

HOUSE BILL 405

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2003 Regular Session
(3r1208)

ENROLLED BILL

-- Health and Government Operations/Finance --

Introduced by ~~Delegate Hammen~~ Delegates Hammen, Hurson, Rudolph, Oaks, Murray, Costa, Benson, Mandel, McDonough, Goldwater, Morhaim, Nathan-Pulliam, Elliott, Hubbard, Rosenberg, Pendergrass, Weldon, Bromwell, Haynes, Smigiel, Donoghue, V. Turner, and Boutin

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

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 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 certain federal
8 matching funds for part of the nonroom-and-board portion of certain residential
9 care costs; requiring that the Governor include certain funds in the budget
10 under certain conditions for the Subcabinet for Children, Youth, and Families
11 Resource Fund to create a certain interagency pool; requiring that the
12 interagency pool created under this Act be used to provide certain
13 community-based services and community-based out-of-home placements
14 needed by certain children with mental or developmental disabilities; requiring

1 the Office of Children, Youth, and Families to adopt certain regulations;
 2 providing that the Act is not intended to result in the reduction of certain federal
 3 funds; requiring the Department to monitor the status of the waiver application;
 4 providing for the termination of this Act under certain circumstances; and
 5 generally relating to community-based services for children with disabilities.

6 BY adding to
 7 Article - Health - General
 8 Section 15-136
 9 Annotated Code of Maryland
 10 (2000 Replacement Volume and 2002 Supplement)

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

13 **Article - Health - General**

14 15-136.

15 (A) ON OR BEFORE DECEMBER 1, 2003, THE DEPARTMENT SHALL SUBMIT AN
 16 APPLICATION TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES TO AMEND
 17 THE STATE MEDICAL ASSISTANCE PROGRAM TO ALLOW THE DEPARTMENT TO
 18 RECEIVE FEDERAL MATCHING FUNDS FOR PART OF THE NONROOM-AND-BOARD
 19 PORTION OF THE COSTS OF ALL ELIGIBLE RESIDENTIAL CARE THAT ARE RELATED
 20 TO THE THERAPEUTIC COMPONENTS OF CARE PROVIDED BY STATE AND LOCAL
 21 AGENCIES THROUGH PUBLIC OR PRIVATE PROVIDERS TO INDIVIDUALS UNDER THE
 22 AGE OF 21 YEARS.

23 (B) THE APPLICATION SUBMITTED BY THE DEPARTMENT UNDER SUBSECTION
 24 (A) OF THIS SECTION:

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

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

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

31 (2) SHALL INCLUDE PLACEMENTS IN: RESIDENTIAL PROGRAMS THAT
 32 HAVE RATES SET BY THE INTERAGENCY RATES COMMITTEE.

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 (C) (1) FOR FISCAL YEAR 2004 AND EACH SUBSEQUENT FISCAL YEAR, THE
11 GOVERNOR SHALL PROVIDE FUNDS IN THE BUDGET FOR THE SUBCABINET FOR THE
12 CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND ESTABLISHED UNDER ARTICLE
13 49D OF THE CODE IN AN AMOUNT EQUAL TO:

14 (I) THE AMOUNT OF FEDERAL FUNDS RECEIVED UNDER
15 SUBSECTION (A) OF THIS SECTION DURING THE MOST RECENTLY COMPLETED
16 FISCAL YEAR;

17 (II) LESS ANY ADMINISTRATIVE COSTS INCURRED BY THE
18 DEPARTMENT, THE DEPARTMENT OF JUVENILE JUSTICE, AND THE DEPARTMENT OF
19 HUMAN RESOURCES IN IMPLEMENTING THE PROGRAMS REQUIRED UNDER THIS
20 SECTION; AND

21 (III) SUBJECT TO ADJUSTMENT IN ACCORDANCE WITH SUBSECTION
22 (E) OF THIS SECTION.

23 (2) THE FUNDS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION
24 SHALL BE USED BY THE SUBCABINET FOR CHILDREN, YOUTH, AND FAMILIES TO
25 CREATE AN INTERAGENCY POOL OF FUNDS TO PROVIDE SERVICES TO CHILDREN
26 WITH DISABILITIES.

