

HOUSE BILL 1238

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By: Delegates Costa and Hammen, Hammen, Pendergrass, Bromwell, Cullison, Donoghue, Elliott, Hubbard, A. Kelly, Kipke, Krebs, McDonough, Morhaim, Murphy, Nathan-Pulliam, Oaks, Ready, Reznik, Tarrant, and V. Turner

Introduced and read first time: February 7, 2014

Assigned to: Health and Government Operations and Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2014

CHAPTER _____

1 AN ACT concerning

2 **Developmental Disabilities Administration – Payment of Providers**

3 FOR the purpose of repealing, effective as of a certain date, certain provisions of law
4 requiring the Developmental Disabilities Administration to develop and
5 implement a certain funding system for the distribution of State funds to
6 certain providers to provide certain community-based services; requiring the
7 Administration to conduct a certain study, develop and implement a certain
8 plan, develop a certain strategy, provide for certain payments, develop a certain
9 billing and payment system, establish a certain payment schedule, and consult
10 with certain stakeholders; requiring the Administration to adopt certain
11 regulations; requiring the Department of Health and Mental Hygiene to submit
12 a certain report to certain committees of the General Assembly; prohibiting the
13 Department of Health and Mental Hygiene from proposing certain regulations
14 until after a certain comment period; requiring the Secretary of Health and
15 Mental Hygiene to provide certain notice to the Department of Legislative
16 Services within a certain time frame; and generally relating to the
17 Developmental Disabilities Administration and a funding system for providers
18 of community-based services.

19 BY repealing

20 Article – Health – General

21 Section 7–306.1

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.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2013 Supplement)

3 BY adding to
4 Article – Health – General
5 Section 7–306.2
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2013 Supplement)

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

10 **Article – Health – General**

11 [7–306.1.

12 (a) The Administration shall develop and implement a funding system for
13 the distribution of State funds to private providers that are under contract with the
14 Administration to provide community–based services to individuals with disability in
15 accordance with the State plan.

16 (b) Funds received for services that are fee–for–service or that have rates set
17 by regulation shall be subject to recovery by the Administration only for the following
18 purposes:

19 (1) Client attendance;

20 (2) Client fees; or

21 (3) Sanctions allowed through regulations.

22 (c) (1) Under the funding system developed under subsection (a) of this
23 section, the Administration shall notify each private provider at least 30 days before
24 the beginning of the fiscal year of the billing rate or amount of funds to be paid to the
25 provider for the provision of community–based services to an individual with
26 developmental disability or a group of individuals with developmental disability for
27 the coming fiscal year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) Advised the provider that:

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

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

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

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

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

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

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

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

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

19 (h) The Administration:

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

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

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

28 (4) Within 1 year after receipt of a private provider's year-end report
29 and cost report for rate-based payment systems, shall reconcile the report and shall
30 provide the provider with a written approval of the report or a written explanation of
31 any items in dispute; and

32 (5) Shall conduct an audit of each private provider every 4 years.

33 (i) The Administration shall accept as final the private provider's year-end
34 report and cost report for rate-based payment systems if:

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

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

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

10 (k) Private providers shall provide the year-end report to the Administration
11 no later than 6 months after the end of the State fiscal year.

12 (l) Private providers shall submit to the Administration:

13 (1) Cost reports for rate-based payment systems no later than 6
14 months after the end of the State fiscal year; and

15 (2) Wage surveys by the later of:

16 (i) 60 days after the last day of the pay period for which the
17 data is requested; or

18 (ii) 60 days after receipt of a request from the Administration
19 for wage survey information.]

