
By: **Delegates Benson, Bobo, Bozman, G. Clagett, C. Davis, DeBoy, Gaines, Goldwater, Goodwin, Gutierrez, Hammen, Haynes, Howard, Hubbard, Jones, Kullen, Mandel, Marriott, Moe, Nathan-Pulliam, Paige, Parker, Patterson, Ramirez, Ross, Taylor, F. Turner, and V. Turner**

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 the Maryland Home Care Services Improvement and
5 Reimbursement Rate Commission; providing that the Commission is an
6 independent unit within the Department of Health and Mental Hygiene;
7 providing for the purpose and composition of the Commission; providing for the
8 terms of members of the Commission; providing for the appointment of a chair
9 and vice chair of the Commission; requiring the Commission to meet at a certain
10 frequency and in certain places; providing that a member of the Commission
11 may not receive compensation but is entitled to a certain reimbursement;
12 providing for the staffing of the Commission; requiring the Commission to make
13 certain recommendations; providing for the powers of the Commission;
14 requiring that the Commission have timely access to certain information from
15 the Executive Branch; providing that certain powers of the Secretary of Health
16 and Mental Hygiene do not apply to the Commission; requiring the Commission
17 to make a certain report on or before a certain date of each year to the Governor,
18 the Secretary of Health and Mental Hygiene, the Secretary of Aging, the
19 Secretary of Human Resources, the Secretary of Disabilities, and the General
20 Assembly; providing that certain recommendations of the Commission may not
21 result in the reduction of hours of certain services provided to certain consumers
22 below a certain amount of hours; requiring certain findings of the Commission
23 to be considered each year in the development of budgets of certain State
24 agencies; requiring certain entities to make a certain written response to the
25 Commission; requiring the Commission, in consultation with certain State
26 agencies, to make a certain report, on or before a certain date, to the Governor
27 and General Assembly; specifying the terms of the initial members of the
28 Commission; defining certain terms; and generally relating to the Maryland
29 Home Care Services Improvement and Reimbursement Rate Commission.

30 BY adding to

31 Article - Health - General

1 Section 20-1101 through 20-1111, inclusive, to be under the new subtitle
2 "Subtitle 11. Maryland Home Care Services Improvement and
3 Reimbursement Rate Commission"
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2004 Supplement)

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

8 **Article - Health - General**

9 SUBTITLE 11. MARYLAND HOME CARE SERVICES IMPROVEMENT AND
10 REIMBURSEMENT RATE COMMISSION.

11 20-1101.

12 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (B) (1) "AGENCY" MEANS A STATE OR LOCAL AGENCY THAT:

15 (I) COORDINATES PERSONAL HOME CARE SERVICES THROUGH AN
16 INDIVIDUAL PROVIDER PROGRAM; OR

17 (II) ADVISES INDIVIDUAL PROVIDER PROGRAMS.

18 (2) "AGENCY" INCLUDES:

19 (I) THE DEPARTMENT;

20 (II) THE DEPARTMENT OF HUMAN RESOURCES;

21 (III) THE DEPARTMENT OF AGING; AND

22 (IV) THE DEPARTMENT OF DISABILITIES.

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

25 (D) "CONSUMER" MEANS AN INDIVIDUAL WHO RECEIVES HOME CARE
26 SERVICES FROM AN INDIVIDUAL PROVIDER THROUGH AN INDIVIDUAL PROVIDER
27 PROGRAM.

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

31 (F) (1) "INDIVIDUAL PROVIDER" MEANS AN INDIVIDUAL WHO CONTRACTS
32 WITH A STATE AGENCY TO PROVIDE HOME CARE SERVICES TO A CONSUMER
33 THROUGH AN INDIVIDUAL PROVIDER PROGRAM.

1 (2) "INDIVIDUAL PROVIDER" INCLUDES AN ATTENDANT, COMMUNITY
2 ATTENDANT, OR PERSONAL CARE ASSISTANT PROVIDING SERVICES DESCRIBED IN
3 SUBSECTION (E) OF THIS SECTION.