27 (3) THE POOL OF INTERAGENCY FUNDS ESTABLISHED UNDER THIS
28 SUBSECTION SHALL BE USED TO FUND THE COMMUNITY-BASED SERVICES AND
29 COMMUNITY-BASED OUT-OF-HOME PLACEMENTS NEEDED BY CHILDREN WITH
30 MENTAL OR DEVELOPMENTAL DISABILITIES NOT IN STATE CUSTODY, REGARDLESS
31 OF ELIGIBILITY FOR THE STATE MEDICAL ASSISTANCE PROGRAM, IF:

32 (I) THE CHILD IS IN AN OUT-OF-HOME PLACEMENT AND HAS
33 BEEN RECOMMENDED FOR DISCHARGE BUT THE CHILD'S FAMILY IS UNWILLING OR
34 UNABLE TO HAVE THE CHILD RETURN HOME; OR

35 (II) THE CHILD REMAINS IN THE HOME BUT THE CHILD'S FAMILY IS
36 UNABLE TO PROVIDE APPROPRIATE CARE FOR THE CHILD WITHOUT ADDITIONAL
37 SERVICES AND THE CHILD IS EITHER AT RISK OF REQUIRING AN OUT-OF-HOME

1 PLACEMENT OR THE TREATING PROFESSIONALS HAVE RECOMMENDED AN
2 OUT-OF-HOME PLACEMENT.

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

6 (2) THE REGULATIONS SHALL:

7 (I) INCLUDE THE CRITERIA FOR ELIGIBILITY AND FOR
8 PRIORITIZATION OF ELIGIBLE CHILDREN; AND

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

14 (E) (1) NOTHING IN THIS SECTION IS INTENDED TO RESULT IN THE
15 REDUCTION OF FEDERAL FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN
16 RESOURCES OR THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF THE
17 SOCIAL SECURITY ACT FOR THE ROOM AND BOARD COSTS OF ELIGIBLE RESIDENTIAL
18 CARE.

19 (2) IF, AS A RESULT OF ACTIONS TAKEN UNDER THIS SECTION, THE
20 FEDERAL MATCHING FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN
21 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF
22 THE SOCIAL SECURITY ACT ARE REDUCED BECAUSE THE PERCENTAGE OF
23 RESIDENTIAL CARE COSTS ALLOCATED TO TITLE IV-E IS REDUCED, THE GOVERNOR
24 SHALL ADJUST THE AMOUNT OF FUNDS PROVIDED UNDER SUBSECTION (C) OF THIS
25 SECTION TO PREVENT ANY RESULTING LOSS TO THE DEPARTMENT OF HUMAN
26 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE.

27 (3) THE ADJUSTMENT OF FUNDS UNDER PARAGRAPH (2) OF THIS
28 SUBSECTION SHALL BE BASED ON DETERMINING THE AMOUNT OF TITLE IV-E
29 REIMBURSEMENT THAT WOULD HAVE BEEN RECEIVED BY THE DEPARTMENT OF
30 HUMAN RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE PRIOR TO
31 OCTOBER 1, 2003 USING THE CURRENT PERCENTAGE OF RESIDENTIAL CARE COSTS
32 THAT IS ALLOCATED TO TITLE IV-E.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
34 Health and Mental Hygiene shall monitor the status of the application for a waiver
35 amendment from the Centers for Medicare and Medicaid Services applied for in
36 accordance with § 15-136 of the Health - General Article as enacted by Section 1 of
37 this Act. The Department, within 5 working days of the date of the approval or denial
38 of the waiver amendment, shall notify the Department of Legislative Services, in
39 writing, at 90 State Circle, Annapolis, Maryland, 21401. If the waiver amendment is
40 denied by the Centers for Medicare and Medicaid Services, at the end of the date on
41 which the Department of Legislative Services receives notice of the denial, with no

1 further action required by the General Assembly, this Act shall be abrogated and of no
2 further force and effect.

3 SECTION ~~2-3~~. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2003.