20 SECTION 2. AND BE IT FURTHER ENACTED, That the laws of Maryland
21 read as follows:

22 **Article – Health – General**

23 **7-306.2.**

24 **(A) THE ADMINISTRATION SHALL:**

25 **(1) CONDUCT AN INDEPENDENT COST-DRIVEN, RATE-SETTING**
26 **STUDY TO SET PROVIDER RATES FOR COMMUNITY-BASED SERVICES THAT**
27 **INCLUDES A RATE ANALYSIS AND AN IMPACT STUDY THAT CONSIDERS THE**
28 **ACTUAL COST OF PROVIDING COMMUNITY-BASED SERVICES, INCLUDING:**

29 **(I) THE COST OF TRANSPORTATION ACROSS ALL SERVICE**
30 **TYPES;**

1 **(II) APPROPRIATE WAGE AND BENEFIT LEVELS FOR DIRECT**
 2 **SUPPORT AND SUPERVISORY STAFF; AND**

3 **(III) RATES THAT INCORPORATE THE FISCAL IMPACT OF**
 4 **ABSENCE DAYS;**

5 **(2) DEVELOP AND IMPLEMENT A PLAN INCORPORATING THE**
 6 **FINDINGS OF THE RATE-SETTING STUDY CONDUCTED UNDER ITEM (1) OF THIS**
 7 **SUBSECTION, INCLUDING PROJECTED COSTS OF IMPLEMENTATION AND**
 8 **RECOMMENDATIONS TO ADDRESS ANY POTENTIAL SHORTFALL IN FUNDING;**

9 **(3) DEVELOP A STRATEGY FOR ASSESSING THE NEEDS OF AN**
 10 **INDIVIDUAL RECEIVING SERVICES THAT CONFORMS WITH THE FINDINGS OF**
 11 **THE RATE-SETTING STUDY CONDUCTED UNDER ITEM (1) OF THIS SUBSECTION;**

12 **(4) PROVIDE FOR ADEQUATE WORKING CAPITAL PAYMENTS TO**
 13 **PROVIDERS;**

14 **(5) DEVELOP A SOUND FISCAL BILLING AND PAYMENT SYSTEM**
 15 **THAT IS TESTED FOR ADEQUACY AND EFFICIENCY IN PAYMENT OF PROVIDERS;**
 16 ~~**AND**~~

17 **(6) ESTABLISH A PAYMENT SCHEDULE THAT ENSURES THE**
 18 **TIMELY AND EFFICIENT REIMBURSEMENT OF PROVIDERS FOR SERVICES**
 19 **PROVIDED; AND**

20 ~~**(6)**~~ **(7) CONSULT WITH STAKEHOLDERS, INCLUDING**
 21 **PROVIDERS AND INDIVIDUALS RECEIVING SERVICES, IN CONDUCTING THE**
 22 **RATE-SETTING STUDY AND DEVELOPING THE PAYMENT SYSTEM REQUIRED BY**
 23 **THIS SUBSECTION.**

24 **(B) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO IMPLEMENT**
 25 **THE PAYMENT SYSTEM REQUIRED BY THIS SECTION.**

26 SECTION 3. AND BE IT FURTHER ENACTED, That:

27 (a) Before proposing regulations implementing a payment system as
 28 required by § 7-306.2 of the Health – General Article, as enacted by Section 2 of this
 29 Act, the Department of Health and Mental Hygiene shall submit a report, in
 30 accordance with § 2-1246 of the State Government Article, to the Senate Budget and
 31 Taxation Committee, the Senate Finance Committee, the House Appropriations
 32 Committee, and the House Health and Government Operations Committee
 33 summarizing the new payment system.

1 (b) The committees listed in subsection (a) of this section shall have 60 days
2 to review and comment on the report provided by the Department of Health and
3 Mental Hygiene under subsection (a) of this section.

4 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
5 take effect on the effective date of the regulations adopted by the Developmental
6 Disabilities Administration as required by § 7-306.2 of the Health – General Article,
7 as enacted by Section 2 of this Act. The Secretary of Health and Mental Hygiene,
8 within 5 days after the effective date of the regulations, shall provide written notice of
9 the effective date of the regulations to the Department of Legislative Services, 90 State
10 Circle, Annapolis, Maryland 21401.

11 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
12 Section 4 of this Act, this Act shall take effect October 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.