

HOUSE BILL 405

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2003 Regular Session  
3r1208  
CF 3r1347

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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

Introduced and read first time: February 5, 2003  
Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 7, 2003

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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 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  
15 the Office of Children, Youth, and Families to adopt certain regulations;  
16 providing that the Act is not intended to result in the reduction of certain federal  
17 funds; and generally relating to community-based services for children with  
18 disabilities.

19 BY adding to  
20 Article - Health - General  
21 Section 15-136  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume and 2002 Supplement)

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

3 **Article - Health - General**

4 15-136.

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

13 (B) THE APPLICATION SUBMITTED BY THE DEPARTMENT UNDER SUBSECTION  
14 (A) OF THIS SECTION:

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

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

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

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

23 ~~(I) GROUP HOMES;~~

24 ~~(II) THERAPEUTIC FOSTER HOMES OR PROVIDERS;~~

25 ~~(III) ALTERNATIVE LIVING UNITS OR PROVIDERS;~~

26 ~~(IV) RESPITE FACILITIES;~~

27 ~~(V) SHELTERS;~~

28 ~~(VI) CRISIS PROGRAMS;~~

29 ~~(VII) INDEPENDENT LIVING PROGRAMS;~~

30 ~~(VIII) SCHOOLS; OR~~

31 ~~(IX) ANY OTHER RESIDENTIAL SETTING FOR WHICH THE STATE IS~~  
32 ~~NOT CURRENTLY RECEIVING FEDERAL MEDICAL ASSISTANCE MATCHING FUNDS~~  
33 ~~FOR THE NONROOM AND BOARD PORTION OF THE STATE MEDICAL ASSISTANCE~~  
34 ~~PROGRAM.~~

1 (C) (1) FOR FISCAL YEAR 2004 AND EACH SUBSEQUENT FISCAL YEAR, THE  
2 GOVERNOR SHALL PROVIDE FUNDS IN THE BUDGET FOR THE SUBCABINET FOR THE  
3 CHILDREN, YOUTH, AND FAMILIES RESOURCE FUND ESTABLISHED UNDER ARTICLE  
4 49D OF THE CODE IN AN AMOUNT EQUAL TO:

5 (I) THE AMOUNT OF FEDERAL FUNDS RECEIVED UNDER  
6 SUBSECTION (A) OF THIS SECTION DURING THE MOST RECENTLY COMPLETED  
7 FISCAL YEAR;

8 (II) LESS ANY ADMINISTRATIVE COSTS INCURRED BY THE  
9 DEPARTMENT, THE DEPARTMENT OF JUVENILE JUSTICE, AND THE DEPARTMENT OF  
10 HUMAN RESOURCES IN IMPLEMENTING THE PROGRAMS REQUIRED UNDER THIS  
11 SECTION; AND

12 (III) SUBJECT TO ADJUSTMENT IN ACCORDANCE WITH SUBSECTION  
13 (E) OF THIS SECTION.

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

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

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

26 (II) THE CHILD REMAINS IN THE HOME BUT THE CHILD'S FAMILY IS  
27 UNABLE TO PROVIDE APPROPRIATE CARE FOR THE CHILD WITHOUT ADDITIONAL  
28 SERVICES AND THE CHILD IS EITHER AT RISK OF REQUIRING AN OUT-OF-HOME  
29 PLACEMENT OR THE TREATING PROFESSIONALS HAVE RECOMMENDED AN  
30 OUT-OF-HOME PLACEMENT.

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

34 (2) THE REGULATIONS SHALL:

35 (I) INCLUDE THE CRITERIA FOR ELIGIBILITY AND FOR  
36 PRIORITIZATION OF ELIGIBLE CHILDREN; AND

37 (II) BE DEVELOPED WITH INPUT FROM PARENTS OF A CHILD WITH  
38 DISABILITIES, GROUPS REPRESENTING FAMILIES OF POTENTIALLY ELIGIBLE  
39 CHILDREN, ADVOCACY ORGANIZATIONS, THE PROTECTION AND ADVOCACY SYSTEM

1 FOR PERSONS WITH DISABILITIES, PROVIDERS, LOCAL AGENCIES SERVING  
2 CHILDREN WITH DISABILITIES, AND SUBCABINET AGENCIES.

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

8 (2) IF, AS A RESULT OF ACTIONS TAKEN UNDER THIS SECTION, THE  
9 FEDERAL MATCHING FUNDS AVAILABLE TO THE DEPARTMENT OF HUMAN  
10 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE UNDER TITLE IV-E OF  
11 THE SOCIAL SECURITY ACT ARE REDUCED BECAUSE THE PERCENTAGE OF  
12 RESIDENTIAL CARE COSTS ALLOCATED TO TITLE IV-E IS REDUCED, THE GOVERNOR  
13 SHALL ADJUST THE AMOUNT OF FUNDS PROVIDED UNDER SUBSECTION (C) OF THIS  
14 SECTION TO PREVENT ANY RESULTING LOSS TO THE DEPARTMENT OF HUMAN  
15 RESOURCES AND THE DEPARTMENT OF JUVENILE JUSTICE.

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

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