
By: **Chairman, Finance Committee (By Request - Departmental - Health and Mental Hygiene)**

Introduced and read first time: January 27, 2003

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Developmentally Disabled Individuals - Medical Assistance and Other**
3 **Services - Eligibility**

4 FOR the purpose of requiring individuals with developmental disabilities to apply for
5 medical assistance and certain services; prohibiting the Developmental
6 Disabilities Administration from using certain funds for certain services under
7 certain circumstances; requiring certain State general funds to be used only to
8 provide community-based initiatives for certain developmentally disabled
9 individuals after a certain date; requiring certain federal funds to be retained by
10 the Department of Health and Mental Hygiene for certain usage; and generally
11 relating to services provided to individuals with developmental disabilities.

12 BY repealing and reenacting, with amendments,
13 Article - Health - General
14 Section 7-306.1, 7-403, and 7-404
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2002 Supplement)

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

19 **Article - Health - General**

20 7-306.1.

21 (a) (1) The Administration shall develop and implement a funding system
22 for the distribution of State funds to private providers that [are under contract]
23 HAVE A PROVIDER AGREEMENT with the Administration to provide
24 community-based services to individuals with disability in accordance with the State
25 plan.

26 (2) UNDER THE FUNDING SYSTEM DEVELOPED AND IMPLEMENTED
27 UNDER PARAGRAPH (1) OF THIS SUBSECTION, STATE GENERAL FUNDS THAT ARE NOT

1 MATCHED BY FEDERAL FUNDS SHALL ONLY BE USED TO PROVIDE
2 COMMUNITY-BASED SERVICES INITIATED AFTER OCTOBER 1, 2003 FOR:

3 (I) INDIVIDUALS WHO ARE NOT ELIGIBLE FOR MEDICAL
4 ASSISTANCE PROGRAM SERVICES UNDER THIS ARTICLE; OR

5 (II) SERVICES THAT ARE NOT AVAILABLE UNDER A MEDICAL
6 ASSISTANCE PROGRAM UNDER THIS ARTICLE.

7 (b) Funds received for services that are fee-for-service or that have rates set
8 by regulation shall be subject to recovery by the Administration only for the following
9 purposes:

10 (1) Client attendance;

11 (2) Client fees; or

12 (3) Sanctions allowed through regulations.

13 (c) (1) Under the funding system developed under subsection (a) of this
14 section, the Administration shall notify each private provider at least 30 days before
15 the beginning of the fiscal year of the billing rate or amount of funds to be paid to the
16 provider for the provision of community-based services to an individual with
17 developmental disability or a group of individuals with developmental disability for
18 the coming fiscal year.

19 (2) For rates that are set in regulation, the Administration shall include
20 the cost centers used to determine the funding amount of each rate.

21 (3) (i) A private provider may request an administrative resolution of
22 a billing rate set under paragraph (1) of this subsection except for rates set in
23 regulation.

24 (ii) Within 60 days after receipt of the provider's request, the
25 Administration shall make a decision on the request for an administrative resolution.

26 (iii) If an administrative resolution cannot be reached between the
27 provider and the Administration, the provider may request an evidentiary hearing or
28 an oral hearing in accordance with regulations of the Department.

29 (d) Subject to the provisions of subsections (e), (f), and (g) of this section, the
30 Administration shall provide payment to private providers for the services provided
31 from the funds designated in subsection (c) of this section in accordance with the
32 following payment schedule:

33 (1) On or before the third business day of the fiscal quarter beginning
34 July 1, 33% of the total annual amount to be paid to the provider;

35 (2) On or before the third business day of the fiscal quarter beginning
36 October 1, 25% of the total annual amount to be paid to the provider;

1 (3) On or before the third business day of the fiscal quarter beginning
2 January 1, 25% of the total annual amount to be paid to the provider; and

3 (4) On or before the third business day of the fiscal quarter beginning
4 April 1, 17% of the total annual amount to be paid to the provider.

