

# SENATE BILL 305

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8lr2074

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By: **Senator Middleton**

Introduced and read first time: January 28, 2008

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Community Services Reimbursement Rate Commission – Termination Date**  
3 **Extension and Modifications**

4 FOR the purpose of extending the termination date for the Community Services  
5 Reimbursement Rate Commission; authorizing the Governor, with the advice  
6 and consent of the Senate, to appoint a certain number of members to the  
7 Commission for an additional consecutive term beginning on a certain date;  
8 altering a requirement that the Commission assess changes in wages paid by  
9 certain providers to require the Commission to assess the level of and changes  
10 in wages paid by certain providers to direct support workers; repealing a  
11 requirement that the Commission assess certain measures of quality and  
12 certain other rate system issues; altering a requirement that the Commission  
13 assess the impact of consumer safety costs to require the Commission to assess  
14 the impact of changes in regulations that impact on the costs of certain  
15 providers; ~~requiring the Commission to assess trends in housing costs and how~~  
16 ~~these trends affect costs of certain providers~~; requiring the Commission to  
17 develop or refine certain methodologies; ~~requiring the Commission to continue~~  
18 ~~to study the transportation costs incurred by certain providers~~; requiring the  
19 Commission to work with the Mental Hygiene Administration to expand the use  
20 of certain data repealing a requirement that the Commission study the  
21 variation in transportation costs among providers of services to individuals with  
22 developmental disabilities and make a certain recommendation; repealing a  
23 requirement that the Commission work with the Mental Hygiene  
24 Administration to expand the use of certain billing data for a certain purpose;  
25 repealing a requirement that the Commission review certain changes in the  
26 payments for and utilization of psychiatric rehabilitation services; ~~requiring the~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Commission to review information on certain practices and make certain recommendations~~; requiring the Commission to include certain findings in a certain report; requiring the Board of Nursing to provide to the Commission at a certain time copies of any new or revised regulations that would be expected to impact on the costs incurred by certain providers; repealing a certain definition; and generally relating to the Community Services Reimbursement Rate Commission.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 13–801, 13–803, 13–806, 13–809, and 13–810  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
 Article – Health – General  
 Section 13–802, 13–804, 13–805, 13–807, and 13–808  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
 Chapter 593 of the Acts of the General Assembly of 1996, as amended by  
 Chapter 566 of the Acts of the General Assembly of 1999, Chapter 370 of  
 the Acts of the General Assembly of 2002, and Chapter 401 of the Acts of  
 the General Assembly of 2005  
 Section 3

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

**Article – Health – General**

13–801.

(a) In this subtitle the following words have the meanings indicated.

(b) “Commission” means the Community Services Reimbursement Rate Commission.

(c) [“Consumer safety costs” means the costs incurred by a provider for care that is provided to comply with any regulatory requirements in the staffing or manner of care provided, including cost factors related to health and safety that are stated in the care plan required for an individual.

(d)] “Provider” means a community–based agency or program funded:

1 (1) By the Developmental Disabilities Administration to serve  
2 individuals with developmental disabilities; or

3 (2) By the Mental Hygiene Administration to serve individuals with  
4 mental disorders.

5 [(e)] (D) "Rate" means the reimbursement rate paid by the Department to a  
6 provider from State general funds, Maryland Medical Assistance Program funds, other  
7 State or federal funds, or a combination of those funds.

8 13-802.

9 (a) There is a Community Services Reimbursement Rate Commission.

10 (b) The Commission is an independent unit that functions in the  
11 Department.

12 13-803.

13 (a) The Commission shall consist of seven members appointed by the  
14 Governor with the advice and consent of the Senate.

15 (b) Of the seven members, four shall be individuals who do not have any  
16 connection with the management or policy of any provider.

17 (c) Each member appointed to the Commission shall be interested in  
18 ensuring high quality community-based services for individuals with developmental  
19 disabilities or mental disorders.

20 (d) (1) The term of a member is 3 years.

21 (2) If a vacancy occurs during the term of a member, the Governor  
22 shall appoint a successor who will serve until the term expires.

23 (3) Except as provided in paragraph (4) of this subsection, a member  
24 who serves two consecutive full 3-year terms may not be reappointed for 3 years after  
25 completion of those terms.

26 (4) The Governor may, with the advice and consent of the Senate,  
27 appoint up to [three] **TWO** members serving on the Commission as of January 1,  
28 [2005] **2008**, to serve a [fourth] **FIFTH** consecutive 3-year term beginning October 1,  
29 [2005] **2008**.

30 13-804.

31 Each year, from among the members of the Commission:

1 (1) The Governor shall appoint a chairman; and

2 (2) The chairman shall appoint a vice chairman.

