
By: **Delegate Benson**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Care Services Improvement and Reimbursement Rate**
3 **Commission**

4 FOR the purpose of establishing a Maryland Home Care Services Improvement and
5 Reimbursement Rate Commission; specifying the membership of the
6 Commission; providing for the designation of the chair and vice chair of the
7 Commission; prohibiting a member of the Commission from receiving
8 compensation; authorizing a member of the Commission to receive
9 reimbursement for certain expenses; specifying the powers and duties of the
10 Commission; specifying the authority of the Secretary of Health and Mental
11 Hygiene in regard to the Commission; requiring the Commission to submit
12 certain reports to certain persons; providing that the findings and
13 recommendations of the Commission shall be considered in the development of
14 the budgets of certain agencies; requiring certain departments and the
15 Governor's office to respond to certain recommendations of the Commission in
16 writing; providing that the Commission has access to certain information;
17 providing that the Commission may not reduce the hours of personal care
18 services provided to a consumer below a certain amount; defining certain terms;
19 and generally relating to the Maryland Home Care Services Improvement and
20 Reimbursement Rate Commission.

21 BY adding to
22 Article - Health - General
23 Section 13-2101 through 13-2113, inclusive, to be under the new subtitle
24 "Subtitle 21. Maryland Home Care Services Improvement and
25 Reimbursement Rate Commission"
26 Annotated Code of Maryland
27 (2000 Replacement Volume and 2004 Supplement)

28 Preamble

29 WHEREAS, The State of Maryland has a responsibility to ensure that home and
30 community-based services for the frail elderly and individuals with disabilities are of
31 high quality and comply with all laws and regulations; and

1 WHEREAS, Securing the future of long-term care is among the greatest
2 challenges facing the State; and

3 WHEREAS, Many consumers prefer to receive long-term care services in the
4 home and community setting; and

5 WHEREAS, High quality home and community-based service programs give
6 seniors, individuals with disabilities, and the families of seniors and individuals with
7 disabilities a greater choice in determining the setting of long-term care; and

8 WHEREAS, Home and community-based services are less costly than nursing
9 homes; and

10 WHEREAS, There have been profound changes in the nature and scope of home
11 and community-based services within the past decade, with more changes certain to
12 come in the future; and

13 WHEREAS, There is a growing shortage of qualified individuals to provide
14 home care services in the State, and Maryland's Task Force on Personal Care in 1999
15 found "a documented problem in securing and retaining quality care givers"; and

16 WHEREAS, The General Assembly is concerned that reimbursement rates for
17 home and community-based service providers funded by the Department of Health
18 and Mental Hygiene to serve the frail elderly and individuals with disabilities may
19 not be adequate to retain high quality home care workers; and

20 WHEREAS, The lack of ability to retain high quality home care workers leads to
21 high turnover rates, instability, and lower quality of home care services; and

22 WHEREAS, The State budget has not provided a cost-of-living adjustment for
23 the majority of Personal Care Program providers since 1986; and

24 WHEREAS, There has been no change in the levels of certain reimbursement
25 rates since 1986; and

26 WHEREAS, Consumers are well served by properly funded programs that
27 support self-direction, individual autonomy, dignity, and choice; now, therefore,

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

30 **Article - Health - General**

31 **SUBTITLE 21. MARYLAND HOME CARE SERVICES IMPROVEMENT AND**
32 **REIMBURSEMENT RATE COMMISSION.**

33 13-2101.

34 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
35 INDICATED.

1 (B) "AGENCY" MEANS A STATE OR LOCAL AGENCY THAT COORDINATES HOME
2 CARE SERVICES THROUGH AN INDIVIDUAL PROVIDER PROGRAM OR ADVISES ON
3 INDIVIDUAL PROVIDER PROGRAMS, INCLUDING THE DEPARTMENT OF HEALTH AND
4 MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF
5 AGING, AND THE DEPARTMENT OF DISABILITIES.

6 (C) "COMMISSION" MEANS THE MARYLAND HOME CARE SERVICES
7 IMPROVEMENT AND REIMBURSEMENT RATE COMMISSION.

8 (D) "CONSUMER" MEANS AN INDIVIDUAL WHO RECEIVES HOME CARE
9 SERVICES FROM AN INDIVIDUAL PROVIDER THROUGH AN INDIVIDUAL PROVIDER
10 PROGRAM.

