

SENATE BILL 476

J1
SB 497/16 – FIN & B&T

7lr0593
CF HB 580

By: **Senators Guzzone, Zucker, Astle, Benson, Conway, Currie, DeGrange, Eckardt, Feldman, Ferguson, Kagan, Kasemeyer, Kelley, King, Klausmeier, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Muse, Nathan-Pulliam, Peters, Pinsky, Ramirez, Robinson, Rosapepe, Serafini, Smith, Waugh, Young, ~~and Zirkin~~ Zirkin, Edwards, Hershey, Jennings, and Oaks**

Introduced and read first time: January 30, 2017
Assigned to: Finance and Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 16, 2017

CHAPTER _____

1 AN ACT concerning

2 **Behavioral Health Community Providers – Keep the Door Open Act**

3 FOR the purpose of ~~requiring, except under certain circumstances, the Department of~~
4 ~~Health and Mental Hygiene to adjust the rate of reimbursement for certain~~
5 ~~community providers each fiscal year by the rate adjustment included in a certain~~
6 ~~State budget,~~ requiring that the Governor's proposed budget for a certain fiscal year,
7 years ~~and for each fiscal year thereafter,~~ include certain rate adjustments increases
8 for certain community providers ~~based on~~ over the funding provided in certain
9 legislative appropriations; ~~requiring that a certain rate of adjustment equal the~~
10 ~~average annual percentage change in a certain Consumer Price Index for a certain~~
11 ~~period,~~ requiring the Behavioral Health Administration and the Medical Care
12 Programs Administration jointly to conduct a certain study, develop and implement
13 a certain payment system, and consult with stakeholders in conducting a certain
14 study and developing a certain payment system; requiring the Administration to
15 complete a certain study on or before a certain date; requiring the Administration to
16 adopt certain regulations; requiring, under certain circumstances, managed care
17 organizations to pay a certain rate for a certain time period for services provided by
18 community providers and to adjust the rate of reimbursement for community
19 providers each fiscal year by at least a certain amount; defining certain terms;
20 providing for the application of this Act; requiring that increased funding provided

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.



under certain provisions of this Act may be used only to increase the rates paid to certain community providers and certain health care providers; requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date each year, beginning on or before a certain date; authorizing the Department to require certain community providers to submit certain information to the Department in the form and manner required by the Department; requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date; stating the intent of the General Assembly; providing for the termination of this Act under certain circumstances; and generally relating to the ~~rate of reimbursement~~ rates for behavioral health community providers.

BY adding to

Article – Health – General

Section 16–201.3

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Health – General

16–201.3.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMUNITY PROVIDER” MEANS A COMMUNITY–BASED AGENCY OR PROGRAM FUNDED BY THE BEHAVIORAL HEALTH ADMINISTRATION OR THE MEDICAL CARE PROGRAMS ADMINISTRATION TO SERVE INDIVIDUALS WITH MENTAL DISORDERS, SUBSTANCE–RELATED DISORDERS, OR A COMBINATION OF THESE DISORDERS.

~~(3) “CONSUMER PRICE INDEX” MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR MEDICAL CARE FOR THE WASHINGTON BALTIMORE REGION.~~

~~(4)~~ (3) “RATE” MEANS THE REIMBURSEMENT RATE PAID BY THE DEPARTMENT TO A COMMUNITY PROVIDER FROM THE STATE GENERAL FUND, MARYLAND MEDICAL ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL FUNDS, OR A COMBINATION OF THESE FUNDS.

(B) THIS SECTION DOES NOT APPLY TO REIMBURSEMENT FOR ANY SERVICE PROVIDED BY A COMMUNITY PROVIDER WHOSE RATES ARE REGULATED BY THE HEALTH SERVICES COST REVIEW COMMISSION.

(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A SUBSTANTIAL PORTION OF THE RATE ADJUSTMENT PROVIDED UNDER SUBSECTION (D) OF THIS SECTION BE USED TO:

(1) COMPENSATE DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS; AND

(2) IMPROVE THE QUALITY OF PROGRAMMING PROVIDED BY COMMUNITY PROVIDERS.

