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## HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE

### House Bill 1376: Maryland Medical Assistance Program, Maryland Children's Health Program, and Health Insurance—Special Pediatric Hospitals

Date: March 7, 2024

#### Position: Letter of Information

Disability Rights Maryland (DRM) is the protection and advocacy organization for the State of Maryland; the mission of the organization, part of a national network of similar agencies, is to advocate for the legal rights of people with disabilities throughout the state. One of the mandated purposes of DRM's legal work is to ensure that people with disabilities are included in their communities and that they have access to the supports and services that will make living and participating in community life possible. DRM offers this letter of information regarding House Bill 1376, which would allow Special Pediatric Hospitals in Maryland to receive administrative and special administrative day rates of Medicaid reimbursement for hospitalized children who do not need the level of medical care the provider is licensed to deliver.

DRM represents many children who remain in hospitals past the point of discharge because they do not have a placement or because the services they need are not in place. In fact, DRM is currently a plaintiff as well as co-counsel in *T.G., et al. v. Maryland Department of Human Services, et al.*, Case No. 8:23-cv-01433, a class action lawsuit brought on behalf of children and youth in overstay status in hospitals and emergency rooms. In discussions regarding House Bill 1376, DRM has come to understand that hospitals and Special Pediatric Hospitals face delays obtaining prior authorization from Medicaid to transfer children out of acute care hospitals to Special Pediatric Hospitals for step-down treatment and rehabilitation, and that Special Pediatric Hospitals may sometimes have children in overstay status as they work to put discharge plans in place. DRM supports the need to streamline the transfer process so that children can leave acute care hospitals more quickly. DRM also in principle supports the need for Special Pediatric Hospitals to receive some level of payment for the medical and ancillary services they continue to provide to children while discharge plans are implemented.

However, some of the children served by the Special Pediatric Hospitals are foster children or children who are entering the foster care system. Maryland youth in overstay circumstances face significant harm, such as isolation, loss of friendships and significant relationships, severe trauma, and risk of abuse. Youth in these circumstances face daily living in a hospital setting they do not need, frequently unable to go outside or breathe fresh air for weeks or months on end and often receiving no education services or minimal education through home and hospital instruction. State and federal law mandate that such youth receive appropriate services in the least restrictive environment appropriate to those needs – and when the youth is proposed for discharge and only meets medical necessity for continued hospitalization because they have ongoing medical needs that could be met in a community placement,

their rights are violated. It is important that the Department of Human Services (DHS) feel a sense of urgency about moving these children out of the hospital by remaining responsible for the cost of these children's placement; that sense of urgency may be lost if Maryland Medicaid or another source pays part of the cost of the child's care at the special pediatric hospital. DHS and other state agencies must work to ensure that appropriate community placements and services are available. These children are owed nothing less.

DRM has several specific comments regarding House Bill 1376:

--Page 2, line 24: and page 4, line 6: Add "**HOSPITAL**" before "FACILITY" so the definition reads: "SPECIAL PEDIATRIC HOSPITAL" MEANS A **HOSPITAL** FACILITY THAT PROVIDES NONACUTE MEDICAL, REHABILITATION, THERAPY, AND PALLIATIVE SERVICES TO INDIVIDUALS UNDER THE AGE OF 22 YEARS."

--Page 4, line 21: The definition of "Ancillary Services" should be amended to say "**INCLUDING BUT NOT LIMITED TO,**"

-- Page 2, line 27, Strike "or" and strike lines 28-30 and Page 4, line 29: Strike "or" and strike lines 30-32. Subsection (1) already includes individuals under the age of 22. Subsection (II) is confusing.

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