

SENATE BILL 627

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2001 Regular Session  
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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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Medical Assistance Program and Maryland Children's Health**  
3 **Programs Program - Reimbursement Rates 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~~ establish a certain  
12 process to annually set fee-for-service reimbursement rates for certain  
13 programs in a manner that ensures participation of providers, taking certain  
14 systems into consideration; requiring the Department to submit a certain report  
15 to the Governor and to certain standing committees of the General Assembly in  
16 a certain manner by a certain date; and generally relating to reimbursement  
17 rates under the Maryland Medical Assistance Program and Maryland Children's  
18 Health Programs Program.

19 ~~BY repealing and reenacting, with amendments,~~  
20 ~~Article Health General~~  
21 ~~Section 15-102.1(b)(8)~~  
22 ~~Annotated Code of Maryland~~  
23 ~~(2000 Replacement Volume)~~

24 ~~BY adding to~~

1 ~~Article Health General~~  
2 ~~Section 15-303.1~~  
3 ~~Annotated Code of Maryland~~  
4 ~~(2000 Replacement Volume)~~

5 **Preamble**

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

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

12 ~~WHEREAS, No other procedure exists for review and updating of these rates;~~  
13 ~~and~~

14 ~~WHEREAS, Prior to the enactment of HealthChoice, a very small percentage of~~  
15 ~~the funds was spent on fee for service reimbursement for professional physician~~  
16 ~~services, and since the enactment of HealthChoice, an even smaller percentage has~~  
17 ~~been spent on fee-for-service physician reimbursement; and~~

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

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

26 ~~WHEREAS, Children in the Rare and Expensive Case Management (REM)~~  
27 ~~Program, who are the most disabled and vulnerable in the Medical Assistance and~~  
28 ~~Children's Health Programs, are unable to access services because specialty providers~~  
29 ~~are leaving, and will continue to leave, the REM Program due to unacceptably low~~  
30 ~~reimbursement rates; and~~

31 ~~WHEREAS, A recent survey of the American Academy of Pediatrics published~~  
32 ~~the 100 most often used CPT codes by the Medical Assistance Program nationwide,~~  
33 ~~and the Maryland reimbursement rate was substantially less than the average in the~~  
34 ~~south Atlantic states, the U.S. average, and the reimbursement rate used for the~~  
35 ~~Medicare program—often one-half to one-third lower than the scientifically-based~~  
36 ~~Medicare rate; now, therefore,~~

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

1 ~~Article—Health—General~~

2 ~~15-102.1-~~

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

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

7 (I) ~~ADOPTING REGULATIONS TO ADJUST THE FEE-FOR-SERVICE~~  
8 ~~REIMBURSEMENT RATES FOR THE PROGRAM TO REFLECT, AT A MINIMUM, THE~~  
9 ~~RESOURCE-BASED RELATIVE VALUE SCALE REIMBURSEMENT RATE USED TO~~  
10 ~~REIMBURSE PROVIDERS IN THE MEDICARE PROGRAM, IF THAT REIMBURSEMENT~~  
11 ~~RATE IS AVAILABLE FOR A GIVEN CURRENT PROCEDURAL TERMINOLOGY CODE;~~

12 (II) ~~ANNUALLY IDENTIFYING THE CURRENT PROCEDURAL~~  
13 ~~TERMINOLOGY CODES UTILIZED IN THE PROGRAM FOR THOSE PROGRAM~~  
14 ~~RECIPIENTS WHOSE SERVICES ARE PAID ON A FEE-FOR-SERVICE BASIS AND CARVED~~  
15 ~~OUT OF THE MEDICAID MANAGED CARE PROGRAM, INCLUDING SPECIAL NEEDS~~  
16 ~~CHILDREN WHO:~~

17 1. ~~ARE IN THE RARE AND EXPENSIVE CASE MANAGEMENT~~  
18 ~~PROGRAM; OR~~

19 2. ~~RECEIVE AUDIOLOGY SERVICES OR SERVICES FOR~~  
20 ~~PHYSICAL THERAPY, OCCUPATIONAL THERAPY, OR SPEECH THERAPY;~~

21 (III) ~~ANNUALLY IDENTIFY THE CURRENT PROCEDURAL~~  
22 ~~TERMINOLOGY CODES THAT ARE MOST OFTEN USED BY THE PROGRAM IN THE~~  
23 ~~STATE AND NATIONWIDE;~~

24 (IV) ~~ENSURING THAT EVERY CURRENT PROCEDURAL~~  
25 ~~TERMINOLOGY CODE UTILIZED BY THE PROGRAM IS REVIEWED AND THAT AN~~  
26 ~~APPROPRIATE REIMBURSEMENT RATE, NO LESS THAN THE RESOURCE-BASED~~  
27 ~~RELATIVE VALUE SCALE UTILIZED FOR THE MEDICARE PROGRAM, IS~~  
28 ~~RECOMMENDED BY JULY 1;~~