11 (E) "INDIVIDUAL PROVIDER" MEANS AN INDIVIDUAL WHO CONTRACTS WITH A
12 STATE AGENCY TO PROVIDE HOME CARE SERVICES TO A CONSUMER THROUGH AN
13 INDIVIDUAL PROVIDER PROGRAM, INCLUDING AN ATTENDANT, COMMUNITY
14 ATTENDANT, OR PERSONAL CARE ASSISTANT PROVIDING HOME CARE SERVICES.

15 (F) (1) "INDIVIDUAL PROVIDER PROGRAM" MEANS:

16 (I) THE MEDICAL ASSISTANCE PERSONAL CARE PROGRAM;

17 (II) THE COMMUNITY ATTENDANT SERVICES AND SUPPORT
18 PROGRAM, ALSO KNOWN AS LIVING AT HOME: MARYLAND COMMUNITY CHOICES
19 PROGRAM;

20 (III) THE WAIVER FOR OLDER ADULTS;

21 (IV) THE ATTENDANT CARE PROGRAM; OR

22 (V) THE SENIOR CARE PROGRAM.

23 (2) "INDIVIDUAL PROVIDER PROGRAM" DOES NOT INCLUDE:

24 (I) MEDICAID HOME HEALTH CARE;

25 (II) MEDICARE HOME HEALTH CARE;

26 (III) ASSISTED LIVING;

27 (IV) IN-HOME AIDE SERVICE;

28 (V) A SKILLED NURSING FACILITY SERVICE; OR

29 (VI) ANY OTHER FACILITY-BASED SERVICES.

30 (G) "HOME CARE SERVICES" MEANS PERSONAL CARE OR RESPITE CARE
31 SERVICES PROVIDED TO A CONSUMER IN THE CONSUMER'S HOME THROUGH AN
32 INDIVIDUAL PROVIDER PROGRAM.

1 (H) "RATE" MEANS THE REIMBURSEMENT RATE PAID BY THE AGENCY TO AN
2 INDIVIDUAL PROVIDER FROM STATE GENERAL FUNDS, MARYLAND MEDICAL
3 ASSISTANCE PROGRAM FUNDS, OR OTHER STATE OR FEDERAL FUNDS.

4 13-2102.

5 (A) THERE IS A MARYLAND HOME CARE SERVICES IMPROVEMENT AND
6 REIMBURSEMENT RATE COMMISSION.

7 (B) THE COMMISSION IS AN INDEPENDENT UNIT THAT FUNCTIONS IN THE
8 DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

9 (C) THE PURPOSE OF THE COMMISSION IS TO:

10 (1) DEVELOP AND SUPPORT PUBLIC POLICY AND LEGISLATION TO
11 IMPROVE THE SUPPLY AND QUALITY OF HOME AND COMMUNITY-BASED SERVICES
12 IN THE STATE;

13 (2) PREVENT THE INAPPROPRIATE AND PREMATURE PLACEMENT OF
14 INDIVIDUALS IN INSTITUTIONS;

15 (3) COORDINATE THE ESTABLISHMENT AND REVISION OF
16 REGULATIONS CONCERNING THE PROVISION OF HOME CARE SERVICES;

17 (4) ENCOURAGE STABILITY IN THE INDIVIDUAL PROVIDER WORKFORCE
18 THROUGH THE PROVISION OF TRAINING OPPORTUNITIES;

19 (5) EXAMINE EXISTING REIMBURSEMENT RATES AND RECOMMEND
20 CHANGES OR ADJUSTMENTS;

21 (6) ASSESS THE UNMET NEEDS OF HOME CARE CONSUMERS AND MAKE
22 RECOMMENDATIONS CONCERNING THESE UNMET NEEDS; AND

23 (7) IDENTIFY THE PROBLEMS OF RECRUITMENT AND RETENTION
24 AMONG THE HOME CARE WORKFORCE AND MAKE RECOMMENDATIONS
25 CONCERNING SOLUTIONS TO THESE PROBLEMS.

26 13-2103.

27 (A) (1) THE COMMISSION CONSISTS OF 14 MEMBERS AND 7 ALTERNATE
28 MEMBERS.

29 (2) THE MEMBERS AND ALTERNATE MEMBERS SHALL BE APPOINTED BY
30 THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE.