4 (G) (1) "INDIVIDUAL PROVIDER PROGRAM" MEANS:

5 (I) THE MEDICAL ASSISTANCE PERSONAL CARE PROGRAM;

6 (II) THE COMMUNITY ATTENDANT SERVICES AND SUPPORT
7 PROGRAM, ALSO KNOWN AS LIVING AT HOME: MARYLAND COMMUNITY CHOICES
8 PROGRAM;

9 (III) THE WAIVER FOR OLDER ADULTS;

10 (IV) THE ATTENDANT CARE PROGRAM; AND

11 (V) THE SENIOR CARE PROGRAM.

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

13 (I) MEDICAID HOME HEALTH CARE;

14 (II) MEDICARE HOME HEALTH CARE;

15 (III) ASSISTED LIVING;

16 (IV) IN-HOME AIDE SERVICE;

17 (V) A SKILLED NURSING FACILITY SERVICE; OR

18 (VI) ANY OTHER FACILITY-BASED SERVICE.

19 (H) "RATE" MEANS THE REIMBURSEMENT RATE PAID BY AN AGENCY TO AN
20 INDIVIDUAL PROVIDER FROM STATE GENERAL FUNDS, MARYLAND MEDICAL
21 ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL FUNDS, OR A
22 COMBINATION OF THOSE FUNDS.

23 20-1102.

24 (A) THERE IS A MARYLAND HOME CARE SERVICES IMPROVEMENT AND
25 REIMBURSEMENT RATE COMMISSION.

26 (B) THE COMMISSION IS AN INDEPENDENT UNIT THAT FUNCTIONS IN THE
27 DEPARTMENT.

28 (C) THE PURPOSES OF THE COMMISSION ARE TO:

29 (1) DEVELOP AND SUPPORT PUBLIC POLICY AND LEGISLATION TO
30 IMPROVE THE SUPPLY AND QUALITY OF HOME AND COMMUNITY-BASED SERVICES
31 IN MARYLAND TO PREVENT THE INAPPROPRIATE AND PREMATURE PLACEMENT OF
32 INDIVIDUALS IN INSTITUTIONS;

1 (2) PROMOTE THE INDEPENDENCE OF SENIORS AND INDIVIDUALS WITH
2 DISABILITIES;

3 (3) RECOMMEND THE ADOPTION OF REGULATIONS CONCERNING THE
4 PROVISION OF HOME CARE SERVICES, INCLUDING THOSE SERVICES PROVIDED BY A
5 PRIVATELY OWNED HOME CARE AGENCY;

6 (4) ENCOURAGE STABILITY IN THE INDIVIDUAL PROVIDER WORKFORCE
7 THROUGH TRAINING OPPORTUNITIES;

8 (5) EXAMINE RATES AND RECOMMEND CHANGES OR ADJUSTMENTS TO
9 THE RATES;

10 (6) ASSESS AND MAKE RECOMMENDATIONS ON THE UNMET NEEDS OF
11 HOME CARE CONSUMERS; AND

12 (7) IDENTIFY AND MAKE RECOMMENDATIONS TO IMPROVE THE
13 RECRUITMENT AND RETENTION OF THE HOME CARE WORKFORCE.

14 20-1103.

15 (A) (1) THE COMMISSION CONSISTS OF 14 MEMBERS AND SEVEN
16 ALTERNATE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND
17 CONSENT OF THE SENATE COMMITTEE WITH JURISDICTION OVER THE COMMISSION.

18 (2) EACH MEMBER APPOINTED TO THE COMMISSION SHALL BE
19 INTERESTED IN ENSURING HIGH-QUALITY HOME AND COMMUNITY-BASED
20 SERVICES FOR THE FRAIL ELDERLY AND INDIVIDUALS WITH DISABILITIES.