3 13-805.

4 (a) A quorum of the Commission is four members.

5 (b) The Commission shall meet at least four times a year at the times and  
6 places that it determines.

7 (c) A member of the Commission:

8 (1) May not receive compensation for duties performed as a member of  
9 the Commission; but

10 (2) Is entitled to reimbursement for expenses under the Standard  
11 State Travel Regulations, as provided in the State budget.

12 (d) The Commission may employ staff and expend funds to carry out its  
13 duties and responsibilities under this subtitle in accordance with the State budget.

14 13-806.

15 (a) The Commission shall assess:

16 (1) The extent and amount of uncompensated care delivered by  
17 providers;

18 (2) The [relationship of] **LEVEL OF AND** changes in wages paid by  
19 providers to [changes in rates paid by the Department] **DIRECT SUPPORT WORKERS**,  
20 including the source of revenue for wages paid by providers;

21 (3) The ability of providers to operate on a solvent basis in the delivery  
22 of effective and efficient services that are in the public interest;

23 (4) The incentives and disincentives:

24 (i) Incorporated in the rate setting methodologies utilized and  
25 proposed by the Mental Hygiene Administration and the Developmental Disabilities  
26 Administration; and

27 (ii) In alternative methodologies;

28 (5) ~~Measures of quality and how~~ **HOW** incentives to provide quality  
29 care can be built into a rate setting methodology; **AND**

1           (6) The impact of [consumer safety] **CHANGES IN REGULATIONS**  
 2 **THAT IMPACT ON THE** costs **OF PROVIDERS** and whether the rates have been  
 3 adjusted to provide for [consumer safety costs] **ANY INCREASED COSTS ASSOCIATED**  
 4 **WITH THE REGULATORY CHANGES;**~~[and]~~

5           ~~(7) **THE TRENDS IN HOUSING COSTS, AND HOW THESE TRENDS**~~  
 6 ~~**ARE AFFECTING THE COSTS OF PROVIDERS OF RESIDENTIAL SERVICES; AND**~~

7           ~~(8) Other rate system issues determined by the Commission to be~~  
 8 ~~appropriate.~~

9           (b) The Commission shall:

10           (1) Develop **OR REFINE** methodologies for calculating rate update  
 11 factors for rates paid by the Developmental Disabilities Administration and the  
 12 Mental Hygiene Administration and recommend annual rate update factors that use  
 13 the methodologies that are developed;

14           (2) With respect to the Developmental Disabilities Administration:

15           ~~(i) **Review, REVIEW**~~ the data reported in the Developmental  
 16 Disabilities Administration annual cost reports and use the data to develop relative  
 17 performance measures of providers; and

18           ~~(ii) [Study] **CONTINUE TO STUDY**~~ the ~~[variation in]~~  
 19 ~~transportation costs [among] **INCURRED BY**~~ providers of services to individuals with  
 20 ~~developmental disabilities, and recommend whether the rates should include an~~  
 21 ~~adjustment for such costs;~~

22           ~~(3) With respect to the Mental Hygiene Administration:~~

23           ~~(i) Work with the Mental Hygiene Administration to expand~~  
 24 ~~the use of [any] **SERVICE AUTHORIZATION AND**~~ billing data collected by a third  
 25 ~~party administrator for the public mental health system in order to evaluate~~  
 26 ~~performance; and~~

27           ~~(ii) **1. Review**~~ [the changes in the payments for and  
 28 ~~utilization of psychiatric rehabilitation services associated with the shift to paying for~~  
 29 ~~these services by means of case rates] **INFORMATION ON EVIDENCE-BASED AND**  
 30 ~~**BEST PRACTICES FOR MENTAL HEALTH SERVICES;**~~~~

31           ~~**2. RECOMMEND HOW INCENTIVES TO ENCOURAGE**~~  
 32 ~~**THESE PRACTICES COULD BE PROVIDED THROUGH THE RATE SYSTEM; AND**~~

33           ~~**3. REVIEW WHETHER THE RATES PROVIDED UNDER**~~  
 34 ~~**THE RATE SYSTEM ARE ADEQUATE TO PROVIDE THESE INCENTIVES; and**~~

1           ~~(4)~~ Evaluate proposed regulatory changes by the Department, the  
2 Developmental Disabilities Administration, and the Mental Hygiene Administration  
3 that affect the rates paid or the rate structure.

4 13–807.

