
By: Senator Pica

Introduced and read first time: January 31, 1996

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 28, 1996

CHAPTER ____

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Nursing Facilities - Disproportionate Share**
3 **Payment**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to pay
5 certain nursing facilities a disproportionate share payment ~~from existing resources~~
6 under certain circumstances; specifying the requirements that a nursing facility must
7 satisfy in order to receive the disproportionate share payment; defining certain
8 terms; making this Act contingent on a supplemental budget appropriation;
9 providing for the termination of this Act; and generally relating to requiring the
10 Department of Health and Mental Hygiene to make specified payments to certain
11 nursing facilities.

12 BY adding to

13 Article - Health - General
14 Section 15-117.1
15 Annotated Code of Maryland
16 (1994 Replacement Volume and 1995 Supplement)

17 Preamble

18 WHEREAS, In fiscal year 1993 the Secretary of Health and Mental Hygiene, in a
19 cost containment move, removed \$35 million from the Medical Assistance
20 Reimbursement Fund, thereby lowering the rate of reimbursement for all Medical
21 Assistance providers; and

22 WHEREAS, Nursing facilities that care primarily for Medical Assistance patients
23 were hardest hit by the move; and

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1 WHEREAS, Only one in every four health care facilities in 1994 had a Medical
2 Assistance rate that covered actual allowable costs; and

3 WHEREAS, There is a growing gap between actual allowable costs and Medical
4 Assistance rates such that in 1994 the average facility lost more than \$2,700 per year for
5 each Medical Assistance patient; and

6 WHEREAS, Because of the inadequate rate of reimbursement, nursing facilities
7 have experienced difficulty in providing the quality of patient care required by the federal
8 Medicaid Act; and

9 WHEREAS, Nursing facilities are continuing to experience difficulty meeting
10 financing commitments because of the lowering of the rate of reimbursement for all
11 Medical Assistance providers; and

12 WHEREAS, A disproportionate share payment paid to nursing facilities caring
13 primarily for Medical Assistance patients will offset financial deficiencies and ensure the
14 provision of quality care; now, therefore,

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

17 **Article - Health - General**

18 15-117.1.

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

21 (2) "ACTIVITIES OF DAILY LIVING" MEANS DRESSING, BATHING,
22 FEEDING, CONTINENCE, AND AMBULATION.

23 (3) "DISPROPORTIONATE SHARE PAYMENT" MEANS A PAYMENT OVER
24 AND ABOVE THE PAYMENT PROVIDED UNDER THE MEDICAL ASSISTANCE NURSING
25 FACILITY REIMBURSEMENT FORMULA THAT IS ALLOCATED ~~FROM~~ IN ADDITION TO
26 EXISTING MEDICAL ASSISTANCE REIMBURSEMENT FUNDS.

27 (4) "HEAVY LEVEL OF CARE" MEANS REQUIRING ASSISTANCE WITH ALL
28 FIVE ACTIVITIES OF DAILY LIVING.

29 (5) "HEAVY SPECIAL LEVEL OF CARE" MEANS REQUIRING ASSISTANCE
30 WITH ALL FIVE ACTIVITIES OF DAILY LIVING AND REQUIRING ONE ADDITIONAL
31 SPECIAL SERVICE.

32 (6) "MEDICAL ASSISTANCE PATIENT" MEANS A NURSING FACILITY
33 PATIENT WHOSE PRIMARY PAYOR IS THE MARYLAND MEDICAL ASSISTANCE
34 PROGRAM OR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND MEDICARE.

35 (7) "NON-MEDICARE PATIENT DAYS" MEANS THE TOTAL NUMBER OF
36 PATIENT DAYS EXPERIENCED BY A NURSING FACILITY MINUS THOSE PATIENT DAYS
37 PAID BY THE MEDICARE PROGRAM.

38 (B) (1) THE DEPARTMENT SHALL PROVIDE A DISPROPORTIONATE SHARE
39 PAYMENT OF \$5.00 PER MEDICAL ASSISTANCE PATIENT PER DAY OF CARE TO A

3
1 NURSING HOME FACILITY THAT IN ANY FISCAL YEAR PROVIDES AT LEAST 80% OF
2 ITS "NON-MEDICARE" PATIENT DAYS TO MEDICAL ASSISTANCE PATIENTS IF AT
3 LEAST 20% OF THOSE PATIENT DAYS OF SERVICE ARE PROVIDED TO MEDICAL
4 ASSISTANCE PATIENTS WHO ARE CLASSIFIED AT THE HEAVY LEVEL OF CARE OR
5 HEAVY SPECIAL LEVEL OF CARE.

6 (2) THE DISPROPORTIONATE SHARE PAYMENT SHALL BE EQUAL TO
7 THE LESSER OF:

8 (I) \$5 PER MEDICAL ASSISTANCE PATIENT PER DAY; OR

9 (II) THE DIFFERENCE BETWEEN THE NURSING FACILITY'S
10 MEDICAL ASSISTANCE RATE AND THE AMOUNT THE NURSING FACILITY WOULD BE
11 PAID UNDER THE MEDICAL ASSISTANCE REIMBURSEMENT METHODOLOGY IF THE
12 BUDGETARY REDUCTIONS IMPLEMENTED IN FISCAL YEAR 1991 AND SUBSEQUENT
13 YEARS WERE RESCINDED.

14 (C) THIS SECTION AND ALL RULES AND REGULATIONS ADOPTED UNDER
15 THIS SECTION SHALL TERMINATE AND BE OF NO EFFECT UPON THE EARLIER OF:

16 (1) THE DATE MEDICAL ASSISTANCE FUNDS ARE RESTORED TO A
17 LEVEL SUFFICIENT TO REIMBURSE NURSING HOME FACILITIES THE AMOUNT
18 NURSING HOME FACILITIES WOULD BE PAID UNDER THE MEDICAL ASSISTANCE
19 REIMBURSEMENT METHODOLOGY IF THE BUDGETARY REDUCTIONS IMPLEMENTED
20 IN FISCAL YEAR 1991 AND SUBSEQUENT YEARS WERE RESCINDED; OR

21 (2) OCTOBER 1, 1998.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1996 contingent upon the inclusion of funds, as certified by the Department of
24 Fiscal Services to the Director of the Department of Legislative Reference, in a
25 supplemental budget for Fiscal Year 1997, in an amount sufficient to fund the
26 disproportionate share payment created by this Act. If sufficient funds are not so
27 included in a supplemental budget, this Act shall be null and void without the necessity of
28 further action by the General Assembly.