5 (e) The Administration may deviate from the payment schedule provided
6 under subsection (d) of this section for any provider:

7 (1) That is reimbursed through the fee payment system and fails to
8 submit properly completed program attendance reports within 15 days of the
9 beginning of each month;

10 (2) That provides services under the medical assistance program and
11 fails to submit the designated forms used by the medical assistance program to claim
12 federal fund participation within 30 days after the end of each month; or

13 (3) That fails to submit a cost report for rate-based payment systems or
14 wage surveys as required under subsection [(k)] (L) of this section.

15 (f) A deviation from the payment schedule as provided under subsection (e) of
16 this section may occur only if the Administration has:

17 (1) Advised the provider that:

18 (i) An attendance report which has been submitted on time is in
19 need of correction;

20 (ii) A designated medical assistance form which has been submitted
21 on time is in need of correction;

22 (iii) A cost report for rate-based payment systems has not been
23 submitted within 6 months from the close of the fiscal year or, if submitted, is in need
24 of correction; or

25 (iv) A wage survey requested under subsection [(l)] (M) of this
26 section has not been submitted by the later of 60 days from the date of receipt of the
27 request or within 60 days after the last day of the pay period for which the data was
28 requested or, if submitted, is in need of correction.

29 (2) Allowed the provider at least 5 working days to submit, resubmit or
30 correct the report or form; and

31 (3) Not in any way contributed to the delay of or error on a report or
32 form.

33 (g) The amount of a reduction of payments to a provider pursuant to
34 subsections (e) and (f) of this section may not:

35 (1) Exceed the amount of lost federal revenue attributable to the delay or
36 error; or

1 (2) In the case of cost reports for rate-based payment systems or wage
2 surveys, exceed \$500 per day per report for each day the report is not submitted past
3 the given due date or corrected.

4 (h) The Administration:

5 (1) Shall place sufficient funds in a specially designated account with the
6 Office of the Comptroller to meet its financial obligations under subsection (d) of this
7 section;

8 (2) Shall disburse funds from the account in accordance with the
9 payment schedule provided in subsection (d) of this section;

10 (3) May not use the funds in the account for any other purpose except for
11 the purpose of reimbursing private providers for the provision of community-based
12 services to individuals with developmental disability;

13 (4) MAY NOT USE NONMATCHED STATE GENERAL FUNDS FOR ANY
14 PERIOD IN WHICH FEDERAL MATCHING FUNDS ARE AVAILABLE FOR AN INDIVIDUAL
15 RECEIVING SERVICES.

16 [(4)] (5) Within 1 year after receipt of a private provider's year-end
17 report and cost report for rate-based payment systems, shall reconcile the report and
18 shall provide the provider with a written approval of the report or a written
19 explanation of any items in dispute; and

20 [(5)] (6) Shall conduct an audit of each private provider every 4 years.

21 (I) ANY ADDITIONAL FUNDS GENERATED BY AN INCREASE IN FEDERAL
22 FINANCIAL PARTICIPATION SHALL BE RETAINED WITHIN THE BUDGET OF THE
23 DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR PROGRAMMATIC USAGE FOR
24 INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

25 [(i)] (J) The Administration shall accept as final the private provider's
26 year-end report and cost report for rate-based payment systems if:

27 (1) The Administration fails to provide written approval or a written
28 explanation of any items in dispute within 1 year after receiving the report; or

29 (2) The Administration fails to reconcile the year-end report and cost
30 report for rate-based payment systems within 1 year after receiving the report.

31 [(j)] (K) If the Administration fails to conduct an audit of a private provider as
32 required in subsection [(h)(5)] (H)(6) of this section, the Administration may not audit
33 the private provider for any fiscal year that began more than 48 months before the
34 Administration's notification of audit, unless the Administration suspects fraud or
35 misappropriation of funds.

36 [(k)] (L) Private providers shall provide the year-end report to the
37 Administration no later than 6 months after the end of the State fiscal year.

