

HOUSE BILL 405

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2003 Regular Session
3r1208
CF 3r1347

By: **Delegate Hammen**

Introduced and read first time: February 5, 2003

Assigned to: Health and Government Operations

A BILL ENTITLED

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 the nonroom-and-board portion of certain residential care
9 costs; requiring that the Governor include certain funds in the budget under
10 certain conditions for the Subcabinet for Children, Youth, and Families Resource
11 Fund to create a certain interagency pool; requiring that the interagency pool
12 created under this Act be used to provide certain community-based services and
13 community-based out-of-home placements needed by certain children with
14 mental or developmental disabilities; requiring the Office of Children, Youth,
15 and Families to adopt certain regulations; providing that the Act is not intended
16 to result in the reduction of certain federal funds; and generally relating to
17 community-based services for children with disabilities.

18 BY adding to
19 Article - Health - General
20 Section 15-136
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2002 Supplement)

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

25 **Article - Health - General**

26 15-136.

27 (A) ON OR BEFORE DECEMBER 1, 2003, THE DEPARTMENT SHALL SUBMIT AN
28 APPLICATION TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES TO AMEND
29 THE STATE MEDICAL ASSISTANCE PROGRAM TO ALLOW THE DEPARTMENT TO
30 RECEIVE FEDERAL MATCHING FUNDS FOR THE NONROOM-AND-BOARD PORTION OF

1 THE COSTS OF ALL ELIGIBLE RESIDENTIAL CARE PROVIDED BY STATE AND LOCAL
2 AGENCIES THROUGH PUBLIC OR PRIVATE PROVIDERS TO INDIVIDUALS UNDER THE
3 AGE OF 21 YEARS.

4 (B) THE APPLICATION SUBMITTED BY THE DEPARTMENT UNDER SUBSECTION
5 (A) OF THIS SECTION:

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

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

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

12 (2) SHALL INCLUDE PLACEMENTS IN:

13 (I) GROUP HOMES;

14 (II) THERAPEUTIC FOSTER HOMES OR PROVIDERS;

15 (III) ALTERNATIVE LIVING UNITS OR PROVIDERS;

16 (IV) RESPITE FACILITIES;

17 (V) SHELTERS;

18 (VI) CRISIS PROGRAMS;

19 (VII) INDEPENDENT LIVING PROGRAMS;

20 (VIII) SCHOOLS; OR

21 (IX) ANY OTHER RESIDENTIAL SETTING FOR WHICH THE STATE IS
22 NOT CURRENTLY RECEIVING FEDERAL MEDICAL ASSISTANCE MATCHING FUNDS
23 FOR THE NONROOM-AND-BOARD PORTION OF THE STATE MEDICAL ASSISTANCE
24 PROGRAM.

25 (C) (1) FOR FISCAL YEAR 2004 AND EACH SUBSEQUENT FISCAL YEAR, THE
26 GOVERNOR SHALL PROVIDE FUNDS IN THE BUDGET FOR THE SUBCABINET FOR THE
27 CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND ESTABLISHED UNDER ARTICLE
28 49D OF THE CODE IN AN AMOUNT EQUAL TO THE AMOUNT OF FEDERAL FUNDS
29 RECEIVED UNDER SUBSECTION (A) OF THIS SECTION DURING THE MOST RECENTLY
30 COMPLETED FISCAL YEAR, SUBJECT TO ADJUSTMENT IN ACCORDANCE WITH
31 SUBSECTION (E) OF THIS SECTION.

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

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

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

9 (II) THE CHILD REMAINS IN THE HOME BUT THE CHILD'S FAMILY IS
10 UNABLE TO PROVIDE APPROPRIATE CARE FOR THE CHILD WITHOUT ADDITIONAL
11 SERVICES AND THE CHILD IS EITHER AT RISK OF REQUIRING AN OUT-OF-HOME
12 PLACEMENT OR THE TREATING PROFESSIONALS HAVE RECOMMENDED AN
13 OUT-OF-HOME PLACEMENT.

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

17 (2) THE REGULATIONS SHALL:

18 (I) INCLUDE THE CRITERIA FOR ELIGIBILITY AND FOR
19 PRIORITIZATION OF ELIGIBLE CHILDREN; AND

20 (II) BE DEVELOPED WITH INPUT FROM PARENTS OF A CHILD WITH
21 DISABILITIES, GROUPS REPRESENTING FAMILIES OF POTENTIALLY ELIGIBLE
22 CHILDREN, ADVOCACY ORGANIZATIONS, THE PROTECTION AND ADVOCACY SYSTEM
23 FOR PERSONS WITH DISABILITIES, PROVIDERS, LOCAL AGENCIES SERVING
24 CHILDREN WITH DISABILITIES, AND SUBCABINET AGENCIES.

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

30 (2) IF, AS A RESULT OF ACTIONS TAKEN UNDER THIS SECTION, THE
31 FEDERAL MATCHING FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN
32 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF
33 THE SOCIAL SECURITY ACT ARE REDUCED BECAUSE THE PERCENTAGE OF
34 RESIDENTIAL CARE COSTS ALLOCATED TO TITLE IV-E IS REDUCED, THE GOVERNOR
35 SHALL ADJUST THE AMOUNT OF FUNDS PROVIDED UNDER SUBSECTION (C) OF THIS
36 SECTION TO PREVENT ANY RESULTING LOSS TO THE DEPARTMENT OF HUMAN
37 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE.

38 (3) THE ADJUSTMENT OF FUNDS UNDER PARAGRAPH (2) OF THIS
39 SUBSECTION SHALL BE BASED ON DETERMINING THE AMOUNT OF TITLE IV-E
40 REIMBURSEMENT THAT WOULD HAVE BEEN RECEIVED BY THE DEPARTMENT OF
41 HUMAN RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE PRIOR TO

1 OCTOBER 1, 2003 USING THE CURRENT PERCENTAGE OF RESIDENTIAL CARE COSTS
2 THAT IS ALLOCATED TO TITLE IV-E.

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