

HOUSE BILL 1017

Unofficial Copy  
J1

2000 Regular Session  
0lr2380  
CF 0lr2013

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By: **Delegate Hurson**

Introduced and read first time: February 11, 2000

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Medicaid Reimbursement Rates Fairness Act of 2000**

3 FOR the purpose of providing for the adjustment of fee for service reimbursement  
4 rates for the Medicaid Program; requiring the Department of Health and Mental  
5 Hygiene to require Medicaid managed care organizations to report provider  
6 satisfaction with reimbursement rates annually; requiring the Department to  
7 ensure that reimbursement rates are adequate, reflect certain rates, and are  
8 adjusted annually; requiring the Department to establish the Medical  
9 Assistance Reimbursement Expert Panel; establishing the duties of the Medical  
10 Assistance Reimbursement Expert Panel; establishing the membership of the  
11 Medical Assistance Reimbursement Expert Panel and providing for its  
12 appointment, terms, and chair, and reimbursement; requiring the Medical  
13 Assistance Reimbursement Expert Panel to submit a report to the Governor and  
14 to the General Assembly on its finding and recommendations; and generally  
15 relating to the Medicaid reimbursement rates.

16 BY repealing and reenacting, with amendments,  
17 Article - Health - General  
18 Section 15-102.1(b)(8)  
19 Annotated Code of Maryland  
20 (1994 Replacement Volume and 1999 Supplement)

21 BY adding to  
22 Article - Health - General  
23 Section 15-103(b)(29)  
24 Annotated Code of Maryland  
25 (1994 Replacement Volume and 1999 Supplement)

26 Preamble

27 WHEREAS, Medicaid fee-for-service reimbursement rates are established by  
28 regulations and are tied to the American Medical Association's Current Procedural  
29 Terminology (CPT) codes - codes for procedures used by all providers - so that years,

1 possibly decades, go by before the Department of Health and Mental Hygiene reviews  
2 or increases a fee-for-service rate; and

3 WHEREAS, Prior to the enactment of HealthChoice, a very small percentage of  
4 the moneys in the Medicaid program was spent on fee-for-service reimbursement for  
5 professional services and since the enactment of HealthChoice, an even smaller  
6 percentage of the Medicaid program has been spent on fee-for-service  
7 reimbursement; and

8 WHEREAS, Maryland's 5-year budget neutrality ceiling is tied to a formula  
9 using "upper payment limits", and an increase in Maryland's fee-for-service rates  
10 could improve the State's future federal funding; and

11 WHEREAS, Maryland values its children, its future, as much as it values its  
12 elder citizens, yet we allow Medicaid to pay vastly less - 1/2 to 1/3 of the rate - that  
13 we pay providers to care for seniors; and

14 WHEREAS, The General Assembly recently carved out of the HealthChoice  
15 program services for children with special health care needs for physical therapy,  
16 occupational therapy, and speech therapy that are reimbursed at a fee-for-service  
17 rate; and

18 WHEREAS, Audiology services also carved out of the HealthChoice program are  
19 reimbursed at a rate for a hearing aid and for the service for fitting the device below  
20 the market cost of the device and of the service; and

21 WHEREAS, The Advisory Council for the Rare and Expensive Case  
22 Management Program (REM) recently agreed to continue the REM program, but the  
23 children in the REM program, who are the most disabled and vulnerable in the  
24 Medicaid program, are unable to access these services because specialty providers are  
25 leaving the REM program due to unacceptably low reimbursement rates; and

26 WHEREAS, A recent survey of the American Academy of Pediatrics published  
27 the 100 most often used CPT codes by the Medicaid program nationwide, and the  
28 Maryland Medicaid reimbursement rate was substantially less than the average in  
29 the south Atlantic states, the U.S. average, and the reimbursement rate used for the  
30 Medicare program - often 1/2 to 1/3 lower than the scientifically based Medicare rate;  
31 now, therefore,

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
33 MARYLAND, That the Laws of Maryland read as follows:

34 **Article - Health - General**

35 15-102.1.