31 (3) OF THE 14 MEMBERS:

32 (I) SEVEN MEMBERS SHALL BE CURRENT OR FORMER
33 CONSUMERS OF HOME CARE SERVICES; AND

1 (II) ONE MEMBER SHALL BE FROM EACH OF THE FOLLOWING
2 AGENCIES AND ORGANIZATIONS:

- 3 1. THE DEPARTMENT OF DISABILITIES;
- 4 2. THE MARYLAND MEDICAL ASSISTANCE PROGRAM IN THE
5 DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- 6 3. THE MARYLAND DEPARTMENT OF AGING;
- 7 4. THE MARYLAND DISABILITY LAW CENTER;
- 8 5. THE DEPARTMENT OF AGING;
- 9 6. AN ORGANIZATION REPRESENTING SENIOR CITIZENS;
10 AND
- 11 7. MARYLAND HOME CARE PROVIDERS, AMERICAN
12 FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES.

13 (4) EACH MEMBER APPOINTED TO THE COMMISSION SHALL BE
14 INTERESTED IN ENSURING HIGH QUALITY HOME AND COMMUNITY-BASED
15 SERVICES FOR THE FRAIL ELDERLY AND INDIVIDUALS WITH DISABILITIES.

16 (B) (1) THE TERM OF A MEMBER IS 2 YEARS.

17 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
18 THE TERMS OF MEMBERS AS OF OCTOBER 1, 2005.

19 (3) AT THE END OF A TERM, A MEMBER MAY CONTINUE TO SERVE ON
20 THE COMMISSION UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

21 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN MAY
22 SERVE ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
23 AND QUALIFIES.

24 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.
25 13-2104.

26 EACH YEAR, FROM AMONG THE MEMBERS OF THE COMMISSION:

27 (1) THE GOVERNOR SHALL APPOINT A CHAIR; AND

28 (2) THE CHAIR SHALL APPOINT A VICE CHAIR.

29 13-2105.

30 (A) A QUORUM OF THE COMMISSION IS EIGHT MEMBERS.

1 (B) THE COMMISSION SHALL MEET AT LEAST FOUR TIMES A YEAR AT THE
2 TIMES AND PLACES THAT IT DETERMINES.

3 (C) A MEMBER OF THE COMMISSION:

4 (1) MAY NOT RECEIVE COMPENSATION FOR DUTIES PERFORMED AS A
5 MEMBER OF THE COMMISSION; BUT

6 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
7 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

8 (D) (1) FOR FISCAL YEAR 2006, THE DEPARTMENTS SERVING ON THE
9 COMMISSION AND THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE
10 STAFFING FOR THE COMMISSION.

11 (2) FOR FISCAL YEAR 2007, AND EACH FISCAL YEAR THEREAFTER, THE
12 COMMISSION MAY EMPLOY STAFF AND EXPEND FUNDS TO CARRY OUT ITS DUTIES
13 AND RESPONSIBILITIES UNDER THIS SUBTITLE IN ACCORDANCE WITH THE STATE
14 BUDGET.

15 13-2106.

16 (A) THE COMMISSION SHALL ASSESS AND MAKE RECOMMENDATIONS ON THE
17 FOLLOWING:

18 (1) THE ADEQUACY OF REIMBURSEMENT RATES PAID TO PROVIDERS,
19 TAKING INTO ACCOUNT:

20 (I) THE NEEDS AND ACUITY OF CONSUMERS;

21 (II) THE EXISTING AND DESIRED LEVEL OF SERVICE QUALITY;

22 (III) THE EXISTING AND DESIRED LEVEL OF TURNOVER;

23 (IV) THE ABILITY OF PROVIDERS TO REMAIN ABOVE THE POVERTY
24 LINE; AND

25 (V) THE AMOUNT OF UNCOMPENSATED CARE GIVEN BY
26 PROVIDERS;

27 (2) REGULATION GOVERNING HOME CARE IN MARYLAND;

28 (3) AVAILABILITY OF TRAINING FOR PROVIDERS;

29 (4) UNMET NEEDS OF CONSUMERS;

30 (5) RECRUITMENT AND RETENTION EFFORTS BY GOVERNMENT
31 AGENCIES OF HOME CARE WORKERS; AND

32 (6) MINIMUM QUALITY OF CARE STANDARDS FOR HOME CARE.

1 13-2107.

