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**By: Senators Bromwell, Blount, Hoffman, and Hafer**

Introduced and read first time: January 24, 1997

Assigned to: Finance

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A BILL ENTITLED

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

11 BY adding to

12 Article - Health - General  
13 Section 15-117.1  
14 Annotated Code of Maryland  
15 (1994 Replacement Volume and 1996 Supplement)

16 Preamble

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

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

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

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

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

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

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

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

9 **Article - Health - General**

10 15-117.1.

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

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

15 (3) "DISPROPORTIONATE SHARE PAYMENT" MEANS A PAYMENT OVER  
16 AND ABOVE THE PAYMENT PROVIDED UNDER THE MEDICAL ASSISTANCE NURSING  
17 FACILITY REIMBURSEMENT FORMULA THAT IS ALLOCATED IN ADDITION TO  
18 EXISTING MEDICAL ASSISTANCE REIMBURSEMENT FUNDS.

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

21 (5) "HEAVY SPECIAL LEVEL OF CARE" MEANS REQUIRING ASSISTANCE  
22 WITH ALL FIVE ACTIVITIES OF DAILY LIVING AND REQUIRING ONE ADDITIONAL  
23 SPECIAL SERVICE.

24 (6) "MEDICAL ASSISTANCE PATIENT" MEANS A NURSING FACILITY  
25 PATIENT WHOSE PRIMARY PAYOR IS THE MARYLAND MEDICAL ASSISTANCE  
26 PROGRAM OR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND MEDICARE.

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

30 (B) (1) THE DEPARTMENT SHALL PROVIDE A DISPROPORTIONATE SHARE  
31 PAYMENT TO A NURSING HOME FACILITY THAT IN ANY FISCAL YEAR PROVIDES AT  
32 LEAST 80% OF ITS NON-MEDICARE PATIENT DAYS TO MEDICAL ASSISTANCE  
33 PATIENTS IF AT LEAST 20% OF THOSE PATIENT DAYS OF SERVICE ARE PROVIDED TO  
34 MEDICAL ASSISTANCE PATIENTS WHO ARE CLASSIFIED AT THE HEAVY LEVEL OF  
35 CARE OR HEAVY SPECIAL LEVEL OF CARE.

36 (2) THE DISPROPORTIONATE SHARE PAYMENT SHALL BE EQUAL TO  
37 THE LESSER OF:

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

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1 (II) THE DIFFERENCE BETWEEN THE NURSING FACILITY'S  
2 MEDICAL ASSISTANCE RATE AND THE AMOUNT THE NURSING FACILITY WOULD BE  
3 PAID UNDER THE MEDICAL ASSISTANCE REIMBURSEMENT METHODOLOGY IF THE  
4 BUDGETARY REDUCTIONS IMPLEMENTED IN FISCAL YEAR 1991 AND SUBSEQUENT  
5 YEARS WERE RESCINDED.

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

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

13 (2) OCTOBER 1, 1999.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 1997 contingent upon the inclusion of funds, as certified by the Department of  
16 Fiscal Services to the Director of the Department of Legislative Reference, in a  
17 supplemental budget for Fiscal Year 1998, in an amount sufficient to fund the  
18 disproportionate share payment created by this Act. If sufficient funds are not so  
19 included in a supplemental budget, this Act shall be null and void without the necessity of  
20 further action by the General Assembly.