36 (b) The Department shall, to the extent permitted, subject to the limitations of  
37 the State budget:

1 (8) Seek to provide appropriate levels of reimbursement for providers to  
2 encourage greater participation by providers in the Program[;] BY:

3 (I) ANNUALLY ADOPTING REGULATIONS TO ADJUST THE  
4 FEE-FOR-SERVICE REIMBURSEMENT RATES FOR THE PROGRAM TO REFLECT THE  
5 RECOMMENDATIONS OF THE MEDICAL ASSISTANCE REIMBURSEMENT EXPERT  
6 PANEL ESTABLISHED UNDER § 15-103 OF THIS SUBTITLE;

7 (II) ANNUALLY REQUIRING THE REPORTING BY MANAGED CARE  
8 ORGANIZATIONS ON PROVIDER SATISFACTION WITH REIMBURSEMENT RATES  
9 THROUGH A MECHANISM ESTABLISHED BY THE MEDICAL ASSISTANCE  
10 REIMBURSEMENT EXPERT PANEL; AND

11 (III) ENSURING THAT REIMBURSEMENT RATES PAID BY THE  
12 MANAGED CARE ORGANIZATIONS AND FEE-FOR-SERVICE RATES PAID BY THE  
13 PROGRAM:

14 1. ARE ADEQUATE AND REFLECT SIMILAR RATES PAID IN  
15 THE COMMUNITY; AND

16 2. ARE ANNUALLY ADJUSTED TO REFLECT THE NATIONAL  
17 AND STATE MEDICAL INFLATION RATE;

18 15-103.

19 (b) (29) (I) THE DEPARTMENT SHALL ESTABLISH THE MEDICAL  
20 ASSISTANCE REIMBURSEMENT EXPERT PANEL.

21 (II) THE PURPOSE OF THE MEDICAL ASSISTANCE REIMBURSEMENT  
22 EXPERT PANEL IS TO:

23 1. PROVIDE TECHNICAL EXPERTISE TO THE DEPARTMENT;

24 2. ANNUALLY IDENTIFY THE CURRENT PROCEDURAL  
25 TERMINOLOGY CODES UTILIZED IN THE PROGRAM FOR THOSE RECIPIENTS IN THE  
26 PROGRAM WHOSE SERVICES ARE PAID ON A FEE-FOR-SERVICE BASIS AND CARVED  
27 OUT OF THE MEDICAID MANAGED CARE PROGRAM, INCLUDING, BUT NOT LIMITED  
28 TO, THE SPECIAL NEEDS CHILDREN WHO:

29 A. ARE IN THE RARE AND EXPENSIVE CASE MANAGEMENT  
30 PROGRAM; OR

31 B. RECEIVE AUDIOLOGY SERVICES OR SERVICES FOR  
32 PHYSICAL THERAPY, OCCUPATIONAL THERAPY, OR SPEECH THERAPY;

33 3. ANNUALLY IDENTIFY THE CURRENT PROCEDURAL  
34 TERMINOLOGY CODES THAT ARE MOST OFTEN USED BY THE PROGRAM IN THE  
35 STATE AND NATIONWIDE;

1                                   4.       ENSURE THAT EVERY CURRENT PROCEDURAL  
2 TERMINOLOGY CODE UTILIZED BY THE PROGRAM IS REVIEWED AND THAT AN  
3 APPROPRIATE REIMBURSEMENT RATE IS RECOMMENDED BY JULY 1:

4                                   A.       ANNUALLY FOR THOSE CURRENT PROCEDURAL  
5 TERMINOLOGY CODES IDENTIFIED IN ITEMS 2 AND 3 OF THIS ITEM; AND

6                                   B.       A MINIMUM OF EVERY 3 YEARS FOR THE REMAINDER OF  
7 THE CURRENT PROCEDURAL TERMINOLOGY CODES;

8                                   5.       REVIEW AVAILABLE INFORMATION ON CURRENT  
9 REIMBURSEMENT RATES PAID ON A FEE-FOR-SERVICE BASIS BY COMMERCIAL  
10 CARRIERS;

11                                  6.       REVIEW THE RESOURCE BASED RELATIVE VALUE SCALE  
12 (RBRVS) SYSTEM UTILIZED BY THE MEDICARE PROGRAM AND MAKE  
13 RECOMMENDATIONS TO THE SECRETARY ON THE ADVISABILITY OF EMPLOYING  
14 THAT SYSTEM FOR REIMBURSEMENT RATES FOR THE MARYLAND MEDICAL  
15 ASSISTANCE PROGRAM;

16                                  7.       ENSURE THAT THE REIMBURSEMENT RATES  
17 RECOMMENDED:

18                                  A.       REFLECT ADEQUATE REIMBURSEMENT RATES IN  
19 DIFFERING GEOGRAPHIC AREAS;

20                                  B.       REFLECT A SCIENTIFIC BASIS, SUCH AS THE RESOURCE  
21 BASED RELATIVE VALUE SCALE SYSTEM DEVELOPED FOR MEDICARE;

22                                  C.       REFLECT THE NATIONAL AND STATE MEDICAL INFLATION  
23 RATE; AND

24                                  D.       WILL ENSURE PROVIDER PARTICIPATION IN THE  
25 PROGRAM; AND

26                                  8.       THROUGH PROVIDER SURVEYS OR OTHER MEANS,  
27 ESTABLISH A MECHANISM TO ASCERTAIN PROVIDER SATISFACTION WITH  
28 FEE-FOR-SERVICE OR CAPITATION REIMBURSEMENT RATES PAID BY THE MANAGED  
29 CARE ORGANIZATIONS AND REPORT ON THIS LEVEL OF SATISFACTION ANNUALLY TO  
30 THE SECRETARY.

31                                  (III)   THE MEDICAL ASSISTANCE REIMBURSEMENT EXPERT PANEL  
32 CONSISTS OF 11 MEMBERS.

33                                  (IV)   OF THE 11 MEMBERS OF THE PANEL:

34                                  1.       ONE SHALL BE A MEMBER OF THE MARYLAND MEDICAID  
35 ADVISORY COMMITTEE WITH EXPERIENCE IN THIS AREA;

1                                   2.       TWO SHALL BE EXPERTS IN THE RESOURCE BASED  
2 RELATIVE VALUE SCALE SYSTEM UTILIZED BY THE MEDICARE PROGRAM;

3                                   3.       ONE SHALL BE AN EXPERT ON MEDICAID  
4 REIMBURSEMENT RATES SELECTED BY THE DEPARTMENT;

5                                   4.       ONE SHALL BE AN EXPERT ON MEDICAID  
6 REIMBURSEMENT RATES RECOMMENDED BY THE RARE AND EXPENSIVE  
7 MANAGEMENT ADVISORY COUNCIL;

8                                   5.       THREE SHALL BE PHYSICIANS AT LEAST 50% OF WHOSE  
9 PRACTICE IS MEDICAID RECIPIENTS;

10                                  6.       ONE SHALL BE AN EXPERT FROM THE MARYLAND  
11 HEALTH CARE COMMISSION STAFF;

12                                  7.       ONE SHALL BE THE CHAIRMAN OF THE HOUSE  
13 APPROPRIATIONS COMMITTEE OR THE CHAIRMAN'S DESIGNEE; AND

14                                  8.       ONE SHALL BE THE CHAIRMAN OF THE SENATE BUDGET  
15 AND TAXATION COMMITTEE OR THE CHAIRMAN'S DESIGNEE.

16                                  (V)     1.       THE MEMBERS OF THE MEDICAL ASSISTANCE  
17 REIMBURSEMENT EXPERT PANEL SHALL BE APPOINTED BY THE SECRETARY.

18                                  2.       IN MAKING APPOINTMENTS, THE SECRETARY SHALL  
19 PROVIDE FOR CONTINUITY AND ROTATION.

20                                  3.       THE TERM OF A MEMBER IS 4 YEARS.

21                                  (VI)    THE SECRETARY SHALL APPOINT THE CHAIRMAN.

22                                  (VII)   THE MEDICAL ASSISTANCE REIMBURSEMENT EXPERT PANEL  
23 SHALL MEET AT LEAST TWICE ANNUALLY AND SHALL DETERMINE THE TIMES AND  
24 PLACES OF ITS MEETINGS.

25                                  (VIII)  A MEMBER OF THE MEDICAL ASSISTANCE REIMBURSEMENT  
26 EXPERT PANEL MAY NOT RECEIVE COMPENSATION, BUT IS ENTITLED TO  
27 REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL  
28 REGULATIONS AS PROVIDED IN THE STATE BUDGET.

29                                  (IX)    ON OR BEFORE JULY 1 OF EACH YEAR, THE MEDICAL  
30 ASSISTANCE REIMBURSEMENT EXPERT PANEL SHALL SUBMIT A REPORT ON ITS  
31 FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1246  
32 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

33       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 July 1, 2000.