- 1 [(1)] (M) Private providers shall submit to the Administration:
- 2 (1) Cost reports for rate-based payment systems no later than 6 months
3 after the end of the State fiscal year; and
- 4 (2) Wage surveys by the later of:
- 5 (i) 60 days after the last day of the pay period for which the data is
6 requested; or
- 7 (ii) 60 days after receipt of a request from the Administration for
8 wage survey information.
- 9 7-403.
- 10 (a) An applicant for services provided or funded, wholly or partly, by this State
11 shall submit an application to the Department in writing. The application shall
12 contain the information that the Department requires.
- 13 (b) Within 60 days after the Department receives an application for services
14 for an individual, the Secretary, on the basis of the application, shall:
- 15 (1) Determine whether there is a reasonable likelihood that the
16 individual:
- 17 (i) Has developmental disability; or
- 18 (ii) Does not have developmental disability, but may be eligible for
19 individual support services under subsection (c) of this section; and
- 20 (2) If a positive determination is made under item (i) or (ii) of paragraph
21 (1) of this subsection:
- 22 (i) Approve the application;
- 23 (ii) Determine the nature of the disability;
- 24 (iii) Determine the nature of services that the individual may
25 require;
- 26 (iv) Determine the type of environment in which any needed
27 services could be provided with the least restriction on the liberty of the individual;
- 28 (v) Determine what types of evaluations, if any, the individual
29 requires;
- 30 (vi) Inform the individual of these determinations; and
- 31 (vii) Inform the individual that these determinations are
32 preliminary and may be subject to modification as a result of further evaluation.

1 (C) TO BE ELIGIBLE FOR SERVICES PROVIDED BY THE ADMINISTRATION, AN
2 INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY SHALL APPLY FOR MEDICAL
3 ASSISTANCE UNDER THE PROGRAM ESTABLISHED UNDER TITLE 15 OF THIS ARTICLE
4 AND, WHEN APPROPRIATE, AS DETERMINED BY THE DEPARTMENT, SERVICES
5 FUNDED BY THE HOME AND COMMUNITY-BASED WAIVER UNDER § 15-132 OF THIS
6 ARTICLE:

7 (1) IF POSSIBLE, BEFORE THE INITIATION OF SERVICES; OR

8 (2) NO LATER THAN 30 DAYS AFTER THE INITIATION OF SERVICES.

9 [(c)] (D) To be eligible for individual support services, an individual shall have
10 a severe chronic disability that:

11 (1) Is attributable to a physical or mental impairment, other than the
12 sole diagnosis of mental illness, or to a combination of mental and physical
13 impairments; and

14 (2) Is likely to continue indefinitely.

15 [(d)] (E) If the Secretary determines, based on the application, that the
16 individual has a sole diagnosis of mental disorder, the Secretary shall refer the
17 individual to the Mental Hygiene Administration.

18 7-404.

19 (a) Before an individual whose application for services has been approved by
20 the Secretary is accepted for services, the individual is required to receive an
21 evaluation in accordance with the rules and regulations adopted under § 7-401(a)(1)
22 of this subtitle.

23 (b) The Secretary may not accept an individual for services unless the results
24 of the evaluation are that the individual:

25 (1) Has developmental disability; or

26 (2) Does not have developmental disability, but does meet the eligibility
27 requirements for individual support services.

28 (c) (1) From among the individuals whose applications for services have
29 been approved and who have been found eligible for services as a result of the
30 required evaluation, the Secretary shall determine in accordance with the rules and
31 regulations adopted under § 7-401(a)(2) and (3) of this subtitle the nature, extent,
32 and timing of the services to be provided to individuals.

33 (2) In making a determination under paragraph (1) of this subsection,
34 the Secretary shall consider:

35 (i) The results of the required evaluation;

36 (ii) The needs of the individual; and

1 (iii) The needs of the family unit of the applicant.

2 (3) AN INDIVIDUAL MAY NOT ACCESS SERVICES THAT ARE FUNDED BY
3 NONMATCHED STATE GENERAL FUNDS IF THE SAME SERVICES CAN BE FUNDED
4 UNDER THE MEDICAL ASSISTANCE PROGRAM, INCLUDING THE HOME AND
5 COMMUNITY-BASED WAIVER PROGRAM.

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