

SENATE BILL 782

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2000 Regular Session
0lr2013
CF 0lr2380

By: **Senators Kelley, Lawlah, Sfikas, Forehand, Exum, McFadden, Mitchell,
and Hughes**

Introduced and read first time: February 4, 2000

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medicaid Reimbursement Rates Fairness Act of 2000**

3 FOR the purpose of providing for the adjustment of fee for service reimbursement
4 rates for the Medicaid Program; requiring the Department of Health and Mental
5 Hygiene to require Medicaid managed care organizations to report provider
6 satisfaction with reimbursement rates annually; requiring the Department to
7 ensure that reimbursement rates are adequate, reflect certain rates, and are
8 adjusted annually; requiring the Department to establish the Medical
9 Assistance Reimbursement Expert Panel; establishing the duties of the Medical
10 Assistance Reimbursement Expert Panel; establishing the membership of the
11 Medical Assistance Reimbursement Expert Panel and providing for its
12 appointment, terms, and chair, and reimbursement; requiring the Medical
13 Assistance Reimbursement Expert Panel to submit a report to the Governor and
14 to the General Assembly on its finding and recommendations; and generally
15 relating to the Medicaid reimbursement rates.

16 BY repealing and reenacting, with amendments,
17 Article - Health - General
18 Section 15-102.1(b)(8)
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1999 Supplement)

21 BY adding to
22 Article - Health - General
23 Section 15-103(b)(29)
24 Annotated Code of Maryland
25 (1994 Replacement Volume and 1999 Supplement)

26 Preamble

27 WHEREAS, Medicaid fee-for-service reimbursement rates are established by
28 regulations and are tied to the American Medical Association's Current Procedural
29 Terminology (CPT) codes - codes for procedures used by all providers - so that years,

1 possibly decades, go by before the Department of Health and Mental Hygiene reviews
2 or increases a fee-for-service rate; and

3 WHEREAS, Prior to the enactment of HealthChoice, a very small percentage of
4 the moneys in the Medicaid program was spent on fee-for-service reimbursement for
5 professional services and since the enactment of HealthChoice, an even smaller
6 percentage of the Medicaid program has been spent on fee-for-service
7 reimbursement; and

8 WHEREAS, Maryland's 5-year budget neutrality ceiling is tied to a formula
9 using "upper payment limits", and an increase in Maryland's fee-for-service rates
10 could improve the State's future federal funding; and

11 WHEREAS, Maryland values its children, its future, as much as it values its
12 elder citizens, yet we allow Medicaid to pay vastly less - 1/2 to 1/3 of the rate - that
13 we pay providers to care for seniors; and

14 WHEREAS, The General Assembly recently carved out of the HealthChoice
15 program services for children with special health care needs for physical therapy,
16 occupational therapy, and speech therapy that are reimbursed at a fee-for-service
17 rate; and

18 WHEREAS, Audiology services also carved out of the HealthChoice program are
19 reimbursed at a rate for a hearing aid and for the service for fitting the device below
20 the market cost of the device and of the service; and

21 WHEREAS, The Advisory Council for the Rare and Expensive Case
22 Management Program (REM) recently agreed to continue the REM program, but the
23 children in the REM program, who are the most disabled and vulnerable in the
24 Medicaid program, are unable to access these services because specialty providers are
25 leaving the REM program due to unacceptably low reimbursement rates; and

26 WHEREAS, A recent survey of the American Academy of Pediatrics published
27 the 100 most often used CPT codes by the Medicaid program nationwide, and the
28 Maryland Medicaid reimbursement rate was substantially less than the average in
29 the south Atlantic states, the U.S. average, and the reimbursement rate used for the
30 Medicare program - often 1/2 to 1/3 lower than the scientifically based Medicare rate;
31 now, therefore,

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

34 **Article - Health - General**

35 15-102.1.

36 (b) The Department shall, to the extent permitted, subject to the limitations of
37 the State budget:

1 (8) Seek to provide appropriate levels of reimbursement for providers to
2 encourage greater participation by providers in the Program[;] BY:

3 (I) ANNUALLY ADOPTING REGULATIONS TO ADJUST THE
4 FEE-FOR-SERVICE REIMBURSEMENT RATES FOR THE PROGRAM TO REFLECT THE
5 RECOMMENDATIONS OF THE MEDICAL ASSISTANCE REIMBURSEMENT EXPERT
6 PANEL ESTABLISHED UNDER § 15-103 OF THIS SUBTITLE;

7 (II) ANNUALLY REQUIRING THE REPORTING BY MANAGED CARE
8 ORGANIZATIONS ON PROVIDER SATISFACTION WITH REIMBURSEMENT RATES
9 THROUGH A MECHANISM ESTABLISHED BY THE MEDICAL ASSISTANCE
10 REIMBURSEMENT EXPERT PANEL; AND

11 (III) ENSURING THAT REIMBURSEMENT RATES PAID BY THE
12 MANAGED CARE ORGANIZATIONS AND FEE-FOR-SERVICE RATES PAID BY THE
13 PROGRAM:

14 1. ARE ADEQUATE AND REFLECT SIMILAR RATES PAID IN
15 THE COMMUNITY; AND

16 2. ARE ANNUALLY ADJUSTED TO REFLECT THE NATIONAL
17 AND STATE MEDICAL INFLATION RATE;

18 15-103.

