

Chapter 497

(Senate Bill 633)

AN ACT concerning

Community Services Reimbursement Rate Commission – Developmental Disabilities and Community Mental Health Services – Rate Adjustments

FOR the purpose of requiring the Community Services Reimbursement Rate Commission to ~~develop a certain update formula for determining rates paid to developmental disabilities service providers and community mental health services providers~~ determine a weighted average cost structure of certain developmental disabilities service providers and community mental health services providers in a certain manner; requiring the Commission to include in a certain existing annual report an analysis of the impact of a certain ~~update formula~~ annual inflationary cost adjustment on the financial condition of certain providers; requiring the Department of Health and Mental Hygiene to make a certain adjustment for inflation of the fees paid to certain providers ~~using a certain update formula~~ beginning in a certain fiscal year; requiring the Department to ensure that a certain annual inflationary cost adjustment is equivalent to certain other annual inflationary cost adjustments by using a certain weighted average cost structure; providing that certain annual inflationary cost adjustments used to establish a certain annual inflationary cost adjustment may not be less than a certain percentage; providing that a certain annual inflationary cost adjustment may not exceed a certain percentage; establishing the formula for the annual inflation rate adjustment for certain providers; requiring the Department to conduct a certain study in consultation with certain stakeholders and to report its findings and recommendations to the General Assembly on or before a certain date ~~date~~ dates; providing for the termination of this Act; and generally relating to the Community Services Reimbursement Rate Commission and provider rate adjustments.

BY repealing and reenacting, with amendments,

Article – Health – General
 Section 13–806, 13–809, and 16–201.2
 Annotated Code of Maryland
 (2009 Replacement Volume)

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

Article – Health – General

13–806.

- (a) The Commission shall assess:
- (1) The extent and amount of uncompensated care delivered by providers;
 - (2) The level of and changes in wages paid by providers to direct support workers, including the source of revenue for wages paid by providers;
 - (3) The ability of providers to operate on a solvent basis in the delivery of effective and efficient services that are in the public interest;
 - (4) The incentives and disincentives:
 - (i) Incorporated in the rate setting methodologies utilized and proposed by the Mental Hygiene Administration and the Developmental Disabilities Administration; and
 - (ii) In alternative methodologies;
 - (5) How incentives to provide quality care can be built into a rate setting methodology; and
 - (6) The impact of changes in regulations that impact on the costs of providers and whether the rates have been adjusted to provide for any increased costs associated with the regulatory changes.

(b) The Commission shall:

(1) ~~Develop [or refine methodologies for calculating rate update factors for rates paid by the Developmental Disabilities Administration and the Mental Hygiene Administration and recommend annual rate update factors that use the methodologies that are developed]~~ **AN UPDATE FORMULA THAT IS EQUIVALENT TO THE COST ADJUSTMENTS FOR UNITS OF STATE GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET BY DETERMINE A WEIGHTED AVERAGE COST STRUCTURE OF PROVIDERS BY:**

(I) STUDYING THE CATEGORIES OF COSTS USED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN THE BUDGETS OF UNITS OF STATE GOVERNMENT; AND

(II) ASSESSING THE AVERAGE COST STRUCTURE OF PROVIDERS USING THE CATEGORIES OF COSTS USED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR UNITS OF STATE GOVERNMENT; ~~AND~~

~~(III) DETERMINING A WEIGHTED AVERAGE FORMULA BASED ON THE AVERAGE COST STRUCTURE OF PROVIDERS TO ALIGN ANNUAL COST ADJUSTMENTS FOR PROVIDERS WITH COST ADJUSTMENTS FOR UNITS OF STATE GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET;~~

(2) With respect to the Developmental Disabilities Administration, review the data reported in the Developmental Disabilities Administration annual cost reports and use the data to develop relative performance measures of providers; and

(3) Evaluate proposed regulatory changes by the Department, the Developmental Disabilities Administration, and the Mental Hygiene Administration that affect the rates paid or the rate structure.

13-809.

On or before October 1 of each year, the Commission shall issue a report to the Governor, the Secretary, and, subject to § 2-1246 of the State Government Article, the General Assembly that:

(1) Describes its findings regarding:

(i) The changes in wages paid by providers to direct care workers;

(ii) The financial condition of providers [and], the ability of providers to operate on a solvent basis in the delivery of effective and efficient services that are in the public interest, ~~AND THE IMPACT OF THE UPDATE FORMULA ANNUAL INFLATIONARY COST ADJUSTMENT AS SET FORTH IN § 13-806 16-201.2(C) OF THIS SUBTITLE ARTICLE~~, ON THE FINANCIAL CONDITION OF PROVIDERS;

(iii) The incentives and disincentives incorporated in the rate setting methodologies utilized and proposed by the Mental Hygiene Administration and the Developmental Disabilities Administration and how the methodologies might be improved;

(iv) How incentives to provide quality of care can be built into a rate setting methodology; [and]

(v) The recommended ~~methodologies for the [calculation of rate update factors and the rate update factors recommended]~~ ~~UPDATE FORMULA, WEIGHTED AVERAGE COST STRUCTURE OF PROVIDERS~~ AS SET FORTH IN § 13-806 OF THIS SUBTITLE, for the next succeeding fiscal year; AND

(VI) ANY ADDITIONAL RECOMMENDATIONS REGARDING RATE-SETTING METHODOLOGIES TO ALIGN PROVIDER RATES WITH REASONABLE COSTS;

(2) Recommends the need for any formal executive, judicial, or legislative action;

(3) Describes issues in need of future study by the Commission; and

(4) Discusses any other matter that relates to the purposes of the Commission under this subtitle.

