

CHAPTER 573

(House Bill 1059)

AN ACT concerning

Community Services Reimbursement Rate Commission – Termination Date Extension and Modifications

FOR the purpose of extending the termination date for the Community Services Reimbursement Rate Commission; authorizing the Governor, with the advice and consent of the Senate, to appoint a certain number of members to the Commission for an additional consecutive term beginning on a certain date; altering a requirement that the Commission assess changes in wages paid by certain providers to require the Commission to assess the level of and changes in wages paid by certain providers to direct support workers; repealing a requirement that the Commission assess certain measures of quality and certain other rate system issues; altering a requirement that the Commission assess the impact of consumer safety costs to require the Commission to assess the impact of changes in regulations that impact on the costs of certain providers; ~~requiring the Commission to assess trends in housing costs and how these trends affect costs of certain providers~~; requiring the Commission to develop or refine certain methodologies; ~~requiring the Commission to continue to study the transportation costs incurred by certain providers~~; ~~requiring the Commission to work with the Mental Hygiene Administration to expand the use of certain data~~ repealing a requirement that the Commission study the variation in transportation costs among providers of services to individuals with developmental disabilities and make a certain recommendation; repealing a requirement that the Commission work with the Mental Hygiene Administration to expand the use of certain billing data for a certain purpose; repealing a requirement that the Commission review certain changes in the payments for and utilization of psychiatric rehabilitation services; ~~requiring the 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) By the Developmental Disabilities Administration to serve individuals with developmental disabilities; or
 - (2) By the Mental Hygiene Administration to serve individuals with mental disorders.
- [(e)] (D) “Rate” means the reimbursement rate paid by the Department to a provider from State general funds, Maryland Medical Assistance Program funds, other State or federal funds, or a combination of those funds.

13–802.

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

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

13-803.

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

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

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

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

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

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

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

13-804.

Each year, from among the members of the Commission:

(1) The Governor shall appoint a chairman; and

(2) The chairman shall appoint a vice chairman.

13-805.

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

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

(c) A member of the Commission:

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

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

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

13-806.

(a) The Commission shall assess:

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

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

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

(4) The incentives and disincentives:

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

(ii) In alternative methodologies;

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

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

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

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

(b) The Commission shall:

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

(2) With respect to the Developmental Disabilities Administration:

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

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

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

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

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

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

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

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

13-807.

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

- (1) Recommend the adoption of regulations to carry out the provisions of this subtitle;
- (2) Create committees from among its members;
- (3) Appoint advisory committees that may include individuals and representatives of interested public and private organizations;
- (4) Publish and distribute information that relates to the financial aspects of community-based developmental disability or mental health services; and
- (5) Subject to the limitations of this subtitle, exercise any other power that is reasonably necessary to carry out the purposes of this subtitle.

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

13-808.

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

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

13-809.

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

- (1) Describes its findings regarding:
 - (i) The [relationship of] changes in wages paid by providers to [changes in rates paid by the Department] **DIRECT CARE WORKERS**;
 - (ii) The financial condition of providers and the ability of providers to operate on a solvent basis in the delivery of effective and efficient services that are in the public interest;

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

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

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

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

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

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

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

13-810.

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

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

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

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

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

(c) (1) The Mental Hygiene Administration and the Developmental Disabilities Administration shall provide to the Commission, in advance of or at the

same time as they are provided to the public, copies of any new or revised regulations regarding payment rates for community services.

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

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

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

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

Approved by the Governor, May 22, 2008.