

HOUSE BILL 595

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6lr3252
CF SB 497

By: Delegates Hayes, Zucker, ~~and Sample Hughes~~ Sample-Hughes, Queen, Hammen, Cullison, Hill, Kipke, Krebs, Miele, Morgan, Morhaim, Pena-Melnyk, Pendergrass, Rose, Saab, West, and K. Young

Introduced and read first time: February 3, 2016
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 6, 2016

CHAPTER _____

1 AN ACT concerning

2 **Behavioral Health Community Providers – Keep the Door Open Act**

3 FOR the purpose of requiring a substance use disorder services program to submit annually
4 to the Department of Health and Mental Hygiene financial statements and salary
5 information in accordance with certain regulations; requiring, except under certain
6 circumstances, the Department of Health and Mental Hygiene to adjust the rate of
7 reimbursement for certain community providers each fiscal year by the rate
8 adjustment included in a certain State budget; requiring that the Governor’s
9 proposed budget for a certain fiscal year, and for ~~each~~ certain fiscal ~~year~~ years
10 thereafter, include a certain rate ~~adjustments~~ adjustment for certain community
11 providers based on the funding provided in certain legislative appropriations;
12 ~~requiring that a certain rate of adjustment equal the average annual percentage~~
13 ~~change in a certain Consumer Price Index for a certain period;~~ requiring, under
14 certain circumstances, managed care organizations to pay a certain rate for a certain
15 time period for services provided by community providers and to adjust the rate of
16 reimbursement for community providers each fiscal year by ~~a certain amount~~ a
17 certain percentage; defining certain terms; providing for the application of this Act;
18 providing that certain rate increases do not apply in fiscal years in which State
19 employees do not receive certain salary or pay increases; requiring the Governor’s
20 proposed budget to include certain rate adjustments and managed care
21 organizations to pay and adjust certain rates in certain fiscal years after a certain
22 fiscal year under certain circumstances; requiring the Department to submit a
23 certain report to the Governor and the General Assembly on or before a certain date

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 in certain years, beginning on or before a certain date; authorizing the Department
 2 to require certain community providers to submit certain information to the
 3 Department in the form and manner required by the Department; requiring the
 4 Department to submit a certain report to the Governor and the General Assembly
 5 on or before a certain date; requiring, beginning with reimbursements paid after a
 6 certain date, that at least a certain percentage of total reimbursements to community
 7 providers be linked to certain outcome measures; and generally relating to the rate
 8 of reimbursement for behavioral health community providers.

9 BY repealing and reenacting, with amendments,

10 Article – Health – General

11 Section 10–901.1

12 Annotated Code of Maryland

13 (2015 Replacement Volume)

14 BY adding to

15 Article – Health – General

16 Section 16–201.3

17 Annotated Code of Maryland

18 (2015 Replacement Volume)

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

21 **Article – Health – General**

22 10–901.1.

23 (a) A community mental health services program AND A SUBSTANCE USE
 24 DISORDER SERVICES PROGRAM shall submit annually financial statements and salary
 25 information in accordance with the Department’s regulations.

26 (b) The Administration may impose a penalty not exceeding \$500 per day per
 27 violation for each day a violation occurs on a licensee that fails to comply with subsection
 28 (a) of this section.

29 **16–201.3.**

30 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
 31 **INDICATED.**

32 **(2) “COMMUNITY PROVIDER” MEANS A COMMUNITY–BASED AGENCY**
 33 **OR PROGRAM FUNDED BY THE BEHAVIORAL HEALTH ADMINISTRATION OR THE**
 34 **MEDICAL CARE PROGRAMS ADMINISTRATION TO SERVE INDIVIDUALS WITH**
 35 **MENTAL DISORDERS, SUBSTANCE–RELATED DISORDERS, OR A COMBINATION OF**
 36 **THESE DISORDERS.**

1 ~~(3) "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX~~
 2 ~~FOR ALL URBAN CONSUMERS FOR MEDICAL CARE FOR THE~~
 3 ~~WASHINGTON BALTIMORE REGION.~~

4 ~~(4) (3)~~ "RATE" MEANS THE REIMBURSEMENT RATE PAID BY THE
 5 DEPARTMENT TO A COMMUNITY PROVIDER FROM THE STATE GENERAL FUND,
 6 MARYLAND MEDICAL ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL
 7 FUNDS, OR A COMBINATION OF THESE FUNDS.

