

**Department of Legislative Services**  
 Maryland General Assembly  
 2016 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 497

(Senator Guzzone, *et al.*)

Finance and Budget and Taxation

Health and Government Operations

**Behavioral Health Community Providers - Keep the Door Open Act**

This bill requires the Governor’s proposed budget for fiscal 2018 and each year thereafter to include rate adjustments for community providers based on funding provided in the prior year’s legislative appropriation for specified services. The rate adjustment must equal the average annual percentage change in the Consumer Price Index (CPI) for the three-year period ending in July of the immediately preceding fiscal year. In addition, the Governor’s proposed budget for community providers must be presented in the same manner as provided for in the fiscal 2017 budget. The Department of Health and Mental Hygiene (DHMH) has to adjust the rate of reimbursement for community providers each fiscal year by the rate adjustment included in the State budget for that year. The bill also institutes an annual reporting requirement for DHMH beginning December 1, 2018.

The bill takes effect June 1, 2016.

**Fiscal Summary**

**State Effect:** No effect in FY 2016 or 2017. General fund expenditures for DHMH increase by \$17.0 million in FY 2018 to provide the bill’s required rate of reimbursement for behavioral health community providers and ensure completion of the required report. Federal fund revenues and expenditures increase by \$16.5 million in FY 2018 due to increased Medicaid reimbursement. Future year expenditures reflect the compounding effect of the rate increase and \$100,000 in annual contractual data analysis services. **This bill establishes a mandated appropriation beginning in FY 2018.**

(\$ in millions)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
FF Revenue	\$0	\$16.5	\$32.8	\$48.9	\$65.5
GF Expenditure	\$0	\$17.0	\$35.6	\$55.3	\$75.9
FF Expenditure	\$0	\$16.5	\$32.8	\$48.9	\$65.5
Net Effect	\$0.0	(\$17.0)	(\$35.6)	(\$55.3)	(\$75.9)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Meaningful for small business community providers that receive annual rate adjustments under the bill. Providers must also submit required information to DHMH, which may be burdensome for smaller providers with limited resources.

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## Analysis

**Bill Summary:** “Community provider” means a community-based agency or program funded by the Behavioral Health Administration (BHA) or the Medical Care Programs Administration to serve individuals with mental disorders, substance-related disorders, or a combination of these disorders.

“Consumer Price Index” means the Consumer Price Index for All Urban Consumers for Medical Care for the Washington-Baltimore Region. “Rate” means the reimbursement rate paid by DHMH to a community provider from the general fund, Maryland Medical Assistance Program funds, other State or federal funds, or a combination of these funds.

If community providers’ services are provided through managed care organizations (MCOs), the MCOs must (1) for the first fiscal year the MCOs provide the services, pay the rate in effect during the prior fiscal year and (2) adjust the reimbursement rate for community providers each fiscal year by at least the same amount as specified in the bill.

The bill’s provisions do not apply to reimbursement for any service provided by a community provider whose rates are regulated by the Health Services Cost Review Commission.

By December 1, 2018, and each year thereafter, DHMH must submit a report on the impact of the reimbursement rate adjustment on community providers, including the impact on (1) the wages, salaries, and benefits provided to direct care staff and licensed clinicians employed by community providers; (2) the tenure and turnover of direct care staff and licensed clinicians employed by community providers; and (3) the ability of community providers to recruit qualified direct care staff and licensed clinicians. DHMH may require community providers to submit necessary information in order to complete the report.

**Current Law/Background:** The Governor’s proposed fiscal 2016 budget included cost containment actions for BHA, including \$23 million in rate reductions for community providers in the mental health services system; the 2% midyear rate increase in fiscal 2015 was removed from the fiscal 2016 allowance. However, the General Assembly subsequently restored the 2% increase for fiscal 2015 in the fiscal 2016 budget. The Governor’s proposed fiscal 2017 budget includes a 2% rate increase for community

behavioral health providers. The proposed fiscal 2017 budget also includes, for fiscal 2016, supplemental general fund appropriations of \$1,289,241 for community behavioral health provider reimbursements and \$908,444 for Medicaid community behavioral health provider reimbursements.

In its December 2015 final report, the Governor's Heroin and Opioid Emergency Task Force recommended that DHMH review Medicaid reimbursement rates for substance use disorder treatment every three years, in order to increase the workforce and expand access to care by attracting more practitioners to the field. Additionally, as part of its "Keep the Door Open" campaign, the Community Behavioral Health Association has also stated that indexing the reimbursement rate for behavioral health providers to the cost of inflation for medical care will expand access to care.

According to data obtained from the U.S. Bureau of Labor Statistics, the most recent three-year average annual rate increase (from July 2012 through July 2015) for the medical care CPI for all urban consumers in the Washington-Baltimore Region was 3.548%.

**State Fiscal Effect:** Overall, general fund expenditures for DHMH increase by \$17,005,045 in fiscal 2018 for DHMH to provide the bill's required rate of reimbursement and to ensure completion of the bill's reporting requirement.

*Rate Adjustment:* General fund expenditures for DHMH increase by \$16,960,582 in fiscal 2018 to provide the bill's required rate of reimbursement for behavioral health community providers. This analysis is based on an estimated \$943,904,652 in total budgeted costs and \$439,695,369 in general fund expenditures for community behavioral health providers' reimbursable services in fiscal 2017 and a three-year average regional medical care CPI rate increase of 3.548% in fiscal 2018. Federal fund revenues and expenditures increase by \$16,529,155, due to increased Medicaid reimbursement.

Future year expenditures assume that the average CPI rate increase remains constant at 3.548% and reflect the compounding effect of increasing reimbursement each year. Therefore, in fiscal 2021, general fund expenditures are estimated to increase by \$75,757,947 and federal fund revenues and expenditures increase by \$65,500,424. Costs may vary depending on actual CPI rate increases in future years. Additionally, this analysis does not take into account any increase in utilization or enrollment, which may further increase costs.

*DHMH Reporting Requirement:* The bill institutes an annual reporting requirement for DHMH beginning December 1, 2018. DHMH advises that, given the scope of the reporting requirement, it must hire one full-time policy analyst in fiscal 2019 to develop forms for data collection, provide training and technical assistance to behavioral health providers on completing the forms, and track and review forms for completion. DHMH advises that

extensive follow-up with providers is likely necessary in order to gather all required data. Additionally, DHMH advises that \$100,000 in annual contractual services is required for data analysis beginning in fiscal 2019.

In order to ensure data analysis is completed in time for the December 1, 2018 report, the Department of Legislative Services advises that, although costs for contractual data analysis services begin in fiscal 2019, DHMH must hire staff in fiscal 2018 to allow sufficient time to develop any required forms, conduct training or outreach, and begin the data collection process and follow up with providers as necessary.

Therefore, general fund expenditures increase by \$44,463 in fiscal 2018 for DHMH to hire one full-time policy analyst to coordinate data collection for the required annual report. This estimate reflects a start date of January 1, 2018. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$39,795
Operating Expenses	<u>4,668</u>
<b>FY 2018 DHMH Expenditures for the Report</b>	<b>\$44,463</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Additionally, beginning in fiscal 2019, general fund expenditures increase by \$100,000 annually for contractual data analysis services.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** Although designated as a cross file, HB 595 (Delegate Hayes, *et al.* - Health and Government Operations) is not identical.

**Information Source(s):** Maryland Association of County Health Officers, Department of Budget and Management, Department of Health and Mental Hygiene, Governor's Heroin and Opioid Emergency Task Force, U.S. Bureau of Labor Statistics, Department of Legislative Services

**Fiscal Note History:**  
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