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By: **Chairman, Environmental Matters Committee (Departmental - Health and Mental Hygiene)**

Introduced and read first time: January 20, 1999

Assigned to: Environmental Matters

Reassigned: Appropriations, January 26, 1999

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Developmental Disabilities - State Plan - Private Community-Based**  
3 **Services - Billing Rate Appeals**

4 FOR the purpose of ~~repealing~~ altering a certain administrative appeals process for  
5 certain providers or groups of providers of certain community-based services to  
6 individuals with developmental disabilities; providing that certain funds shall  
7 not revert to the General Fund and shall remain available for a certain purpose;  
8 requiring that a certain process start at the end of the 1999 fiscal year; and  
9 generally relating to private community-based services for individuals with  
10 developmental disabilities.

11 BY repealing and reenacting, with amendments,  
12 Article - Health - General  
13 Section 7-306.1  
14 Annotated Code of Maryland  
15 (1994 Replacement Volume and 1998 Supplement)

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

18 **Article - Health - General**

19 7-306.1.

20 (a) The Administration shall develop and implement a funding system for the  
21 distribution of State funds to private providers that are under contract with the

1 Administration to provide community-based services to individuals with disability in  
2 accordance with the State plan.

3 (B) FUNDS RECEIVED FOR SERVICES THAT ARE FEE-FOR-SERVICE OR THAT  
4 HAVE RATES SET BY REGULATION SHALL BE SUBJECT TO RECOVERY BY THE  
5 ADMINISTRATION ONLY FOR THE FOLLOWING PURPOSES:

6 (1) CLIENT ATTENDANCE;

7 (2) CLIENT FEES; OR

8 (3) SANCTIONS ALLOWED THROUGH REGULATIONS.

9 ~~(b)~~ ~~{(1)}~~ (C) (1) Under the funding system developed under subsection (a) of  
10 this section, the Administration shall notify each private provider at least 30 days  
11 before the beginning of the fiscal year of the billing rate or amount of funds to be paid  
12 to the provider for the provision of community-based services to an individual with  
13 developmental disability or a group of individuals with developmental disability for  
14 the coming fiscal year.

15 ~~{(2)}~~ (i) A private provider may request an administrative resolution of  
16 a billing rate set under paragraph (1) of this subsection EXCEPT FOR RATES SET IN  
17 REGULATION.

18 (ii) Within 60 days after receipt of the provider's request, the  
19 Administration shall make a decision on the request for an administrative resolution.

20 (iii) If an administrative resolution cannot be reached between the  
21 provider and the Administration, the provider may request an evidentiary hearing or  
22 an oral hearing in accordance with regulations of the Department.}

23 ~~(c)~~ (D) Subject to the provisions of subsections (d), (e), and (f) of this section,  
24 the Administration shall provide payment to private providers for the services  
25 provided from the funds designated in subsection (b) of this section in accordance  
26 with the following payment schedule:

27 (1) On or before the third business day of the fiscal quarter beginning  
28 July 1, 33% of the total annual amount to be paid to the provider;

29 (2) On or before the third business day of the fiscal quarter beginning  
30 October 1, 25% of the total annual amount to be paid to the provider;

31 (3) On or before the third business day of the fiscal quarter beginning  
32 January 1, 25% of the total annual amount to be paid to the provider; and

33 (4) On or before the third business day of the fiscal quarter beginning  
34 April 1, 17% of the total annual amount to be paid to the provider.

35 ~~(d)~~ (E) The Administration may deviate from the payment schedule provided  
36 under subsection (c) of this section for any provider:

1 (1) That is reimbursed through the ~~prospective~~ FEE payment system and  
 2 fails to submit properly completed program attendance reports within 15 days of the  
 3 beginning of each month; or

4 (2) That provides services under the medical assistance program and  
 5 fails to submit the designated forms used by the medical assistance program to claim  
 6 federal fund participation within 30 days after the end of each month.

