

# SENATE BILL 890

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CF 4lr3081

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By: **Senators Middleton, Astle, Benson, Brinkley, Currie, Dyson, Feldman, Forehand, Kasemeyer, Madaleno, Manno, Mathias, Montgomery, Robey, Rosapepe, and Shank**

Introduced and read first time: January 31, 2014

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Minimum Wage Reimbursement**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to  
4 reimburse certain providers at a rate to ensure that a certain wage factor is not  
5 less than a certain percentage above the State minimum wage rate; requiring  
6 the Department to reimburse certain providers at a rate to ensure that the  
7 hourly wage paid to certain workers is not less than a certain percentage above  
8 the State minimum wage rate; requiring the Department to establish a certain  
9 rate-setting methodology for certain providers for a certain purpose; prohibiting  
10 the Department from utilizing certain rate-setting methodologies for certain  
11 providers for certain purposes; requiring certain increases in the rate of  
12 reimbursement for certain providers to be used for certain purposes; requiring a  
13 certain reimbursement rate for medical day care to increase to account for  
14 certain costs; repealing certain obsolete provisions relating to certain  
15 reimbursement for certain providers; and generally relating to the Department  
16 of Health and Mental Hygiene and reimbursement for developmental disability,  
17 mental health, and adult day care service providers.

18 BY repealing and reenacting, with amendments,  
19 Article – Health – General  
20 Section 7-307 and 15-111  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume and 2013 Supplement)

23 BY adding to  
24 Article – Health – General  
25 Section 16-201.3  
26 Annotated Code of Maryland  
27 (2009 Replacement Volume and 2013 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health – General**

4 7–307.

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

6 (2) “Community provider” means a community–based agency or  
7 program funded by the Administration to serve individuals with developmental  
8 disabilities.

9 (3) “Community direct service worker” means an employee of a  
10 community provider that provides treatment or services to developmentally disabled  
11 individuals.

12 (4) [“Disparity amount” means the monetary calculation of the  
13 average difference in wages and benefits between community direct service workers  
14 and developmental disabilities associates or other comparable employees in State  
15 residential centers.

16 (5)] “Rate” means the reimbursement rate paid by the Department to a  
17 community provider from the State General Fund, Maryland Medical Assistance  
18 Program funds, other State or federal funds, or a combination of funds.

19 **(5) “WAGE FACTOR” MEANS THE AMOUNT PAID BY THE**  
20 **DEPARTMENT TO A COMMUNITY PROVIDER, AS PART OF THE RATE, FOR THE**  
21 **HOURLY WAGE FOR COMMUNITY DIRECT SERVICE WORKERS.**

22 (b) Notwithstanding the provisions of this title, the Department shall  
23 reimburse community providers as provided in this section.

24 [(c) (1) On or before September 1, 2001, the Department shall determine:

25 (i) The disparity amount; and

26 (ii) The amount of annual increase in the rate of reimbursement  
27 to community providers necessary to reduce and eliminate the disparity amount as  
28 required under subsection (d) of this section.

29 (2) The Department shall determine the disparity amount using data  
30 and information from:

1 (i) The Community Services Rate Reimbursement Commission;  
2 and

3 (ii) Reports required to be provided to the General Assembly by  
4 the Department.

5 (d) The Department shall increase the rate of reimbursement for community  
6 services providers by an amount that:

7 (1) Reduces the disparity amount to 80% on or before July 1, 2002;

8 (2) Reduces the disparity amount to 62% on or before July 1, 2003;

9 (3) Reduces the disparity amount to 40% on or before July 1, 2004;

10 (4) Reduces the disparity amount to 20% on or before July 1, 2005; and

11 (5) Eliminates the disparity amount on or before July 1, 2006.

12 (e) The Secretary shall adopt regulations to implement this section.

13 (f) All increases in the rate of reimbursement provided for in this section  
14 shall be used to increase the compensation of community direct service workers.

15 (g) Nothing in this section shall be construed to prohibit the Department  
16 from eliminating the disparity amount prior to July 1, 2006.]

