SENATE BILL NO. 2715

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

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

SECTION 1. To conform with the U.S. Supreme Court decision in Olmstead v. L.C., the State of Mississippi commits to provide sufficient home-based long-term care service options to persons with disabilities and families which include members who are persons with disabilities. The effort is intended to expand opportunities for persons with disabilities to receive services in the most integrated setting appropriate to their needs and, by so doing, to empower those citizens to have a higher quality of life by being more independent in their communities and avoiding institutional placement. The effort will be accomplished by (1) redirecting existing long-term care dollars and/or developing new long-term care dollars and (2) redesigning regulations to encourage home-based individual and family support services in lieu of institutional services that conform to principles ensuring consumer-control, choice of service models, availability to eligible recipients and eligibility based on functional needs, not medical diagnosis, type of disability or age. This effort is based on the premise that recipients who so desire should be able to avoid nursing home and other institutional placement and choose
their own preferred mode of noninstitutional long-term care.

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

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

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

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

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

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

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

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

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

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

(v) A child under the age of six who is at risk of developing a disability. (Determined if the child has substantial developmental delay or specific congenital or acquired condition that has a high probability of resulting in a developmental disability if services are not provided.)
(f) "Family" means the person or persons with whom the person with a disability resides and who are primarily responsible for the physical care, health and nurturing of the individual with a disability. The term does not include hospitals, sanitariums, nursing homes, group homes, or any other similar institution.

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

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

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

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

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

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

(A) Communication services.

(B) Parent education and training.

(C) Counseling services.

(D) Crisis intervention.

(E) Day care.
(F) Dental and medical care that are not otherwise covered.

(G) Equipment and supplies and other assistive technology.

(H) Financial assistance

(I) Home and vehicle modifications.

(J) Home health services.

(K) Homemaker services.

(L) Parent education and training.

(M) Personal assistance services.

(N) Recreation.

(O) Respite care.

(P) Self-advocacy training.

(Q) Service coordination.

(R) Specialized diagnosis and evaluation.

(S) Specialized nutrition and clothing.

(T) Specified utility costs.

(U) Therapeutic and nursing services.

(V) Transportation.

(W) Vocational and employment supports.

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

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

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

(a) Individuals with disabilities and their families are best able to determine their own needs and should be empowered
to make decisions concerning necessary, desirable, and appropriate
services.

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

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

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

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

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

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

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

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

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

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

(l) Supports should be developed and expanded in the
state that are necessary, desirable, and appropriate to support
individuals and families.
The policies of the Program should enhance the
development of the individual with a disability and the family.
A comprehensive, coordinated system of supports to
families effectively uses existing resources and minimizes gaps in
supports to families and individuals in all areas of the state.
Service coordination is a goal-oriented process for
coordination of the range of services needed and wanted by persons
with disabilities and their families, and is independent of
service provision.
No resident who wishes to remain in an
institutional setting will be forced to receive support services
in a noninstitutional or home-based setting.

SECTION 4. (1) All home-based individual and family support
service providers through or by the agency(ies) shall meet the
following minimum standards:
To the maximum extent possible, consumers who so
desire shall select, manage, and control their individual and
family support services.
Eligibility shall be based on functional needs, not
medical diagnosis, type of disability, or age.
Options for services will be available in the
individuals' and families' homes and other independent living
environments including, but not limited to, school, work, and
recreational settings.
The service system shall be capable of providing
individual and family support services twenty-four (24) hours a
day, seven (7) days a week, and, when necessary, provide back-up
and emergency services.
Co-payments and cost-sharing will be required of
individuals and families whose adjusted gross incomes exceed two
hundred twenty-five percent (225%) of the federal poverty level.
However, co-payments and cost-sharing requirements will be
structured so that they are not a disincentive to participation.
(f) Each consumer’s program of services will be based upon a mutually-agreed upon individual service plan jointly developed by the individual/family and the provider-agency. The individual/family will be given an opportunity to choose between different service delivery options including vouchers, consumer-directed individual provider models, and consumer-directed agency models. To the maximum extent possible, consumers will be able to select and to hire whomever they choose as personal assistants, including family members.

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

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

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

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

(3) A comprehensive assessment of support service needs shall be made for each applicant to determine eligibility for services and the applicant’s ability to perform each activity of daily living and each instrumental activity of daily living. The applicant’s self-evaluation of his or her needs and abilities, or the applicant’s formal representative’s evaluation of his or her needs, shall be an integral part of this assessment.
(4) The Division of Medicaid shall establish a uniform instrument to assess eligibility for individual and family support services.

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

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

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

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

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

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

(e) By June 30, 2006, at least sixty-two and one-half percent (62.5%) of the total number of persons with disabilities
in need of long-term care support services will be given the
opportunity to have those services provided in-home;
(f) By June 30, 2007, at least seventy-five percent
(75%) of the total number of persons with disabilities in need of
long-term care support services will be given the opportunity to
have those services provided in-home;
(g) By June 30, 2008, at least eighty-seven and
one-half percent (87.5%) of the total number of persons with
disabilities in need of long-term care support services will be
given the opportunity to have those services provided in-home;
(h) By June 30, 2009, one hundred percent (100%) of the
total number of persons with disabilities in need of long-term
care support services will be given the opportunity to have those
services provided in-home.
(2) Funding to accomplish these objectives will be acquired
through the appropriation of new dollars and the conversion of
dollars currently being appropriated for institutional long-term
care.
(3) No conversion of funding mentioned in Section 5(2) above
will force any consumer to leave an institution against his or her
will or be deprived of institutional care as an option.
SECTION 6. This act shall take effect and be in force from
and after July 1, 2001.