19 (b) (29) (I) THE DEPARTMENT SHALL ESTABLISH THE MEDICAL
20 ASSISTANCE REIMBURSEMENT EXPERT PANEL.

21 (II) THE PURPOSE OF THE MEDICAL ASSISTANCE REIMBURSEMENT
22 EXPERT PANEL IS TO:

23 1. PROVIDE TECHNICAL EXPERTISE TO THE DEPARTMENT;

24 2. ANNUALLY IDENTIFY THE CURRENT PROCEDURAL
25 TERMINOLOGY CODES UTILIZED IN THE PROGRAM FOR THOSE RECIPIENTS IN THE
26 PROGRAM WHOSE SERVICES ARE PAID ON A FEE-FOR-SERVICE BASIS AND CARVED
27 OUT OF THE MEDICAID MANAGED CARE PROGRAM, INCLUDING, BUT NOT LIMITED
28 TO, THE SPECIAL NEEDS CHILDREN WHO:

29 A. ARE IN THE RARE AND EXPENSIVE CASE MANAGEMENT
30 PROGRAM; OR

31 B. RECEIVE AUDIOLOGY SERVICES OR SERVICES FOR
32 PHYSICAL THERAPY, OCCUPATIONAL THERAPY, OR SPEECH THERAPY;

33 3. ANNUALLY IDENTIFY THE CURRENT PROCEDURAL
34 TERMINOLOGY CODES THAT ARE MOST OFTEN USED BY THE PROGRAM IN THE
35 STATE AND NATIONWIDE;

1 4. ENSURE THAT EVERY CURRENT PROCEDURAL
2 TERMINOLOGY CODE UTILIZED BY THE PROGRAM IS REVIEWED AND THAT AN
3 APPROPRIATE REIMBURSEMENT RATE IS RECOMMENDED BY JULY 1:

4 A. ANNUALLY FOR THOSE CURRENT PROCEDURAL
5 TERMINOLOGY CODES IDENTIFIED IN ITEMS 2 AND 3 OF THIS ITEM; AND

6 B. A MINIMUM OF EVERY 3 YEARS FOR THE REMAINDER OF
7 THE CURRENT PROCEDURAL TERMINOLOGY CODES;

8 5. REVIEW AVAILABLE INFORMATION ON CURRENT
9 REIMBURSEMENT RATES PAID ON A FEE-FOR-SERVICE BASIS BY COMMERCIAL
10 CARRIERS;

11 6. REVIEW THE RESOURCE BASED RELATIVE VALUE SCALE
12 (RBRVS) SYSTEM UTILIZED BY THE MEDICARE PROGRAM AND MAKE
13 RECOMMENDATIONS TO THE SECRETARY ON THE ADVISABILITY OF EMPLOYING
14 THAT SYSTEM FOR REIMBURSEMENT RATES FOR THE MARYLAND MEDICAL
15 ASSISTANCE PROGRAM;

16 7. ENSURE THAT THE REIMBURSEMENT RATES
17 RECOMMENDED:

18 A. REFLECT ADEQUATE REIMBURSEMENT RATES IN
19 DIFFERING GEOGRAPHIC AREAS;

20 B. REFLECT A SCIENTIFIC BASIS, SUCH AS THE RESOURCE
21 BASED RELATIVE VALUE SCALE SYSTEM DEVELOPED FOR MEDICARE;

22 C. REFLECT THE NATIONAL AND STATE MEDICAL INFLATION
23 RATE; AND

24 D. WILL ENSURE PROVIDER PARTICIPATION IN THE
25 PROGRAM; AND

26 8. THROUGH PROVIDER SURVEYS OR OTHER MEANS,
27 ESTABLISH A MECHANISM TO ASCERTAIN PROVIDER SATISFACTION WITH
28 FEE-FOR-SERVICE OR CAPITATION REIMBURSEMENT RATES PAID BY THE MANAGED
29 CARE ORGANIZATIONS AND REPORT ON THIS LEVEL OF SATISFACTION ANNUALLY TO
30 THE SECRETARY.

31 (III) THE MEDICAL ASSISTANCE REIMBURSEMENT EXPERT PANEL
32 CONSISTS OF 11 MEMBERS.

33 (IV) OF THE 11 MEMBERS OF THE PANEL:

34 1. ONE SHALL BE A MEMBER OF THE MARYLAND MEDICAID
35 ADVISORY COMMITTEE WITH EXPERIENCE IN THIS AREA;