16-201.2.

(a) (1) In this section the following words have the meanings indicated.

(2) “Community developmental disabilities services provider” means a community-based developmental disabilities program licensed by the Department.

(3) “Community mental health services provider” means a community-based mental health program approved by the Department or an individual practitioner who contracts with the Department or the appropriate core service agency.

(4) “Core service agency” has the meaning stated in § 10-1201 of this article.

(5) “Eligible individual” means a Medicaid recipient or an individual who receives developmental disabilities services or mental health services subsidized in whole or in part by the State.

(b) Notwithstanding the provisions of this subtitle, the Department shall reimburse a community developmental disabilities services provider or a community mental health services provider for approved services rendered to an eligible individual as provided in this section.

(c) (1) [Subject to the limitations of the State budget, beginning] **BEGINNING** in fiscal year **[2008] 2012** and in each fiscal year thereafter, the Department shall adjust for inflation the fees paid to a community developmental disabilities services provider and a community mental health services provider for approved services rendered to an eligible individual ~~using the update [factor] FORMULA SET FORTH IN § 13 806 OF THIS ARTICLE~~ recommended by the ~~Community Services Reimbursement Rate Commission.~~

(2) THE DEPARTMENT SHALL ESTABLISH AN ANNUAL INFLATIONARY COST ADJUSTMENT FOR PROVIDERS THAT SHALL BE ALIGNED WITH THE ANNUAL COST ADJUSTMENTS FOR UNITS OF STATE GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET.

(3) SUBJECT TO PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, THE DEPARTMENT SHALL ENSURE THAT THE ANNUAL INFLATIONARY COST ADJUSTMENT FOR PROVIDERS IS EQUIVALENT TO THE ANNUAL INFLATIONARY COST ADJUSTMENTS FOR CATEGORIES OF COSTS FOR UNITS OF STATE GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET BY USING THE WEIGHTED AVERAGE COST STRUCTURE SET FORTH IN § 13-806(B)(1) OF THIS ARTICLE.

(4) THE ANNUAL INFLATIONARY COST ADJUSTMENTS FOR CATEGORIES OF COSTS FOR UNITS OF STATE GOVERNMENT USED TO ESTABLISH THE ANNUAL INFLATIONARY COST ADJUSTMENT FOR PROVIDERS MAY NOT BE LESS THAN 0%.

(5) THE ANNUAL INFLATIONARY COST ADJUSTMENT FOR PROVIDERS MAY NOT EXCEED A MAXIMUM ADJUSTMENT OF 4%.

~~(2) THE ANNUAL INFLATION RATE ADJUSTMENT FOR DEVELOPMENTAL DISABILITY AND MENTAL HEALTH COMMUNITY PROVIDERS SHALL BE EQUIVALENT TO THE COST ADJUSTMENTS FOR CATEGORIES OF COSTS FOR UNITS OF STATE GOVERNMENT IN THE GOVERNOR'S PROPOSED BUDGET.~~

[(2)] ~~(3)~~ (6) Annual adjustments shall be funded with due regard to the expenditures necessary to meet the needs of individuals receiving services.

[(3)] The annual rate of change for the fees may not exceed a maximum rate of 5%.]

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall:

(a) (1) conduct a study, in consultation with community services stakeholders, including the Maryland Association of Community Services and the Community Behavioral Health Association of Maryland, to evaluate whether the role of the Community Services Reimbursement Rate Commission and its reporting requirements should be modified as a result of the changes in §§ 13-806, 13-809, and 16-201.2 of the Health General Article enacted by Section 1 of this Act; and for purposes of recommending a plan to develop, and a timeline to implement, a rate-setting methodology for community developmental disabilities and mental health services providers that would:

(i) promote the fiscally sound and efficient operation of community services providers; and

(ii) promote the highest level of quality of care for individuals with developmental disabilities and mental illness;

(2) include in the study an analysis of:

(i) the operating costs of community services providers;

(ii) the ability of community services providers to attract and retain a high quality work force;

(iii) any appropriate and feasible incentives for high quality performance of community services providers;

(iv) any capital infrastructure needs of community services providers;

(v) transportation costs of community services providers;

(vi) the appropriate future role of the Community Services Reimbursement Rate Commission and other entities involved in State rate-setting processes; and

(vii) any other issues related to the efficient and effective provision of community services; and

(b) (1) on or before December 1, 2012, report its preliminary findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article; and

~~(b)~~ (2) on or before January 1, ~~2011~~ 2013, report its findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of 5 years and 9 months and, at the end of June 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 20, 2010.