

SENATE BILL 627

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2001 Regular Session
11r2113
CF 11r2662

By: **Senators Kelley, Conway, Currie, Frosh, Hafer, Hooper, Hughes,
Kasemeyer, Lawlah, Mitchell, Pinsky, Sfikas, and Teitelbaum**

Introduced and read first time: February 2, 2001

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Assistance and Children's Health Programs - Reimbursement Rates**
3 **Fairness Act of 2001**

4 FOR the purpose of providing for the adjustment of certain fee-for-service
5 reimbursement rates for the Medical Assistance and Children's Health
6 Programs; requiring the Department of Health and Mental Hygiene to adopt
7 certain regulations; requiring the Department to identify certain Current
8 Procedural Terminology (CPT) codes at a certain frequency; requiring the
9 Department to ensure the review of certain CPT codes and the recommendation
10 of certain reimbursement rates at certain times; requiring the Department to
11 identify certain reimbursement rates for certain CPT codes; and generally
12 relating to reimbursement rates under the Medical Assistance and Children's
13 Health Programs.

14 BY repealing and reenacting, with amendments,
15 Article - Health - General
16 Section 15-102.1(b)(8)
17 Annotated Code of Maryland
18 (2000 Replacement Volume)

19 BY adding to
20 Article - Health - General
21 Section 15-303.1
22 Annotated Code of Maryland
23 (2000 Replacement Volume)

24 Preamble

25 WHEREAS, Fee-for-service reimbursement rates under the Medical Assistance
26 and Children's Health Programs are tied to the American Medical Association's
27 Current Procedural Terminology (CPT) codes used by all health care providers; and

1 WHEREAS, The fee-for-service reimbursement rates are established by
2 regulation, and thus, years, possibly decades, may go by before the Department of
3 Health and Mental Hygiene reviews or increases a fee-for-service rate; and

4 WHEREAS, No other procedure exists for review and updating of these rates;
5 and

6 WHEREAS, Prior to the enactment of HealthChoice, a very small percentage of
7 the funds was spent on fee-for-service reimbursement for professional physician
8 services, and since the enactment of HealthChoice, an even smaller percentage has
9 been spent on fee-for-service physician reimbursement; and

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

13 WHEREAS, Maryland values its children and their future as much as it values
14 its elder citizens, yet, as reported by the Center for Health Policy Development at
15 University of Maryland at Baltimore County to the Medicaid Advisory Committee, we
16 allow the Medical Assistance and Children's Health Programs to pay one-third of the
17 rate that we pay providers to care for seniors; and

18 WHEREAS, Children in the Rare and Expensive Case Management (REM)
19 Program, who are the most disabled and vulnerable in the Medical Assistance and
20 Children's Health Programs, are unable to access services because specialty providers
21 are leaving, and will continue to leave, the REM Program due to unacceptably low
22 reimbursement rates; and

23 WHEREAS, A recent survey of the American Academy of Pediatrics published
24 the 100 most often used CPT codes by the Medical Assistance Program nationwide,
25 and the Maryland reimbursement rate was substantially less than the average in the
26 south Atlantic states, the U.S. average, and the reimbursement rate used for the
27 Medicare program - often one-half to one-third lower than the scientifically based
28 Medicare rate; now, therefore,

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

31 **Article - Health - General**

32 15-102.1.

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

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

37 (I) ADOPTING REGULATIONS TO ADJUST THE FEE-FOR-SERVICE
38 REIMBURSEMENT RATES FOR THE PROGRAM TO REFLECT, AT A MINIMUM, THE

1 RESOURCE-BASED RELATIVE VALUE SCALE REIMBURSEMENT RATE USED TO
2 REIMBURSE PROVIDERS IN THE MEDICARE PROGRAM, IF THAT REIMBURSEMENT
3 RATE IS AVAILABLE FOR A GIVEN CURRENT PROCEDURAL TERMINOLOGY CODE;

4 (II) ANNUALLY IDENTIFYING THE CURRENT PROCEDURAL
5 TERMINOLOGY CODES UTILIZED IN THE PROGRAM FOR THOSE PROGRAM
6 RECIPIENTS WHOSE SERVICES ARE PAID ON A FEE-FOR-SERVICE BASIS AND CARVED
7 OUT OF THE MEDICAID MANAGED CARE PROGRAM, INCLUDING SPECIAL NEEDS
8 CHILDREN WHO:

9 1. ARE IN THE RARE AND EXPENSIVE CASE MANAGEMENT
10 PROGRAM; OR

11 2. RECEIVE AUDIOLOGY SERVICES OR SERVICES FOR
12 PHYSICAL THERAPY, OCCUPATIONAL THERAPY, OR SPEECH THERAPY;

