

By: Senator(s) Dawkins

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2715

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

29 their own preferred mode of noninstitutional long-term care.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

82                   (i) Providing a quality of life comparable to that  
83 of similarly situated individuals not having a disability and  
84 families not having an individual with a disability; and

85                   (ii) Preventing premature or inappropriate  
86 out-of-home placement.

87                   (iii) Individual and family support services  
88 include, but are not limited to, the following:

89                           (A) Communication services.

90                           (B) Parent education and training.

91                           (C) Counseling services.

92                           (D) Crisis intervention.

93                           (E) Day care.

- 94 (F) Dental and medical care that are not  
95 otherwise covered.
- 96 (G) Equipment and supplies and other  
97 assistive technology.
- 98 (H) Financial assistance
- 99 (I) Home and vehicle modifications.
- 100 (J) Home health services.
- 101 (K) Homemaker services.
- 102 (L) Parent education and training.
- 103 (M) Personal assistance services.
- 104 (N) Recreation.
- 105 (O) Respite care.
- 106 (P) Self-advocacy training.
- 107 (Q) Service coordination.
- 108 (R) Specialized diagnosis and evaluation.
- 109 (S) Specialized nutrition and clothing.
- 110 (T) Specified utility costs.
- 111 (U) Therapeutic and nursing services.
- 112 (V) Transportation.
- 113 (W) Vocational and employment supports.

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

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

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

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

127 to make decisions concerning necessary, desirable, and appropriate  
128 services.

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

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

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

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

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

140 (g) Supports should encourage the integration of people  
141 with disabilities into the community as much as possible and when  
142 the consumer prefers such integration.

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

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

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

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

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

160 (m) The policies of the Program should enhance the  
161 development of the individual with a disability and the family.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

244 (b) By June 30, 2003, at least twenty-five percent  
245 (25%) of the total number of persons with disabilities in need of  
246 long-term care support services will be given the opportunity to  
247 have those services provided in-home;

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

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

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



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

260 (f) By June 30, 2007, at least seventy-five percent  
261 (75%) of the total number of persons with disabilities in need of  
262 long-term care support services will be given the opportunity to  
263 have those services provided in-home;

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

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

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

276 (3) No conversion of funding mentioned in Section 5(2) above  
277 will force any consumer to leave an institution against his or her  
278 will or be deprived of institutional care as an option.

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