17 **(C) (1) THE DEPARTMENT SHALL REIMBURSE COMMUNITY**  
18 **PROVIDERS AT A RATE TO ENSURE THAT THE WAGE FACTOR IS NOT LESS THAN**  
19 **50% ABOVE THE STATE MINIMUM WAGE RATE.**

20 **(2) THE DEPARTMENT MAY NOT USE A RATE-SETTING**  
21 **METHODOLOGY THAT REDUCES FUNDING FOR OTHER NONWAGE COST FACTORS**  
22 **WHEN ESTABLISHING THE RATE OF REIMBURSEMENT FOR COMMUNITY**  
23 **PROVIDERS TO ACHIEVE THE REQUIRED WAGE FACTOR UNDER PARAGRAPH (1)**  
24 **OF THIS SUBSECTION.**

25 **(D) ANY INCREASE IN THE RATE OF REIMBURSEMENT FOR COMMUNITY**  
26 **PROVIDERS REQUIRED UNDER THIS SECTION SHALL BE USED TO INCREASE**  
27 **WAGES AND RELATED COSTS.**

28 15-111.

29 (a) The Department may authorize reimbursement of a licensed day care  
30 center for the elderly or medically handicapped adults for medical care that the center  
31 provides to a Program recipient who is certified as requiring nursing home care.

1           (b)   (1)    Reimbursement under this section is subject to the availability of  
2 federal funds.

3                   (2)    The reimbursement rate for medical day care:

4                           (i)    May not exceed a maximum per diem rate established by  
5 regulation of the Department; [and]

6                           (ii)   Shall cover the following:

7                                   1.    Administrative overhead;

8                                   2.    Drugs, supplies, and equipment;

9                                   3.    Food;

10                                  4.    Medical services;

11                                  5.    Staff; and

12                                  6.    Transportation; AND

13                                   (III) SHALL INCREASE TO ACCOUNT FOR ANY ADDITIONAL  
14 COSTS ASSOCIATED WITH AN INCREASE IN THE STATE MINIMUM WAGE RATE.

15 **16-201.3.**

16           (A)   (1)    IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
17 MEANINGS INDICATED.

18                   (2)    “COMMUNITY MENTAL HEALTH SERVICES PROVIDER” HAS  
19 THE MEANING STATED IN § 16-201.2 OF THIS SUBTITLE.

20                   (3)    “PARAPROFESSIONAL DIRECT SERVICE WORKER” MEANS A  
21 PARAPROFESSIONAL EMPLOYEE OF A COMMUNITY MENTAL HEALTH SERVICES  
22 PROVIDER WHO IS PAID AN HOURLY WAGE.

23           (B)    THE DEPARTMENT SHALL REIMBURSE COMMUNITY MENTAL  
24 HEALTH SERVICES PROVIDERS AT A RATE TO ENSURE THAT THE HOURLY WAGE  
25 PAID TO PARAPROFESSIONAL DIRECT SERVICE WORKERS IS NOT LESS THAN  
26 50% ABOVE THE STATE MINIMUM WAGE RATE.

27           (C)   (1)    THE DEPARTMENT SHALL ESTABLISH A RATE-SETTING  
28 METHODOLOGY FOR COMMUNITY MENTAL HEALTH SERVICES PROVIDERS TO

1 ACHIEVE THE REQUIRED MINIMUM HOURLY WAGE UNDER SUBSECTION (B) OF  
2 THIS SECTION.

3 (2) THE DEPARTMENT MAY NOT USE A RATE-SETTING  
4 METHODOLOGY THAT REDUCES FUNDING FOR OTHER NONWAGE COST FACTORS  
5 WHEN ESTABLISHING THE RATE OF REIMBURSEMENT FOR COMMUNITY MENTAL  
6 HEALTH SERVICES PROVIDERS TO ACHIEVE THE REQUIRED MINIMUM HOURLY  
7 WAGE UNDER SUBSECTION (B) OF THIS SECTION.

8 (D) ANY INCREASE IN THE RATE OF REIMBURSEMENT FOR COMMUNITY  
9 MENTAL HEALTH SERVICES PROVIDERS REQUIRED UNDER THIS SECTION SHALL  
10 BE USED TO PAY AN HOURLY WAGE TO PARAPROFESSIONAL DIRECT SERVICE  
11 WORKERS THAT IS NOT LESS THAN 50% ABOVE THE STATE MINIMUM WAGE  
12 RATE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2014.