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

31 2. ~~A MINIMUM OF EVERY 3 YEARS FOR THE REMAINDER OF~~  
32 ~~THE CURRENT PROCEDURAL TERMINOLOGY CODES; AND~~

33 (V) ~~FOR THOSE CURRENT PROCEDURAL TERMINOLOGY CODES~~  
34 ~~WITHOUT A RESOURCE-BASED RELATIVE SCALE REIMBURSEMENT RATE,~~  
35 ~~IDENTIFYING ADEQUATE REIMBURSEMENT RATES THAT REFLECT SIMILAR RATES~~  
36 ~~PAID IN THE COMMUNITY AND NATIONAL AND STATE INFLATION RATES.~~

1 ~~15-303.1.~~

2 ~~THE DEPARTMENT SHALL, TO THE EXTENT PERMITTED, SUBJECT TO THE~~  
3 ~~LIMITATIONS OF THE STATE BUDGET, SEEK TO PROVIDE APPROPRIATE LEVELS OF~~  
4 ~~REIMBURSEMENT FOR PROVIDERS TO ENCOURAGE GREATER PARTICIPATION BY~~  
5 ~~PROVIDERS IN THE MARYLAND CHILDREN'S HEALTH PROGRAM (MCHP) BY:~~

6 ~~(1) ADOPTING REGULATIONS TO ADJUST THE FEE FOR SERVICE~~  
7 ~~REIMBURSEMENT RATES FOR THE MCHP TO REFLECT, AT A MINIMUM, THE~~  
8 ~~RESOURCE-BASED RELATIVE VALUE SCALE REIMBURSEMENT RATE USED TO~~  
9 ~~REIMBURSE PROVIDERS IN THE MEDICARE PROGRAM, IF THAT REIMBURSEMENT~~  
10 ~~RATE IS AVAILABLE FOR A GIVEN CURRENT PROCEDURAL TERMINOLOGY CODE;~~

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

15 ~~(I) ARE IN THE RARE AND EXPENSIVE CASE MANAGEMENT~~  
16 ~~PROGRAM; OR~~

17 ~~(II) RECEIVE AUDIOLOGY SERVICES OR SERVICES FOR PHYSICAL~~  
18 ~~THERAPY, OCCUPATIONAL THERAPY, OR SPEECH THERAPY;~~

19 ~~(3) ANNUALLY IDENTIFYING THE CURRENT PROCEDURAL~~  
20 ~~TERMINOLOGY CODES THAT ARE MOST OFTEN USED BY THE MCHP IN THE STATE~~  
21 ~~AND NATIONWIDE;~~

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

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

28 ~~(II) A MINIMUM OF EVERY 3 YEARS FOR THE REMAINDER OF THE~~  
29 ~~CURRENT PROCEDURAL TERMINOLOGY CODES; AND~~

30 ~~(5) FOR THOSE CURRENT PROCEDURAL TERMINOLOGY CODES WITHOUT~~  
31 ~~A RESOURCE-BASED RELATIVE SCALE REIMBURSEMENT RATE, IDENTIFYING~~  
32 ~~ADEQUATE REIMBURSEMENT RATES THAT REFLECT SIMILAR RATES PAID IN THE~~  
33 ~~COMMUNITY AND NATIONAL AND STATE INFLATION RATES.~~

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
35 MARYLAND, That:

36 (a) The Department of Health and Mental Hygiene shall:

1           (1)     establish a process to annually set the fee-for-service reimbursement  
2 rates for the Maryland Medical Assistance Program and the Maryland Children's  
3 Health Program in a manner that ensures participation of providers; and

4           (2)     in developing the process required under item (1) of this subsection,  
5 consider:

6                   (i)     a reimbursement system that reflects reimbursement  
7 fee-for-service rates paid in the community as well as annual medical inflation; or

8                   (ii)    the Resource Based Relative Value Scale system used in the  
9 federal Medicare program.

10   (b)     On or before September 1, 2001, the Department shall submit a report to  
11 the Governor and, in accordance with § 2-1246 of the State Government Article, to  
12 the Senate Finance Committee, the Senate Budget and Taxation Committee, the  
13 House Environmental Matters Committee, and the House Appropriations Committee  
14 on:

15           (1)     its progress in complying with subsection (a) of this section;

16           (2)     an analysis of the fee-for-service reimbursement rates paid in other  
17 states and how those rates compare with those in Maryland;

18           (3)     its schedule for bringing Maryland's fee-for-service reimbursement  
19 rates to a level that assures access to care; and

20           (4)     an analysis on the estimated costs of implementing the schedule and  
21 any proposed changes to the fee-for-service reimbursement rates for the Maryland  
22 Medical Assistance Program and the Maryland Children's Health Program.

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