21 (3) OF THE 14 MEMBERS:

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

24 (II) SEVEN MEMBERS SHALL BE FROM EACH OF THE FOLLOWING
25 AGENCIES AND ORGANIZATIONS:

26 1. THE DEPARTMENT OF DISABILITIES;

27 2. THE MEDICAL CARE PROGRAMS ADMINISTRATION WITHIN
28 THE DEPARTMENT;

29 3. THE DEPARTMENT OF AGING;

30 4. THE MARYLAND STATEWIDE INDEPENDENT LIVING
31 COUNCIL;

32 5. THE MARYLAND DISABILITY LAW CENTER;

33 6. AN ORGANIZATION REPRESENTING SENIOR CITIZENS;
34 AND

1 7. THE AMERICAN FEDERATION OF STATE, COUNTY, AND
2 MUNICIPAL EMPLOYEES, MARYLAND HOMECARE.

3 (4) THE SEVEN ALTERNATE MEMBERS:

4 (I) SHALL BE FORMER OR CURRENT CONSUMERS OF HOME CARE
5 SERVICES;

6 (II) SHALL ATTEND AND PARTICIPATE IN COMMISSION MEETINGS;
7 AND

8 (III) MAY ONLY VOTE IN THE ABSENCE OF THE CONSUMER MEMBER
9 FOR WHOM THE INDIVIDUAL SERVES AS AN ALTERNATE.

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

11 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
12 THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2005.

13 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
14 SUCCESSOR IS APPOINTED AND QUALIFIES.

15 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
16 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
17 QUALIFIES.

18 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.
19 20-1104.

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

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

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

23 20-1105.

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

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

27 (C) A MEMBER OF THE COMMISSION:

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

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

1 (D) THE COMMISSION MAY EMPLOY STAFF AND EXPEND FUNDS TO CARRY
2 OUT ITS DUTIES AND RESPONSIBILITIES UNDER THIS SUBTITLE IN ACCORDANCE
3 WITH THE STATE BUDGET.

4 20-1106.

5 THE COMMISSION SHALL ASSESS AND MAKE RECOMMENDATIONS ON:

6 (1) THE ADEQUACY OF RATES, TAKING INTO ACCOUNT:

7 (I) THE NEEDS AND ACUITY OF CONSUMERS;

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

9 (III) THE EXISTING AND DESIRED LEVEL OF TURNOVER OF
10 INDIVIDUAL PROVIDERS;

11 (IV) THE ABILITY OF INDIVIDUAL PROVIDERS TO REMAIN ABOVE
12 THE FEDERAL POVERTY LEVEL; AND

13 (V) THE AMOUNT OF UNCOMPENSATED CARE GIVEN BY
14 INDIVIDUAL PROVIDERS;

15 (2) THE REGULATION OF HOME CARE SERVICES IN MARYLAND;

16 (3) THE AVAILABILITY OF TRAINING FOR INDIVIDUAL PROVIDERS;

17 (4) THE UNMET NEEDS OF CONSUMERS;

18 (5) RECRUITMENT AND RETENTION EFFORTS BY AGENCIES; AND

19 (6) MINIMUM QUALITY OF CARE STANDARDS.

20 20-1107.

21 (A) IN ADDITION TO THE POWERS AND DUTIES PROVIDED ELSEWHERE IN
22 THIS SUBTITLE, THE COMMISSION MAY:

23 (1) RECOMMEND THE ADOPTION OF REGULATIONS TO CARRY OUT THE
24 PROVISIONS OF THIS SUBTITLE;

25 (2) COORDINATE THE REGULATION OF HOME CARE SERVICES,
26 INCLUDING PRIVATELY OWNED HOME CARE SERVICES, AMONG THE DEPARTMENT,
27 THE DEPARTMENT OF AGING, THE DEPARTMENT OF DISABILITIES, AND THE
28 DEPARTMENT OF HUMAN RESOURCES;

