

SENATE BILL 481

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J1

2002 Regular Session  
(21r1780)

**ENROLLED BILL**  
-- Finance/Environmental Matters --

Introduced by **Senator Kelley**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER 464

1 AN ACT concerning

2 ~~Maryland Medical Assistance Program and, Maryland Children's Health~~  
3 ~~Program, and Public Mental Health System~~ Department of Health and  
4 Mental Hygiene - Reimbursement Rates

5 FOR the purpose of altering the reimbursement under the Maryland Pharmacy  
6 Assistance Program for certain prescription drugs; requiring the Department of  
7 Health and Mental Hygiene ~~to establish~~ in developing a certain annual process  
8 to annually set reimbursement rates for ~~certain programs and the public mental~~  
9 ~~health system that reflect~~ the Maryland Medical Assistance Program and the  
10 Maryland Children's Health Program that considers certain rates, systems; and  
11 codes; requiring the Department to establish a certain annual process to set  
12 reimbursement rates for the public mental health system that considers certain  
13 costs; requiring the Department to consult with certain persons to identify and  
14 implement certain pharmacy cost containment measures; prohibiting the  
15 Department from implementing a reduction in a certain pharmacy  
16 reimbursement rate until a certain date; prohibiting the Department from  
17 increasing a certain total copayment collection; requiring the Department to

1 implement certain cost containment measures under certain circumstances;  
 2 requiring the Department to report to the Governor and certain committees of the  
 3 General Assembly on or before certain dates; authorizing the Department to  
 4 implement certain measures to encourage the use of certain drugs on a preferred  
 5 list; requiring the Department to submit a certain annual report; making  
 6 stylistic changes; and generally relating to the reimbursement rates of the  
 7 Maryland Medical Assistance Program and the Maryland Children's Health  
 8 Program, and the public mental health system and reimbursement and  
 9 copayments under the Medicaid and the Maryland Pharmacy Assistance  
 10 Program.

11 BY repealing and reenacting, with amendments,

12 Article - Health - General

13 Section 15-124(b)(1)

14 Annotated Code of Maryland

15 (2000 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,  
 17 Chapter 702 of the Acts of the General Assembly of 2001  
 18 Section 1

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

21 Article - Health - General

22 15-124.

23 (b) (1) (i) Reimbursement under the Maryland Pharmacy Assistance  
 24 Program [shall] MAY be limited to maintenance drugs, anti-infectives, and AZT as  
 25 specified in regulations to be issued by the Secretary after consultation with the  
 26 Maryland Pharmacists Association.

27 (ii) 1. For any drug on the Program's interchangeable drug list,  
 28 the Program shall reimburse providers in an amount not more than it would  
 29 reimburse for the drug's generic equivalent, unless the individual's physician states, in  
 30 his or her own handwriting, on the face of the prescription, that a specific brand is  
 31 "medically necessary" for the particular patient.

32 2. If an appropriate generic drug is not generally available,  
 33 the Department may waive the reimbursement requirement under sub-subparagraph  
 34 1 of this subparagraph.

35 **Chapter 702 of the Acts of 2001**

36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 37 MARYLAND, That:

1 (a) The Department of Health and Mental Hygiene shall:

2 (1) establish a process to annually set the fee-for-service reimbursement  
3 rates for the Maryland Medical Assistance Program and the Maryland Children's  
4 Health Program in a manner that ensures participation of providers; and

5 (2) in developing the process required under item (1) of this subsection,  
6 consider ~~AND THAT REFLECTS~~ CONSIDERS:

7 (i) ~~(1)~~ a reimbursement system that reflects reimbursement  
8 fee-for-service rates paid in the community as well as annual medical inflation; or

9 (ii) ~~(2)~~ the CURRENT Resource Based Relative Value Scale system  
10 used in the federal Medicare program or THE American Dental Association ~~CPT-3~~  
11 CDT-3 Codes.

12 (b) On or before [September 1, 2001] ~~SEPTEMBER 1 OF EACH YEAR~~, the  
13 Department shall submit a report to the Governor and, in accordance with § 2-1246 of  
14 the State Government Article, to the Senate Finance Committee, the Senate Budget  
15 and Taxation Committee, the House Environmental Matters Committee, and the  
16 House Appropriations Committee on:

17 (1) its progress in complying with subsection (a) of this section;

18 (2) an analysis of the fee-for-service reimbursement rates paid in other  
19 states and how those rates compare with those in Maryland;

20 (3) its schedule for bringing Maryland's fee-for-service reimbursement  
21 rates to a level that assures that all health care providers are reimbursed adequately  
22 to provide access to care; and

23 (4) an analysis on the estimated costs of implementing the schedule and  
24 any proposed changes to the fee-for-service reimbursement rates for the Maryland  
25 Medical Assistance Program and the Maryland Children's Health Program.