5           (a) In addition to the powers and duties provided elsewhere in this subtitle,  
6 the Commission may:

7                   (1) Recommend the adoption of regulations to carry out the provisions  
8 of this subtitle;

9                   (2) Create committees from among its members;

10                   (3) Appoint advisory committees that may include individuals and  
11 representatives of interested public and private organizations;

12                   (4) Publish and distribute information that relates to the financial  
13 aspects of community–based developmental disability or mental health services; and

14                   (5) Subject to the limitations of this subtitle, exercise any other power  
15 that is reasonably necessary to carry out the purposes of this subtitle.

16           (b) The Commission shall have timely access to information from the  
17 Executive Branch required to fulfill the responsibilities of the Commission under this  
18 subtitle, including information from the Developmental Disabilities Administration  
19 and the Mental Hygiene Administration.

20 13–808.

21           (a) The power of the Secretary over plans, proposals, and projects of units in  
22 the Department does not include the power to disapprove or modify a decision or  
23 determination that the Commission makes under authority specifically designated to  
24 the Commission by law.

25           (b) The power of the Secretary to transfer by rule, regulation, or written  
26 directive any staff, function, or funds of units in the Department does not apply to any  
27 staff, function, or funds of the Commission.

28 13–809.

29           On or before October 1 of each year, the Commission shall issue a report to the  
30 Governor, the Secretary, and, subject to § 2–1246 of the State Government Article, the  
31 General Assembly that:

32                   (1) Describes its findings regarding:

1 (i) The [relationship of] changes in wages paid by providers to  
2 [changes in rates paid by the Department] **DIRECT CARE WORKERS;**

3 (ii) The financial condition of providers and the ability of  
4 providers to operate on a solvent basis in the delivery of effective and efficient services  
5 that are in the public interest;

6 (iii) The incentives and disincentives incorporated in the rate  
7 setting methodologies utilized and proposed by the Mental Hygiene Administration  
8 and the Developmental Disabilities Administration and how the methodologies might  
9 be improved;

10 (iv) How incentives to provide quality of care can be built into a  
11 rate setting methodology; ~~and~~

12 (v) The recommended methodologies for the calculation of rate  
13 update factors and the rate update factors recommended for the next succeeding fiscal  
14 year; ~~AND~~

15 ~~(VI) THE TRENDS IN HOUSING COSTS AND HOW THESE~~  
16 ~~TRENDS ARE AFFECTING THE COSTS OF PROVIDERS OF RESIDENTIAL SERVICES;~~

17 (2) Recommends the need for any formal executive, judicial, or  
18 legislative action;

19 (3) Describes issues in need of future study by the Commission; and

20 (4) Discusses any other matter that relates to the purposes of the  
21 Commission under this subtitle.

22 13–810.

23 (a) The findings and recommendations of the Commission shall be  
24 considered each year in the development of the budgets of the Department, the  
25 Developmental Disabilities Administration, and the Mental Hygiene Administration.

26 (b) (1) The Mental Hygiene Administration and the Developmental  
27 Disabilities Administration shall respond to the recommendations of the Commission  
28 in writing within 30 days after the report required in § 13–809 of this subtitle has  
29 been issued.

30 (2) The written response of the Mental Hygiene Administration and  
31 the Developmental Disabilities Administration shall include:

32 (i) An explanation of the actions being taken to implement the  
33 recommendations of the Commission; or

1 (ii) An explanation of why no action has been taken on the  
2 recommendations of the Commission.

3 (c) (1) The Mental Hygiene Administration and the Developmental  
4 Disabilities Administration shall provide to the Commission, in advance of or at the  
5 same time as they are provided to the public, copies of any new or revised regulations  
6 regarding payment rates for community services.

7 (2) **THE BOARD OF NURSING SHALL PROVIDE TO THE**  
8 **COMMISSION, IN ADVANCE OF OR AT THE SAME TIME AS THEY ARE PROVIDED**  
9 **TO THE PUBLIC, COPIES OF ANY NEW OR REVISED REGULATIONS THAT WOULD**  
10 **BE EXPECTED TO IMPACT ON THE COSTS INCURRED BY PROVIDERS OF**  
11 **COMMUNITY SERVICES THAT ARE PAID FOR BY THE MENTAL HYGIENE**  
12 **ADMINISTRATION OR THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.**

13 **Chapter 593 of the Acts of 1996, as amended by Chapter 566 of the Acts of**  
14 **1999, Chapter 370 of the Acts of 2002, and Chapter 401 of the Acts of 2005**

15 SECTION 3. AND BE IT FURTHER ENACTED, That, this Act shall take effect  
16 October 1, 1996. It shall remain effective for a period of [12] **15** years and, at the end  
17 of September 30, [2008] **2011**, with no further action required by the General  
18 Assembly, this Act shall be abrogated and of no further force and effect.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 July 1, 2008.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.