services
219 under this act shall be for persons of all ages who have a
220 disability as defined in Section 2.

221 (3) A comprehensive assessment of support service needs
222 shall be made for each applicant to determine eligibility for
223 services and the applicant's ability to perform each activity of
224 daily living and each instrumental activity of daily living. The
225 applicant=s self-evaluation of his or her needs and abilities, or
226 the applicant=s formal representative=s evaluation of his or her
227 needs, shall be an integral part of this assessment.



228 (4) The Division of Medicaid shall establish a uniform
229 instrument to assess eligibility for individual and family support
230 services.

231 (5) The consumer or, where appropriate, their family have
232 the right to acquire the assessment from any public or private
233 source that conducts the assessments.

234 SECTION 5. (1) The State of Mississippi will create and
235 expand home-based long-term care service opportunities so that, by
236 June 30, 2009, every person with a disability who is currently
237 using, or who is in need of, long-term care support services will
238 have the option of receiving those services in a home-based
239 setting. The conversion of the current system, and the creation
240 of the additional options, shall be in compliance with the
241 following schedule:

242 (a) By June 30, 2002, at least twelve and one-half
243 percent (12.5%) of the total number of persons with disabilities
244 in need of long-term care support services will be given the
245 opportunity to have those services provided in-home;

246 (b) By June 30, 2003, at least twenty-five percent
247 (25%) of the total number of persons with disabilities in need of
248 long-term care support services will be given the opportunity to
249 have those services provided in-home;

250 (c) By June 30, 2004, at least thirty-seven and
251 one-half percent (37.5%) of the total number of persons with
252 disabilities in need of long-term care support services will be
253 given the opportunity to have those services provided in-home;

254 (d) By June 30, 2005, at least fifty percent (50%) of
255 the total number of persons with disabilities in need of long-term
256 care support services will be given the opportunity to have those
257 services provided in-home;

258 (e) By June 30, 2006, at least sixty-two and one-half
259 percent (62.5%) of the total number of persons with disabilities



260 in need of long-term care support services will be given the
261 opportunity to have those services provided in-home;

262 (f) By June 30, 2007, at least seventy-five percent
263 (75%) of the total number of persons with disabilities in need of
264 long-term care support services will be given the opportunity to
265 have those services provided in-home;

266 (g) By June 30, 2008, at least eighty-seven and
267 one-half percent (87.5%) of the total number of persons with
268 disabilities in need of long-term care support services will be
269 given the opportunity to have those services provided in-home;

270 (h) By June 30, 2009, one hundred percent (100%) of the
271 total number of persons with disabilities in need of long-term
272 care support services will be given the opportunity to have those
273 services provided in-home.

274 (2) Funding to accomplish these objectives will be acquired
275 through the appropriation of new dollars and the conversion of
276 dollars currently being appropriated for institutional long-term
277 care.

278 (3) No conversion of funding mentioned in subsection (2) of
279 this section will force any consumer to leave an institution
280 against his or her will or be deprived of institutional care as an
281 option.

282 SECTION 6. This act shall take effect and be in force from
283 and after July 1, 2001.