2 IN ADDITION TO THE POWERS AND DUTIES PROVIDED ELSEWHERE IN THIS
3 SUBTITLE, THE COMMISSION MAY:

4 (1) RECOMMEND THE ADOPTION OF REGULATIONS TO CARRY OUT THE
5 PROVISIONS OF THIS SUBTITLE;

6 (2) COORDINATE REGULATION AMONG AGENCIES;

7 (3) CREATE COMMITTEES FROM AMONG ITS MEMBERS;

8 (4) APPOINT ADVISORY COMMITTEES THAT MAY INCLUDE INDIVIDUALS
9 AND REPRESENTATIVES OF INTERESTED PUBLIC AND PRIVATE ORGANIZATIONS;

10 (5) PUBLISH AND DISTRIBUTE INFORMATION THAT RELATES TO THE
11 QUALITY OF, THE NEED FOR, AND FINANCIAL ASPECTS OF HOME AND
12 COMMUNITY-BASED SERVICES FOR THE FRAIL ELDERLY AND INDIVIDUALS WITH
13 DISABILITIES; AND

14 (6) COLLECT, TRACK, AND MAINTAIN INFORMATION RELATED TO THE
15 FOLLOWING:

16 (I) WAITING LISTS FOR HOME CARE SERVICES;

17 (II) TURNOVER AMONG HOME CARE PROVIDERS;

18 (III) INJURY RATES AMONG PROVIDERS;

19 (IV) CONSUMER INSTITUTIONALIZATION DUE TO UNMET NEEDS
20 FOR HOME CARE SERVICES; AND

21 (V) HEALTH CARE ACCESS AND UTILIZATION AMONG PROVIDERS;
22 AND

23 (7) SUBJECT TO THE OTHER PROVISIONS OF THIS SUBTITLE, EXERCISE
24 ANY OTHER POWER THAT IS NECESSARY TO CARRY OUT THE PURPOSES OF THIS
25 SUBTITLE.

26 13-2108.

27 (A) THE POWER OF THE SECRETARY OVER PLANS, PROPOSALS, AND PROJECTS
28 OF UNITS IN THE DEPARTMENT DOES NOT INCLUDE THE POWER TO DISAPPROVE OF
29 OR MODIFY A DECISION OR DETERMINATION THAT THE COMMISSION MAKES UNDER
30 AUTHORITY SPECIFICALLY DESIGNATED TO THE COMMISSION BY LAW.

31 (B) THE POWER OF THE SECRETARY TO TRANSFER BY RULE, REGULATION, OR
32 WRITTEN DIRECTIVE ANY STAFF, FUNCTION, OR FUNDS OF UNITS IN THE
33 DEPARTMENT DOES NOT APPLY TO ANY STAFF, FUNCTION, OR FUNDS OF THE
34 COMMISSION.

1 13-2109.

2 (A) ON OR BEFORE JULY 1, 2006, AND EACH JULY 1 OF EACH YEAR
3 THEREAFTER, THE COMMISSION SHALL ISSUE A REPORT TO THE GOVERNOR, THE
4 SECRETARIES OF THE AGENCIES, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
5 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

6 (B) THE REPORT SHALL:

7 (1) DESCRIBE THE COMMISSION'S FINDINGS REGARDING:

8 (I) THE ADEQUACY OF REIMBURSEMENT RATES CURRENTLY PAID
9 TO PROVIDERS, TAKING INTO ACCOUNT THE NEEDS OF CONSUMERS, QUALITY OF
10 CARE, REGULATORY REQUIREMENTS, PROVIDER TURNOVER, THE POVERTY RATE,
11 AND OTHER FACTORS THAT AFFECT THE ABILITY OF PROVIDERS TO CONTINUE TO
12 PROVIDE HOME CARE TO CONSUMERS;

13 (II) THE RELATIONSHIP BETWEEN THE REIMBURSEMENTS OF
14 INDIVIDUAL PROVIDERS AND CHANGES IN WAGES PAID BY THE DEPARTMENT TO
15 OTHER WORKERS IN STATE EMPLOYEE OR INDEPENDENT CONTRACTOR
16 CLASSIFICATIONS;

17 (III) THE EXTENT AND AMOUNT OF UNCOMPENSATED CARE GIVEN
18 BY PROVIDERS AND ITS EFFECT ON THE ADEQUACY OF REIMBURSEMENT RATES;

