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By: **Delegates Hammen, Baldwin, Barve, Billings, Boutin, Branch, Cole, D. Davis, Dypski, Frush, Harrison, Hubbard, Hubers, Klausmeier, Krysiak, Malone, McHale, Mohorovic, Morhaim, Nathan-Pulliam, Owings, Ports, Redmer, Rosenberg, Sher, Shriver, and Stern**

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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 29, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Medicaid Reimbursement - Community-Based Services for Children with**  
3 **Disabilities**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to apply  
5 to the Centers for Medicare and Medicaid Services (CMS) of the United States  
6 Department of Health and Human Services for an amendment to the State  
7 Medical Assistance Program to allow the Department to receive federal  
8 matching funds for certain targeted case management work; requiring the  
9 Department to apply to CMS for an amendment to the State Medical Assistance  
10 Program to allow the Department to receive certain federal matching funds for  
11 the nonroom-and-board portion of certain residential care costs; requiring that  
12 ~~certain federal funds received by State or local departments or agencies may not~~  
13 ~~revert to the General Fund of the State, but shall be transferred to the Governor~~  
14 include certain funds in the budget under certain conditions for the Subcabinet  
15 for Children, Youth, and Families Resource Fund to create a certain interagency  
16 pool; requiring that the interagency pool created under this Act be used to  
17 provide certain community-based services and community-based out-of-home  
18 placements needed by certain children with mental or developmental  
19 disabilities; requiring the Office of Children, Youth, and Families to adopt  
20 certain regulations; requiring certain departments or agencies having care,  
21 custody, or commitment of children in certain residential programs to pay for the  
22 State's cost of the residential program through reimbursement to the  
23 Department within a certain time period; declaring the intent of the General  
24 Assembly regarding the impact of this Act on certain federal matching funds;  
25 and generally relating to community-based services for children with

1 disabilities.

2 BY adding to

3 Article - Health - General

4 Section 15-134

5 Annotated Code of Maryland

6 (2000 Replacement Volume and 2001 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Health - General**

10 15-134.

11 (A) ON OR BEFORE OCTOBER 1, 2002, THE DEPARTMENT SHALL APPLY TO THE  
12 CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS) OF THE UNITED STATES  
13 DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR AN AMENDMENT TO THE  
14 STATE MEDICAL ASSISTANCE PROGRAM TO ALLOW THE DEPARTMENT TO RECEIVE  
15 FEDERAL MATCHING FUNDS FROM CMS FOR THE TARGETED CASE MANAGEMENT  
16 WORK PERFORMED BY EMPLOYEES OF THE DEPARTMENT OF JUVENILE JUSTICE  
17 AND THE DEPARTMENT OF HUMAN RESOURCES.

18 (B) ON OR BEFORE DECEMBER 1, 2002, THE DEPARTMENT SHALL SUBMIT AN  
19 APPLICATION TO CMS TO AMEND THE STATE MEDICAL ASSISTANCE PROGRAM TO  
20 ALLOW THE DEPARTMENT TO RECEIVE FEDERAL MATCHING FUNDS FOR THE  
21 NONROOM-AND-BOARD PORTION OF THE COSTS OF ALL ELIGIBLE RESIDENTIAL  
22 CARE PROVIDED BY STATE AND LOCAL AGENCIES THROUGH PUBLIC OR PRIVATE  
23 PROVIDERS TO INDIVIDUALS UNDER THE AGE OF 21 YEARS.

24 (C) THE APPLICATION SUBMITTED BY THE DEPARTMENT UNDER SUBSECTION  
25 (B) OF THIS SECTION:

26 (1) SHALL APPLY TO A RESIDENTIAL CARE PLACEMENT PROVIDING  
27 THERAPEUTIC OR REHABILITATIVE SERVICES IN ADDITION TO ROOM AND BOARD  
28 SERVICES TO AN INDIVIDUAL WHO IS:

29 (I) UNDER THE AGE OF 21 YEARS; AND

30 (II) IN THE CARE OR CUSTODY OF, COMMITTED TO, OR  
31 VOLUNTARILY PLACED BY ANY STATE OR LOCAL AGENCY IN THE STATE; AND

32 (2) SHALL INCLUDE PLACEMENTS IN:

33 (I) GROUP HOMES;

34 (II) THERAPEUTIC FOSTER HOMES OR PROVIDERS;

35 (III) ALTERNATIVE LIVING UNITS OR PROVIDERS;

- 1 (IV) RESPITE FACILITIES;
- 2 (V) SHELTERS;
- 3 (VI) CRISIS PROGRAMS;
- 4 (VII) INDEPENDENT LIVING PROGRAMS;
- 5 (VIII) SCHOOLS; OR
- 6 (IX) ANY OTHER RESIDENTIAL SETTING FOR WHICH THE STATE IS
- 7 NOT CURRENTLY RECEIVING FEDERAL MEDICAL ASSISTANCE MATCHING FUNDS
- 8 FOR THE NONROOM-AND-BOARD PORTION OF THE STATE MEDICAL ASSISTANCE
- 9 PROGRAM.

