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SB 395/96 - FIN

1997 Regular Session
7lr1970

By: Senators Bromwell, Blount, Hoffman, and Hafer

Introduced and read first time: January 24, 1997

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 1997

CHAPTER ____

1 AN ACT concerning

2 ~~Maryland Medical Assistance Program - Nursing Facilities - Disproportionate Share~~
3 ~~Payment~~ Payments to Nursing Facilities with High Medical Assistance Utilization

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; providing a certain exception
8 under certain circumstances; defining certain terms; making this Act contingent on
9 a supplemental budget appropriation; providing for the termination of this Act;
10 establishing a certain restriction on the appropriation of certain funds unless a
11 certain amount of those funds is targeted for a certain purpose; and generally
12 relating to requiring the Department of Health and Mental Hygiene to make
13 specified payments to certain nursing facilities.

14 BY adding to

15 Article - Health - General

16 Section 15-117.1

17 Annotated Code of Maryland

18 (1994 Replacement Volume and 1996 Supplement)

19 Preamble

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

2

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

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

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

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

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

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

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

19 **Article - Health - General**

20 15-117.1.

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

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

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

29 ~~(4) "HEAVY LEVEL OF CARE" MEANS REQUIRING ASSISTANCE WITH ALL~~
30 ~~FIVE ACTIVITIES OF DAILY LIVING.~~

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

34 ~~(6) (4) "MEDICAL ASSISTANCE PATIENT" MEANS A NURSING FACILITY~~
35 ~~PATIENT WHOSE PRIMARY PAYOR IS THE MARYLAND MEDICAL ASSISTANCE~~
36 ~~PROGRAM OR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND MEDICARE.~~

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

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

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

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

10 (II) THE DIFFERENCE BETWEEN THE NURSING FACILITY'S
11 MEDICAL ASSISTANCE RATE AND THE AMOUNT THE NURSING FACILITY WOULD BE
12 PAID UNDER THE MEDICAL ASSISTANCE REIMBURSEMENT METHODOLOGY IF THE
13 BUDGETARY REDUCTIONS IMPLEMENTED ~~IN FISCAL YEAR 1991 AND SUBSEQUENT~~
14 ~~YEARS~~ THROUGH TEMPORARY PAYMENT PARAMETER REDUCTIONS IN MEDICAL
15 ASSISTANCE PROGRAM REGULATIONS WERE RESCINDED.

16 (3) IF SUFFICIENT FUNDS ARE NOT AVAILABLE IN THE STATE BUDGET
17 TO SUPPORT THE ENTIRE DISPROPORTIONATE PAYMENT REQUIRED IN PARAGRAPH
18 (2) OF THIS SUBSECTION, ANY DISPROPORTIONATE SHARE PAYMENT TO NURSING
19 HOME FACILITIES THAT SATISFY THE REQUIREMENTS OF PARAGRAPH (1) OF THIS
20 SUBSECTION MAY BE HELD TO MEET THE REQUIREMENTS OF THIS SECTION.

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

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

28 (2) OCTOBER 1, 1999.

29 SECTION 2. AND BE IT FURTHER ENACTED, That no funds may be
30 appropriated in a supplemental budget for enhancement of Medical Assistance rates paid
31 to nursing homes unless at least one-half of those funds are targeted to the
32 disproportionate share payment created by this Act.

33 ~~SECTION 2- 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997 contingent upon the inclusion of funds, as certified by the Department of
35 Fiscal Services to the Director of the Department of Legislative Reference, in a
36 supplemental budget for Fiscal Year 1998, ~~in an amount sufficient to fund~~ targeted for
37 the disproportionate share payment created by this Act. If ~~sufficient~~ funds are not so
38 included in a supplemental budget, this Act shall be null and void without the necessity of
39 further action by the General Assembly.