7 ~~(e)~~ (F) A deviation from the payment schedule as provided under subsection  
 8 (d) of this section may occur only if the Administration has:

9 (1) Advised the provider that:

10 (i) An attendance report which has been submitted on time is in  
 11 need of correction; or

12 (ii) A designated medical assistance form which has been submitted  
 13 on time is in need of correction;

14 (2) Allowed the provider at least 5 working days to resubmit or correct  
 15 the report or form; and

16 (3) Not in any way contributed to the delay of or error on a report or  
 17 form.

18 ~~(f)~~ (G) The amount of a reduction of payments to a provider pursuant to  
 19 subsections (d) and (e) of this section may not exceed the amount of lost federal  
 20 revenue attributable to the delay or error.

21 ~~(g)~~ (H) The Administration:

22 (1) Shall place sufficient funds in a specially designated account with the  
 23 Office of the Comptroller to meet its financial obligations under subsection (c) of this  
 24 section;

25 (2) Shall disburse funds from the account in accordance with the  
 26 payment schedule provided in subsection (c) of this section; ~~and~~

27 (3) May not use the funds in the account for any other purpose except for  
 28 the purpose of reimbursing private providers for the provision of community-based  
 29 services to individuals with developmental disability-;

30 (4) WITHIN 1 YEAR AFTER RECEIPT OF THE REPORT SHALL RECONCILE  
 31 A PRIVATE PROVIDER'S YEAR-END REPORT AND SHALL PROVIDE WRITTEN  
 32 APPROVAL OF A YEAR-END REPORT OR A WRITTEN EXPLANATION OF THE ITEMS IN  
 33 DISPUTE; AND

34 (5) SHALL INITIATE AN AUDIT OF EACH PRIVATE PROVIDER EVERY 4  
 35 YEARS.

1 (I) THE ADMINISTRATION SHALL ACCEPT AS FINAL THE PRIVATE PROVIDER'S  
2 YEAR-END REPORT IF:

3 (1) THE ADMINISTRATION FAILS TO PROVIDE WRITTEN APPROVAL OR A  
4 WRITTEN EXPLANATION OF THE ITEMS IN DISPUTE WITHIN 1 YEAR AFTER  
5 RECEIVING THE REPORT; OR

6 (2) THE ADMINISTRATION FAILS TO RECONCILE THE YEAR-END REPORT  
7 WITHIN 1 YEAR AFTER RECEIVING THE REPORT.

8 (J) IF THE ADMINISTRATION FAILS TO INITIATE AN AUDIT OF A PRIVATE  
9 PROVIDER AS REQUIRED IN SUBSECTION (H)(5) OF THIS SECTION, THE  
10 ADMINISTRATION MAY NOT AUDIT THE PRIVATE PROVIDER FOR ANY FISCAL YEAR  
11 THAT BEGAN MORE THAN 48 MONTHS BEFORE THE ADMINISTRATION'S  
12 NOTIFICATION OF AUDIT, UNLESS THE ADMINISTRATION SUSPECTS FRAUD OR  
13 MISAPPROPRIATION OF FUNDS.

14 (K) PRIVATE PROVIDERS SHALL PROVIDE THE YEAR-END REPORT TO THE  
15 ADMINISTRATION NO LATER THAN 6 MONTHS AFTER THE END OF THE STATE FISCAL  
16 YEAR.

17 SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding any  
18 other provision of law, for fiscal year 2000, general funds appropriated in connection  
19 with the Waiting List Initiative within the Developmental Disabilities Administration  
20 of the Department of Health and Mental Hygiene that remain unexpended at the end  
21 of the fiscal year shall not revert to the General Fund and shall remain available for  
22 expenditure on the Waiting List Initiative in the subsequent fiscal year.

23 SECTION 3. AND BE IT FURTHER ENACTED, That the process established  
24 by this Act for the Developmental Disabilities Administration review of private  
25 provider submitted year-end reports, begin with the reports required at the end of  
26 the 1999 fiscal year.

27 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take  
28 effect ~~October~~ July 1, 1999.