

Maryland Essential Worker Protection Act- Concerns
The Arc Maryland
3/8/21

Emergency: This definition is broad and would include but are not limited to incidents such as those that may cause social or economic disruption, natural environmental events, and health emergencies. With this definition, it is unclear how, in all cases (as each require a different response) all of the industries under essential employers would be required to comply with all provisions of the bill, whether they were relevant to the nature of the emergency or not. If this bill proceeds, we believe emergencies that trigger the provisions of this bill should be re-defined and limited to catastrophic health emergencies.

Essential Employees: This definition is also very broad and the work group has not yet discussed how they will address some of the challenges created by including healthcare workers, particularly when leaving the worksite without notice would endanger the health and possibly the lives of vulnerable citizens.

Hazard Pay: Hazard pay requirements for \$3 more per hour would be in place for the duration of the emergency. There is no funding mechanism in the bill to ensure businesses would have support to pay this increase in wages, nor is there funding for the state to allocate to Medicaid providers who would need to increase the pay of their essential employees. For DDA providers alone, in a period such as the one we have passed through, the amount needed would be at least 70 million in general funds (\$140 million with general and federal funds combined).

PPE: The definition of “appropriate” is not clear. There is also no consideration being given to the fact that Developmental Disabilities Providers could not obtain PPE in the beginning of the current pandemic. Suppliers were only distributing masks, gowns and other PPE items to hospitals and nursing homes. DDA providers were resorting to sewing their own masks from shop towels or whatever fabric they could find, making protective shields in garage workshops or printing items on 3-D printers, using raincoats for protective gowns and garden/dishwashing gloves for plastic gloves, and reusing what little supplies of PPE they had, storing disposable masks in paper bags and rotating them to maintain supply. Today, we are thankful that PPE is no longer difficult for providers to acquire from suppliers. We do not know what the future holds, however, and whether or not we will be denied access to appropriate levels of PPE again.

Additional Leave Benefits: It appears that the bill, as written, requires that that additional paid leave and bereavement leave, on top of other leave already offered by the employer, is required, but there was a lengthy discussion on this matter Friday and there are likely to be adjustments to the leave component of the bill.

Health Expense coverage: Under the current provisions of the bill, employers would need to reimburse essential employees for healthcare and related costs, if they contract a disease (or are injured) during the emergency. First, it is unclear how this requirement intersects with workers compensation benefits which should pay for these expenses if an employee is determined to have been injured as the result of an occupational exposure. It is also not clear why the essential worker should be compelled to cover an employee’s health expenses in situations whereby the injury is not connected to the work. If a person, through contact tracing, is determined to have contracted the virus outside of work, there is nothing in

this bill that would relieve an essential employer from having to still pay healthcare and related expenses of the employee related to the illness. This section needs much additional work.

“Unsafe work environment” definition. This definition is murky. As written, this refers to any circumstance at a worksite that represents a “reasonable threat” to a worker’s health or safety, including unsanitary conditions and lack of PPE. The essential employee may refuse to work and may not be disciplined provided they provide a written complaint to the Commissioner within 3 days of the refusal. As written, the definition could be applied to any healthcare environment during the pandemic period. Many employees have understandably felt fear during the pandemic, but their thousands of lives were dependent on these essential workers in hospitals and other healthcare settings. There is nothing in this bill that distinguishes a threshold for this fear or feeling of threat of harm.

This list of concerns is not exhaustive.