29 (3) CREATE COMMITTEES FROM AMONG ITS MEMBERS;

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

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

4 (6) COLLECT, TRACK, AND MAINTAIN INFORMATION RELATED TO THE
5 FOLLOWING:

6 (I) WAITING LISTS FOR HOME CARE SERVICES;

7 (II) TURNOVER AMONG INDIVIDUAL PROVIDERS;

8 (III) INJURY RATES AMONG INDIVIDUAL PROVIDERS;

9 (IV) CONSUMER INSTITUTIONALIZATION DUE TO THE UNMET
10 NEEDS OF CONSUMERS; AND

11 (V) HEALTH CARE ACCESS AND USAGE AMONG INDIVIDUAL
12 PROVIDERS; AND

13 (7) SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE, EXERCISE ANY
14 OTHER POWER THAT IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSES OF
15 THIS SUBTITLE.

16 (B) THE COMMISSION SHALL HAVE TIMELY ACCESS TO INFORMATION FROM
17 THE EXECUTIVE BRANCH REQUIRED TO FULFILL THE RESPONSIBILITY OF THE
18 COMMISSION UNDER THIS SUBTITLE, INCLUDING INFORMATION FROM THE
19 DEPARTMENT, THE DEPARTMENT OF AGING, THE DEPARTMENT OF DISABILITIES,
20 AND THE DEPARTMENT OF HUMAN RESOURCES.

21 20-1108.

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

26 (B) THE POWER OF THE SECRETARY TO TRANSFER BY RULE, REGULATION, OR
27 WRITTEN DIRECTIVE ANY STAFF, FUNCTION, OR FUNDS OF UNITS IN THE
28 DEPARTMENT DOES NOT APPLY TO ANY STAFF, FUNCTION, OR FUNDS OF THE
29 COMMISSION.

30 20-1109.

31 ON OR BEFORE JULY 1 OF EACH YEAR, THE COMMISSION SHALL ISSUE A
32 REPORT IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO
33 THE GOVERNOR, THE SECRETARY, THE SECRETARY OF AGING, THE SECRETARY OF
34 HUMAN RESOURCES, THE SECRETARY OF DISABILITIES, AND THE GENERAL
35 ASSEMBLY THAT:

36 (1) DESCRIBES THE FINDINGS OF THE COMMISSION REGARDING:

1 (I) THE ADEQUACY OF RATES PAID TO INDIVIDUAL PROVIDERS
2 TAKING INTO ACCOUNT THE NEEDS OF CONSUMERS, QUALITY OF CARE,
3 REGULATORY REQUIREMENTS, PROVIDER TURNOVER, THE POVERTY RATE, AND
4 OTHER FACTORS THAT AFFECT THE ABILITY OF PROVIDERS TO CONTINUE WORKING;

5 (II) THE RELATIONSHIP OF THE RATE PAID TO INDIVIDUAL
6 PROVIDERS TO CHANGES IN WAGES PAID BY THE DEPARTMENT TO OTHER WORKERS
7 IN BOTH STATE AND INDEPENDENT CONTRACTOR CLASSIFICATIONS;

8 (III) THE EXTENT AND AMOUNT OF UNCOMPENSATED CARE GIVEN
9 BY INDIVIDUAL PROVIDERS AND ITS EFFECT ON THE ADEQUACY OF RATES;

10 (IV) METHODOLOGIES FOR CALCULATING RATE UPDATE FACTORS
11 FOR RATES PAID TO INDIVIDUAL PROVIDERS BY STATE AGENCIES;

12 (V) THE ADEQUACY, EFFICIENCY, AND EFFECTIVENESS OF THE
13 METHODS OF PAYMENTS MADE TO PROVIDERS;

14 (VI) THE STATUS OF HOME CARE REGULATION USED BY AGENCIES;

15 (VII) THE UNMET NEEDS OF INDIVIDUAL PROVIDER PROGRAM
16 CONSUMERS AND METHODS USED TO MEET THOSE NEEDS;

17 (VIII) TRAINING OPPORTUNITIES FOR INDIVIDUAL PROVIDERS; AND

18 (IX) METHODS USED TO RECRUIT AND RETAIN INDIVIDUAL
19 PROVIDERS.