19 (IV) METHODOLOGIES FOR CALCULATING RATE UPDATE FACTORS
20 FOR RATES PAID TO HOME CARE PROVIDERS BY THE AGENCIES AND
21 RECOMMENDATIONS FOR ANNUAL UPDATE FACTORS USING THE METHODOLOGIES
22 THAT ARE DEVELOPED;

23 (V) THE ADEQUACY, EFFICIENCY, AND EFFECTIVENESS OF THE
24 METHODS OF PAYMENTS TO PROVIDERS;

25 (VI) THE STATUS OF EXISTING HOME CARE REGULATION BY THE
26 AGENCIES;

27 (VII) THE UNMET NEEDS OF PROGRAM CONSUMERS AND METHODS
28 TO MEET THOSE NEEDS;

29 (VIII) THE EXISTING TRAINING OPPORTUNITIES FOR PROVIDERS;
30 AND

31 (IX) THE EXISTING METHODS FOR RECRUITMENT AND RETENTION
32 OF PROVIDERS;

33 (2) MAKE RECOMMENDATIONS ON THE FOLLOWING:

34 (I) ANY CHANGES TO REIMBURSEMENT RATES THAT MAY BE
35 NEEDED, INCLUDING CHANGES IN THE STRUCTURE EMPLOYED BY THE AGENCIES,

1 IN ORDER TO IMPROVE QUALITY OF CARE AND ENSURE A STABLE PROVIDER
2 WORKFORCE;

3 (II) ANY CHANGES IN THE METHOD OF PAYMENT TO ENSURE
4 SERVICES THAT ARE EFFECTIVE, EFFICIENT, AND IN THE PUBLIC INTEREST; AND

5 (III) ANY AREAS WHERE FORMAL EXECUTIVE, JUDICIAL, OR
6 LEGISLATIVE ACTION MAY BE NEEDED;

7 (3) DESCRIBE ISSUES IN NEED OF FURTHER STUDY BY THE
8 COMMISSION; AND

9 (4) DISCUSS ANY OTHER MATTER RELATING TO THE PURPOSES OF THE
10 COMMISSION UNDER THIS SUBTITLE.

11 13-2110.

12 (A) THE FINDINGS AND RECOMMENDATIONS OF THE COMMISSION SHALL BE
13 CONSIDERED EACH YEAR IN THE DEVELOPMENT OF THE BUDGETS OF THE
14 DEPARTMENTS.

15 (B) THE DEPARTMENTS AND THE GOVERNOR'S OFFICE SHALL RESPOND IN
16 WRITING TO THE RECOMMENDATIONS OF THE COMMISSION WITHIN 30 DAYS AFTER
17 THE REPORT OF THE COMMISSION HAS BEEN ISSUED.

18 (C) THE WRITTEN RESPONSE OF THE DEPARTMENTS SHALL INCLUDE AN
19 EXPLANATION OF THE ACTIONS BEING TAKEN TO IMPLEMENT THE
20 RECOMMENDATIONS OF THE COMMISSION.

21 13-2111.

22 THE COMMISSION SHALL HAVE ACCESS TO INFORMATION NECESSARY TO
23 PERFORM ITS DUTIES FROM THE EXECUTIVE BRANCH AND AGENCIES.

24 13-2112.

25 THE COMMISSION MAY NOT REDUCE THE HOURS OF PERSONAL CARE SERVICES
26 PROVIDED TO A CONSUMER BELOW THE AMOUNT OF HOURS DETERMINED TO BE
27 NECESSARY BY AN AGENCY.

28 13-2113.

29 (A) ON OR BEFORE OCTOBER 1, 2006, THE COMMISSION, IN CONSULTATION
30 WITH THE AGENCIES, SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN
31 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
32 ASSEMBLY.

33 (B) THE REPORT REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL
34 EVALUATE:

1 (1) THE COMMISSION'S PROGRESS IN IMPROVING SERVICES TO
2 CONSUMERS AND ADDRESSING IMPROVEMENTS IN HOME CARE SERVICES BY
3 CREATING A MORE STABLE WORKFORCE; AND

4 (2) THE ROLE OF THE COMMISSION IN ADVOCATING FOR
5 IMPROVEMENTS IN HOME AND COMMUNITY-BASED SERVICES IN THE STATE,
6 INCLUDING INDIVIDUAL PROVIDER PROGRAMS.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2005.