8 (B) THIS SECTION DOES NOT APPLY TO REIMBURSEMENT FOR ANY SERVICE
 9 PROVIDED BY A COMMUNITY PROVIDER WHOSE RATES ARE REGULATED BY THE
 10 HEALTH SERVICES COST REVIEW COMMISSION.

11 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT
 12 AS PROVIDED IN SUBSECTION ~~(D)~~ (E) OF THIS SECTION, THE DEPARTMENT SHALL
 13 ADJUST THE RATE OF REIMBURSEMENT FOR COMMUNITY PROVIDERS EACH FISCAL
 14 YEAR BY THE RATE ADJUSTMENT INCLUDED IN THE STATE BUDGET FOR THAT
 15 FISCAL YEAR.

16 (2) ~~(1)~~ THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR
 17 2018, AND FOR EACH FISCAL YEAR THEREAFTER UNTIL FISCAL YEAR 2021, SHALL
 18 INCLUDE RATE ADJUSTMENTS FOR COMMUNITY PROVIDERS OF 2.25% BASED ON
 19 THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE
 20 IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

21 ~~1.~~ (I) OBJECT 08 CONTRACTUAL SERVICES IN
 22 PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER
 23 REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

24 ~~2.~~ (II) OBJECT 08 CONTRACTUAL SERVICES IN
 25 PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH
 26 ADMINISTRATION; AND

27 ~~3.~~ (III) OBJECT 08 CONTRACTUAL SERVICES IN
 28 PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND
 29 RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

30 ~~(II) A RATE ADJUSTMENT REQUIRED TO BE INCLUDED IN THE~~
 31 ~~GOVERNOR'S PROPOSED BUDGET UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH~~
 32 ~~SHALL EQUAL THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER~~
 33 ~~PRICE INDEX FOR THE 3 YEAR PERIOD ENDING IN JULY OF THE IMMEDIATELY~~
 34 ~~PRECEDING FISCAL YEAR.~~

1 **(3) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2018,**
2 **AND FOR EACH FISCAL YEAR THEREAFTER, FOR COMMUNITY PROVIDERS SHALL BE**
3 **PRESENTED IN THE SAME MANNER, INCLUDING OBJECT AND PROGRAM**
4 **INFORMATION, AS IN THE FISCAL YEAR 2017 BUDGET.**

5 **(D) ~~IF EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, IF~~**
6 **SERVICES PROVIDED BY COMMUNITY PROVIDERS ARE PROVIDED THROUGH**
7 **MANAGED CARE ORGANIZATIONS IN FISCAL YEARS 2018 THROUGH 2021, THE**
8 **MANAGED CARE ORGANIZATION SHALL:**

9 **(1) PAY THE RATE IN EFFECT DURING THE IMMEDIATELY PRECEDING**
10 **FISCAL YEAR FOR THE FIRST FISCAL YEAR THE MANAGED CARE ORGANIZATIONS**
11 **PROVIDE THE SERVICES; AND**

12 **(2) ADJUST THE RATE OF REIMBURSEMENT FOR COMMUNITY**
13 **PROVIDERS EACH FISCAL YEAR BY ~~THE SAME AMOUNT THAT OTHERWISE WOULD~~**
14 **~~HAVE BEEN REQUIRED UNDER SUBSECTION (C)(2)(H) OF THIS SECTION~~ 2.25%**
15 **BASED ON THE RATE IN THE IMMEDIATELY PRECEDING FISCAL YEAR.**

16 **(E) (1) SUBSECTIONS (C) AND (D) OF THIS SECTION DO NOT APPLY IN**
17 **FISCAL YEARS IN WHICH STATE EMPLOYEES DO NOT RECEIVE A GENERAL SALARY**
18 **INCREASE OR A PAY INCREASE IN ACCORDANCE WITH § 8-106 OF THE STATE**
19 **PERSONNEL AND PENSIONS ARTICLE IN THE STATE BUDGET.**