20 (2) BASED ON THE FINDINGS OF THE COMMISSION, RECOMMENDS ANY
21 CHANGES IN RATES, INCLUDING CHANGES TO RATE STRUCTURE AND ANNUAL
22 UPDATE FACTORS TO IMPROVE QUALITY OF CARE AND ENSURE A STABLE PROVIDER
23 WORKFORCE;

24 (3) RECOMMENDS ANY CHANGES IN THE METHODS OF PAYMENT MADE
25 TO INDIVIDUAL PROVIDERS TO PROMOTE INDIVIDUAL PROVIDER SERVICES THAT
26 ARE EFFECTIVE, EFFICIENT, AND IN THE PUBLIC INTEREST;

27 (4) IDENTIFIES THE NEED FOR ANY FORMAL EXECUTIVE, JUDICIAL, OR
28 LEGISLATIVE ACTION;

29 (5) DESCRIBES ISSUES TO BE STUDIED BY THE COMMISSION; AND

30 (6) DISCUSSES ANY OTHER MATTER THAT RELATES TO THE PURPOSES
31 OF THE COMMISSION UNDER THIS SUBTITLE.

32 20-1110.

33 THE RECOMMENDATIONS OF THE COMMISSION MAY NOT RESULT IN THE
34 REDUCTION OF HOURS OF HOME CARE SERVICES PROVIDED TO A CONSUMER BELOW
35 THE AMOUNT OF HOURS DETERMINED TO BE NECESSARY BY AN AGENCY.

1 20-1111.

2 (A) THE FINDINGS AND RECOMMENDATIONS OF THE COMMISSION SHALL BE
3 CONSIDERED EACH YEAR IN THE DEVELOPMENT OF THE BUDGETS OF THE
4 DEPARTMENT, THE DEPARTMENT OF AGING, THE DEPARTMENT OF DISABILITIES,
5 AND THE DEPARTMENT OF HUMAN RESOURCES.

6 (B) (1) THE DEPARTMENT, THE DEPARTMENT OF AGING, THE DEPARTMENT
7 OF HUMAN RESOURCES, THE DEPARTMENT OF AGING, AND THE OFFICE OF THE
8 GOVERNOR SHALL RESPOND TO THE RECOMMENDATIONS OF THE COMMISSION IN
9 WRITING WITHIN 30 DAYS AFTER ISSUANCE OF THE REPORT REQUIRED UNDER §
10 20-1109 OF THIS SUBTITLE.

11 (2) THE WRITTEN RESPONSE SHALL INCLUDE AN EXPLANATION OF THE
12 ACTIONS BEING TAKEN TO IMPLEMENT THE RECOMMENDATIONS OF THE
13 COMMISSION.

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) On or before October 1, 2006, in accordance with § 2-1246 of the State
16 Government Article, the Commission, in consultation with the Department of Aging,
17 the Department of Disabilities, the Department of Health and Mental Hygiene, and
18 the Department of Human Resources, shall submit a report to the Governor and the
19 General Assembly.

20 (b) The report shall evaluate:

21 (1) the Commission's progress in improving services to consumers and
22 addressing improvements in home care services by creating a more stable workforce;
23 and

24 (2) the role of the Commission in advocating improvements for home-
25 and community-based services in the State, including individual provider programs.

26 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
27 members of the Maryland Home Care Services Improvement and Reimbursement
28 Rate Commission shall expire as follows:

29 (1) 3 consumer members and 3 of the organizational or agency members
30 in 2006; and

31 (2) 4 consumer members and 4 of the organizational or agency members
32 in 2007.

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
34 effect October 1, 2005.