10 (D) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY~~

11 ~~FEDERAL MATCHING FUNDS RECEIVED BY ANY STATE OR LOCAL DEPARTMENT OR~~

12 ~~AGENCY UNDER SUBSECTION (A) OR (B) OF THIS SECTION, WHETHER SUBMITTED TO~~

13 ~~CMS BY THE DEPARTMENT BEFORE, ON, OR AFTER OCTOBER 1, 2002, MAY NOT~~

14 ~~REVERT TO THE GENERAL FUND OF THE STATE, BUT INSTEAD SHALL BE~~

15 ~~TRANSFERRED TO THE SUBCABINET FOR CHILDREN, YOUTH, AND FAMILIES~~

16 ~~RESOURCE FUND UNDER ARTICLE 49D OF THE CODE TO CREATE AN INTERAGENCY~~

17 ~~POOL OF FUNDS TO PROVIDE SERVICES TO CHILDREN WITH DISABILITIES.~~

18 ~~(2) ANY FEDERAL MATCHING FUNDS OVER \$6,000,000 RECEIVED BY THE~~

19 ~~DEPARTMENT OF HUMAN RESOURCES UNDER SUBSECTION (A) OF THIS SECTION~~

20 ~~MAY NOT REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL BE~~

21 ~~TRANSFERRED TO THE SUBCABINET FOR CHILDREN, YOUTH, AND FAMILIES~~

22 ~~RESOURCE FUND FOR THE SAME PURPOSE AS IN PARAGRAPH (1) OF THIS~~

23 ~~SUBSECTION FOR FISCAL YEAR 2004 AND EACH SUBSEQUENT FISCAL YEAR, THE~~

24 ~~GOVERNOR SHALL PROVIDE FUNDS IN THE BUDGET FOR THE SUBCABINET FOR~~

25 ~~CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND ESTABLISHED UNDER ARTICLE~~

26 ~~49D OF THE CODE IN AN AMOUNT EQUAL TO THE AMOUNT OF FEDERAL FUNDS IN~~

27 ~~EXCESS OF \$6,000,000 RECEIVED UNDER SUBSECTION (A) OR (B) OF THIS SECTION~~

28 ~~DURING THE MOST RECENTLY COMPLETED FISCAL YEAR.~~

29 (2) THE FUNDS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION

30 SHALL BE USED BY THE SUBCABINET TO CREATE AN INTERAGENCY POOL OF FUNDS

31 TO PROVIDE SERVICES TO CHILDREN WITH DISABILITIES.

32 (3) THE POOL OF INTERAGENCY FUNDS ESTABLISHED UNDER THIS

33 SUBSECTION SHALL BE USED TO FUND THE COMMUNITY-BASED SERVICES AND

34 COMMUNITY-BASED OUT-OF-HOME PLACEMENTS NEEDED BY CHILDREN WITH

35 MENTAL OR DEVELOPMENTAL DISABILITIES NOT IN STATE CUSTODY, REGARDLESS

36 OF ELIGIBILITY FOR THE STATE MEDICAL ASSISTANCE PROGRAM, IF:

37 (I) THE CHILD IS IN AN OUT-OF-HOME PLACEMENT AND HAS

38 BEEN RECOMMENDED FOR DISCHARGE BUT THE CHILD'S FAMILY IS UNWILLING OR

39 UNABLE TO HAVE THE CHILD RETURN HOME; OR

1 (II) THE CHILD REMAINS IN THE HOME BUT THE CHILD'S FAMILY IS  
2 UNABLE TO PROVIDE APPROPRIATE CARE FOR THE CHILD WITHOUT ADDITIONAL  
3 SERVICES AND THE CHILD IS EITHER AT RISK OF REQUIRING AN OUT-OF-HOME  
4 PLACEMENT OR THE TREATING PROFESSIONALS HAVE RECOMMENDED AN  
5 OUT-OF-HOME PLACEMENT.

6 (E) (1) THE GOVERNOR'S OFFICE FOR CHILDREN, YOUTH, AND FAMILIES  
7 SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF SUBSECTION (D)(3)  
8 OF THIS SECTION.

9 (2) THE REGULATIONS SHALL:

10 (I) INCLUDE THE CRITERIA FOR ELIGIBILITY AND FOR  
11 PRIORITIZATION OF ELIGIBLE CHILDREN; AND

12 (II) BE DEVELOPED WITH INPUT FROM PARENTS OF A CHILD WITH  
13 DISABILITIES, GROUPS REPRESENTING FAMILIES OF POTENTIALLY ELIGIBLE  
14 CHILDREN, ADVOCACY ORGANIZATIONS, THE PROTECTION AND ADVOCACY SYSTEM  
15 FOR PERSONS WITH DISABILITIES, PROVIDERS, LOCAL AGENCIES SERVING  
16 CHILDREN WITH DISABILITIES, AND SUBCABINET AGENCIES.

17 ~~(F) IF THE STATE'S APPLICATION FOR AN AMENDMENT TO THE STATE  
18 MEDICAL ASSISTANCE PROGRAM SUBMITTED UNDER SUBSECTION (B) OF THIS  
19 SECTION IS APPROVED BY CMS AND THE STATE'S SHARE OF THE COST OF EACH  
20 INDIVIDUAL'S RESIDENTIAL PROGRAM IS AFFECTED BY THE AMENDMENT, THEN  
21 THE DEPARTMENT OR AGENCY HAVING CARE, CUSTODY, OR COMMITMENT OF THE  
22 CHILD, OR THE AGENCY PROVIDING A VOLUNTARY PLACEMENT TO THE CHILD,  
23 SHALL PAY THE STATE'S SHARE THROUGH REIMBURSEMENT TO THE DEPARTMENT  
24 WITHIN 60 DAYS AFTER THE DEPARTMENT PAYS THE PROVIDER.~~

25 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
26 General Assembly that:

27 (1) nothing in this Act shall result in a reduction in federal matching  
28 funds available to the Department of Human Resources or the Department of  
29 Juvenile Justice for targeted case management or the nonroom-and-board costs of  
30 eligible residential care; and

31 (2) if, as a result of any actions taken under this Act, the federal  
32 matching funds available to the departments for these purposes are reduced when  
33 compared to the previous fiscal year, the Governor should include sufficient funds in  
34 the budget to ensure that funding for the departments for these purposes is at least  
35 equal to the amount provided during the previous fiscal year.

36 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take  
37 effect October 1, 2002.

