

Chapter 772

(Senate Bill 469)

AN ACT concerning

Maryland Medical Assistance Program – Applied Behavior Analysis Services – Reimbursement

FOR the purpose of prohibiting the Maryland Department of Health from conditioning reimbursement of applied behavior analysis services provided to Maryland Medical Assistance Program recipients on the presence or availability of certain individuals in a certain setting; providing that a certain provision of this Act does not prohibit the Department from establishing certain standards for the involvement of a parent or caregiver; requiring, on or before a certain date, the Department to adopt certain regulations in consultation with stakeholders; providing for the application of this Act; defining certain terms; and generally relating to the Maryland Medical Assistance Program and reimbursement of applied behavior analysis services.

BY adding to

Article – Health – General

Section 15–149

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

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

Article – Health – General

15–149.

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

(2) (I) “APPLIED BEHAVIOR ANALYSIS” MEANS THE DESIGN, IMPLEMENTATION, AND EVALUATION OF ENVIRONMENTAL MODIFICATIONS USING BEHAVIORAL STIMULI AND CONSEQUENCES TO PRODUCE SIGNIFICANT IMPROVEMENTS IN HUMAN BEHAVIOR.

(II) “APPLIED BEHAVIOR ANALYSIS” INCLUDES THE DIRECT OBSERVATIONS, MEASUREMENT, AND FUNCTIONAL ANALYSIS OF THE RELATIONS BETWEEN ENVIRONMENT AND BEHAVIOR.

(3) “EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT)” MEANS THE PROVISION, TO INDIVIDUALS UNDER THE AGE OF 21 YEARS,

OF PREVENTIVE HEALTH CARE UNDER 42 C.F.R. PART 441, SUBPART B, AS AMENDED, AND OTHER HEALTH CARE SERVICES, DIAGNOSTIC SERVICES, AND TREATMENT SERVICES THAT ARE NECESSARY TO CORRECT OR AMELIORATE DEFECTS, PHYSICAL AND MENTAL ILLNESSES, AND CONDITIONS DISCOVERED BY THOSE SCREENING SERVICES.

(B) THIS SECTION APPLIES TO EPSDT SERVICES AVAILABLE TO PROGRAM RECIPIENTS.

(C) (1) ~~THE~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT CONDITION REIMBURSEMENT OF APPLIED BEHAVIOR ANALYSIS SERVICES PROVIDED TO A PROGRAM RECIPIENT ON THE PRESENCE OR AVAILABILITY OF THE PARENT OR CAREGIVER OF THE PROGRAM RECIPIENT IN THE SETTING WHERE THE APPLIED BEHAVIOR ANALYSIS SERVICES ARE PROVIDED TO THE PROGRAM RECIPIENT.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT THE PROGRAM FROM ESTABLISHING REASONABLE STANDARDS FOR THE INVOLVEMENT OF A PARENT OR CAREGIVER, INCLUDING REQUIRING NOTIFICATION FROM THE PARENT OR CAREGIVER OF THE DECISION OF THE PARENT OR CAREGIVER NOT TO BE PRESENT OR AVAILABLE WHEN THE PROGRAM PROVIDES APPLIED BEHAVIOR ANALYSIS SERVICES TO A PROGRAM RECIPIENT.

(D) ON OR BEFORE DECEMBER 1, 2021, THE DEPARTMENT, IN CONSULTATION WITH STAKEHOLDERS, SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.