26 SECTION 2. AND BE IT FURTHER ENACTED, That:

27 ~~(a) The Department of Health and Mental Hygiene shall establish a process to~~  
28 ~~annually set the fee for service reimbursement rates for the public mental health~~  
29 ~~system in a manner that ensures participation of providers.~~

30 ~~(b) In determining the rates for outpatient mental health clinics, the~~  
31 ~~Department shall consider the Medicare allowable charges for comparable CPT~~  
32 ~~Codes.~~

33 ~~(c) In determining the rates for public mental health system services having~~  
34 ~~no Medicare CPT Code equivalent, the Department shall consider the reasonable~~  
35 ~~costs of and the Medicare Principles of Reimbursement for relevant factors, including:~~

36 ~~(1) staffing;~~

1           ~~(2)     overhead;~~

2           ~~(3)     capital needs; and~~

3           ~~(4)     annual medical inflation.~~

4           (a)     The Department of Health and Mental Hygiene shall establish a process to  
5 annually set the fee-for-service reimbursement rates for the public mental health  
6 system in a manner that ensures participation of providers.

7           (b)     In determining the rates for outpatient mental health clinics, the  
8 Department shall consider the Medicare-allowable charges for comparable CPT  
9 Codes.

10          (c)     In determining the rates for public mental health system services having no  
11 Medicare CPT Code equivalent, the Department shall consider the reasonable costs of  
12 and the Medicare Principles of Reimbursement for relevant factors, including:

13           (1)     staffing;

14           (2)     overhead;

15           (3)     capital needs; and

16           (4)     annual medical inflation.

17          (d)     On or before September 1 of each year, the Department shall report to the  
18 Governor, and in accordance with § 2-1246 of the State Government Article, the Senate  
19 Finance Committee, the Senate Budget and Taxation Committee, the House  
20 Environmental Matters Committee, and the House Appropriations Committee on:

21           (1)     its progress in complying with subsections (a), (b), and (c) of this  
22 section;

23           (2)     an analysis of the estimated costs of implementing the fee-for-service  
24 reimbursement rate system proposed under subsections (a), (b), and (c) of this section;

25           (3)     any proposed changes to the fee-for-service reimbursement rates for  
26 the public mental health system; and

27           (4)     the schedule for implementing any proposed changes.

28          SECTION 3. AND BE IT FURTHER ENACTED, That:

29          (a)     The Department of Health and Mental Hygiene shall consult with  
30 representatives of the pharmaceutical and pharmacy industries, authorized  
31 prescribers, and patient advocates to identify and implement alternative pharmacy  
32 cost containment measures.

33          (b)     (1)     The Department may not implement a reduction in the pharmacy  
34 reimbursement rate until October 1, 2002.

1           (2)     The Department of Health and Mental Hygiene may not increase the  
2 total copayment collection from enrollees in the Medicaid program, including enrollees  
3 in managed care organizations.

4           (c)     On or before October 1, 2002, if additional cost savings obtained as a result  
5 of alternative cost containment measures are not sufficient to ensure that on an  
6 annualized basis the pharmacy cost containment assumed in the fiscal 2003 budget  
7 will be achieved, the Department of Health and Mental Hygiene shall implement cost  
8 containment measures with respect to pharmacy reimbursement in a manner that  
9 achieves the level of savings that would have been achieved if the pharmacy  
10 reimbursement reduction took effect on July 1, 2002.

11          (d)     On or before October 1, 2002, the Department shall report, in accordance  
12 with § 2-1246 of the State Government Article, to the Senate Finance Committee, the  
13 Senate Budget and Taxation Committee, the House Economic Matters Committee, and  
14 the House Environmental Matters Committee on the measures that have been taken to  
15 identify and implement alternative cost containment measures and the projected cost  
16 savings attributed to these measures.

17          (e)     On or before October 1, 2002, the Department shall report, in accordance  
18 with § 2-1246 of the State Government Article, to the Senate Finance Committee, the  
19 Senate Budget and Taxation Committee, the House Economic Matters Committee, and  
20 the House Environmental Matters Committee on the pharmacy dispensing fee for the  
21 Medicaid and Maryland Pharmacy Assistance Programs. In preparing the report, the  
22 Department shall consult with representatives from the community and independent  
23 pharmacies. The report may include the following:

24               (1)     an analysis of the dispensing fee structure in other states;

25               (2)     an analysis of current reports and literature concerning dispensing  
26 fees in state prescription drug programs; and

27               (3)     a review of industry-supplied surveys concerning the time and  
28 associated costs of dispensing.

29          (f)     The Department of Health and Mental Hygiene may implement measures to  
30 encourage the use of medically appropriate generic drugs and those brand name drugs  
31 on a preferred drug list, including:

32               (1)     the use of tiered copayments for Medicaid and the Maryland  
33 Pharmacy Assistance Program provided that the amounts set for those copayments do  
34 not result in an increase in total copayment collections;

35               (2)     the use of differential dispensing fees to pharmacies provided that the  
36 amounts set for those dispensing fees remain revenue neutral;

37               (3)     the use of consultation payments to pharmacies, similar to those used  
38 in the State Employee Health Benefits Plan, to encourage communication between  
39 patients, prescribers, and pharmacists regarding cost-effective drug therapies; and

1                   (4)     *the implementation of education programs on the use of preferred*  
2 *drugs for prescribers that participate in the Medicaid and Maryland Pharmacy*  
3 *Assistance Programs.*

4     SECTION ~~2~~ ~~3~~ 4 AND BE IT FURTHER ENACTED, That this Act shall take  
5 effect July 1, 2002.