13 (III) ANNUALLY IDENTIFY THE CURRENT PROCEDURAL
14 TERMINOLOGY CODES THAT ARE MOST OFTEN USED BY THE PROGRAM IN THE
15 STATE AND NATIONWIDE;

16 (IV) ENSURING THAT EVERY CURRENT PROCEDURAL
17 TERMINOLOGY CODE UTILIZED BY THE PROGRAM IS REVIEWED AND THAT AN
18 APPROPRIATE REIMBURSEMENT RATE, NO LESS THAN THE RESOURCE-BASED
19 RELATIVE VALUE SCALE UTILIZED FOR THE MEDICARE PROGRAM, IS
20 RECOMMENDED BY JULY 1:

21 1. ANNUALLY FOR THOSE CURRENT PROCEDURAL
22 TERMINOLOGY CODES IDENTIFIED UNDER ITEMS (II) AND (III) OF THIS ITEM; AND

23 2. A MINIMUM OF EVERY 3 YEARS FOR THE REMAINDER OF
24 THE CURRENT PROCEDURAL TERMINOLOGY CODES; AND

25 (V) FOR THOSE CURRENT PROCEDURAL TERMINOLOGY CODES
26 WITHOUT A RESOURCE-BASED RELATIVE SCALE REIMBURSEMENT RATE,
27 IDENTIFYING ADEQUATE REIMBURSEMENT RATES THAT REFLECT SIMILAR RATES
28 PAID IN THE COMMUNITY AND NATIONAL AND STATE INFLATION RATES.

29 15-303.1.

30 THE DEPARTMENT SHALL, TO THE EXTENT PERMITTED, SUBJECT TO THE
31 LIMITATIONS OF THE STATE BUDGET, SEEK TO PROVIDE APPROPRIATE LEVELS OF
32 REIMBURSEMENT FOR PROVIDERS TO ENCOURAGE GREATER PARTICIPATION BY
33 PROVIDERS IN THE MARYLAND CHILDREN'S HEALTH PROGRAM (MCHP) BY:

34 (1) ADOPTING REGULATIONS TO ADJUST THE FEE-FOR-SERVICE
35 REIMBURSEMENT RATES FOR THE MCHP TO REFLECT, AT A MINIMUM, THE
36 RESOURCE-BASED RELATIVE VALUE SCALE REIMBURSEMENT RATE USED TO
37 REIMBURSE PROVIDERS IN THE MEDICARE PROGRAM, IF THAT REIMBURSEMENT
38 RATE IS AVAILABLE FOR A GIVEN CURRENT PROCEDURAL TERMINOLOGY CODE;

1 (2) ANNUALLY IDENTIFYING THE CURRENT PROCEDURAL
2 TERMINOLOGY CODES UTILIZED IN THE MCHP FOR THOSE ELIGIBLE INDIVIDUALS
3 WHOSE SERVICES ARE PAID ON A FEE-FOR-SERVICE BASIS AND CARVED OUT OF THE
4 MCHP MANAGED CARE PROGRAM, INCLUDING SPECIAL NEEDS CHILDREN WHO:

5 (I) ARE IN THE RARE AND EXPENSIVE CASE MANAGEMENT
6 PROGRAM; OR

7 (II) RECEIVE AUDIOLOGY SERVICES OR SERVICES FOR PHYSICAL
8 THERAPY, OCCUPATIONAL THERAPY, OR SPEECH THERAPY;

9 (3) ANNUALLY IDENTIFYING THE CURRENT PROCEDURAL
10 TERMINOLOGY CODES THAT ARE MOST OFTEN USED BY THE MCHP IN THE STATE
11 AND NATIONWIDE;

12 (4) ENSURING THAT EVERY CURRENT PROCEDURAL TERMINOLOGY
13 CODE UTILIZED BY THE MCHP IS REVIEWED AND THAT AN APPROPRIATE
14 REIMBURSEMENT RATE, NO LESS THAN THE RESOURCE-BASED RELATIVE VALUE
15 SCALE UTILIZED FOR THE MEDICARE PROGRAM, IS RECOMMENDED BY JULY 1:

16 (I) ANNUALLY FOR THOSE CURRENT PROCEDURAL TERMINOLOGY
17 CODES IDENTIFIED UNDER ITEMS (2) AND (3) OF THIS SECTION; AND

18 (II) A MINIMUM OF EVERY 3 YEARS FOR THE REMAINDER OF THE
19 CURRENT PROCEDURAL TERMINOLOGY CODES; AND

20 (5) FOR THOSE CURRENT PROCEDURAL TERMINOLOGY CODES WITHOUT
21 A RESOURCE-BASED RELATIVE SCALE REIMBURSEMENT RATE, IDENTIFYING
22 ADEQUATE REIMBURSEMENT RATES THAT REFLECT SIMILAR RATES PAID IN THE
23 COMMUNITY AND NATIONAL AND STATE INFLATION RATES.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2001.