20 **(2) IF COMMUNITY PROVIDERS DO NOT RECEIVE A RATE**
21 **ADJUSTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ANY FISCAL YEAR**
22 **FROM FISCAL YEAR 2018 THROUGH FISCAL YEAR 2021, THE GOVERNOR'S**
23 **PROPOSED BUDGET SHALL INCLUDE A RATE ADJUSTMENT IN ACCORDANCE WITH**
24 **SUBSECTION (C)(2) OF THIS SECTION AND THE MANAGED CARE ORGANIZATIONS**
25 **SHALL PAY AND ADJUST RATES IN ACCORDANCE WITH SUBSECTION (D) OF THIS**
26 **SECTION IN THE FIRST FISCAL YEAR AFTER FISCAL YEAR 2021 IN WHICH STATE**
27 **EMPLOYEES RECEIVE A GENERAL INCREASE OR A PAY INCREASE AND EACH**
28 **SUCCESSIVE YEAR STATE EMPLOYEES RECEIVE A GENERAL INCREASE OR A PAY**
29 **INCREASE UNTIL THERE HAVE BEEN A TOTAL OF FOUR RATE ADJUSTMENTS.**

30 **(F) (1) ON OR BEFORE DECEMBER 1, 2018, AND ON OR BEFORE**
31 **DECEMBER 1 OF EACH YEAR THEREAFTER IN WHICH A RATE ADJUSTMENT WAS**
32 **MADE IN ACCORDANCE WITH THIS SECTION, THE DEPARTMENT SHALL SUBMIT A**
33 **REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE**
34 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE IMPACT OF THE**
35 **REIMBURSEMENT RATE ADJUSTMENT REQUIRED UNDER THIS SECTION ON**
36 **COMMUNITY PROVIDERS, INCLUDING THE IMPACT ON:**

1 **(I) THE WAGES AND SALARIES PAID AND THE BENEFITS**
2 **PROVIDED TO DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY**
3 **COMMUNITY PROVIDERS;**

4 **(II) THE TENURE AND TURNOVER OF DIRECT CARE STAFF AND**
5 **LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS; AND**

6 **(III) THE ABILITY OF COMMUNITY PROVIDERS TO RECRUIT**
7 **QUALIFIED DIRECT CARE STAFF AND LICENSED CLINICIANS.**

8 **(2) THE DEPARTMENT MAY REQUIRE A COMMUNITY PROVIDER TO**
9 **SUBMIT, IN THE FORM AND MANNER REQUIRED BY THE DEPARTMENT,**
10 **INFORMATION THAT THE DEPARTMENT DEEMS NECESSARY FOR COMPLETION OF**
11 **THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

12 **(G) (1) ON OR BEFORE DECEMBER 1, 2017, THE DEPARTMENT SHALL**
13 **SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE**
14 **STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY DETAILING OUTCOME**
15 **MEASURES THAT REASONABLY CAN BE COLLECTED FOR EACH TREATMENT**
16 **MODALITY OFFERED BY COMMUNITY PROVIDERS.**

17 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
18 **SUBSECTION SHALL INCLUDE RECOMMENDATIONS TO TIE REIMBURSEMENT TO**
19 **OUTCOMES INCLUDING:**

20 **(I) DIFFERENTIAL PAYMENT FOR IMPLEMENTATION OF, AND**
21 **ADHERENCE TO, EVIDENCE-BASED PRACTICES;**

22 **(II) DIFFERENTIAL PAYMENT BASED ON OUTCOMES; AND**

23 **(III) ANY OTHER FINANCIAL PAYMENT SYSTEM LINKING**
24 **REIMBURSEMENT TO OUTCOMES.**

25 **(3) BEGINNING WITH REIMBURSEMENTS PAID AFTER JULY 1, 2018,**
26 **AT LEAST 2.25% OF TOTAL REIMBURSEMENTS TO COMMUNITY PROVIDERS SHALL BE**
27 **LINKED TO OUTCOME MEASURES THAT ARE RECOMMENDED IN THE REPORT**
28 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
30 1, 2016.