~~(C) (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE DEPARTMENT SHALL ADJUST THE RATE OF REIMBURSEMENT FOR COMMUNITY PROVIDERS EACH FISCAL YEAR BY THE RATE ADJUSTMENT INCLUDED IN THE STATE BUDGET FOR THAT FISCAL YEAR.~~

~~(2) (1) (1) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2019 AND FISCAL YEAR 2020, AND FOR EACH FISCAL YEAR THEREAFTER, SHALL INCLUDE RATE ADJUSTMENTS FOR COMMUNITY PROVIDERS BASED ON A 3.5% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:~~

~~1. (I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;~~

~~2. (II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND~~

~~3. (III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.~~

(2) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2021, AND FOR EACH FISCAL YEAR THEREAFTER UNTIL THE PAYMENT SYSTEM REQUIRED UNDER SUBSECTION (E) OF THIS SECTION HAS BEEN IMPLEMENTED, SHALL INCLUDE A 3% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

1 (I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM
2 M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT
3 – MEDICAL CARE PROGRAMS ADMINISTRATION;

4 (II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM
5 M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

6 (III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM
7 M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS
8 – BEHAVIORAL HEALTH ADMINISTRATION.

9 ~~(H) A RATE ADJUSTMENT REQUIRED TO BE INCLUDED IN THE~~
10 ~~GOVERNOR’S PROPOSED BUDGET UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH~~
11 ~~SHALL EQUAL THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER~~
12 ~~PRICE INDEX FOR THE 3 YEAR PERIOD ENDING IN JULY OF THE IMMEDIATELY~~
13 ~~PRECEDING FISCAL YEAR.~~

14 (3) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2019,
15 AND FOR EACH FISCAL YEAR THEREAFTER, FOR COMMUNITY PROVIDERS SHALL BE
16 PRESENTED IN THE SAME MANNER, INCLUDING OBJECT AND PROGRAM
17 INFORMATION, AS IN THE FISCAL YEAR 2018 BUDGET.

18 (E) (1) THE BEHAVIORAL HEALTH ADMINISTRATION AND THE MEDICAL
19 CARE PROGRAMS ADMINISTRATION JOINTLY SHALL:

20 (I) CONDUCT AN INDEPENDENT COST-DRIVEN, RATE-SETTING
21 STUDY TO SET COMMUNITY PROVIDER RATES FOR COMMUNITY-BASED BEHAVIORAL
22 HEALTH SERVICES THAT INCLUDES A RATE ANALYSIS AND AN IMPACT STUDY THAT
23 CONSIDERS THE ACTUAL COST OF PROVIDING COMMUNITY-BASED BEHAVIORAL
24 HEALTH SERVICES;

25 (II) DEVELOP AND IMPLEMENT A PAYMENT SYSTEM
26 INCORPORATING THE FINDINGS OF THE RATE-SETTING STUDY CONDUCTED UNDER
27 ITEM (I) OF THIS PARAGRAPH, INCLUDING PROJECTED COSTS OF IMPLEMENTATION
28 AND RECOMMENDATIONS TO ADDRESS ANY POTENTIAL SHORTFALL IN FUNDING;
29 AND

30 (III) CONSULT WITH STAKEHOLDERS, INCLUDING COMMUNITY
31 PROVIDERS AND INDIVIDUALS RECEIVING SERVICES, IN CONDUCTING THE
32 RATE-SETTING STUDY AND DEVELOPING THE PAYMENT SYSTEM REQUIRED BY THIS
33 PARAGRAPH.

1 **(2) THE ADMINISTRATION, ON OR BEFORE SEPTEMBER 30, 2019,**
2 **SHALL COMPLETE THE STUDY REQUIRED UNDER PARAGRAPH (1)(I) OF THIS**
3 **SUBSECTION.**

4 **(3) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO**
5 **IMPLEMENT THE PAYMENT SYSTEM REQUIRED BY PARAGRAPH (1) OF THIS**
6 **SUBSECTION.**

7 ~~(D)~~ **(F)** IF SERVICES PROVIDED BY COMMUNITY PROVIDERS ARE
8 PROVIDED THROUGH MANAGED CARE ORGANIZATIONS, THE MANAGED CARE
9 ORGANIZATIONS SHALL:

10 **(1) PAY THE RATE IN EFFECT DURING THE IMMEDIATELY PRECEDING**
11 **FISCAL YEAR FOR THE FIRST FISCAL YEAR THE MANAGED CARE ORGANIZATIONS**
12 **PROVIDE THE SERVICES; AND**

13 **(2) ADJUST THE RATE ~~OF REIMBURSEMENT~~ FOR COMMUNITY**
14 **PROVIDERS EACH FISCAL YEAR BY AT LEAST THE SAME AMOUNT THAT OTHERWISE**
15 **WOULD HAVE BEEN REQUIRED UNDER ~~SUBSECTION (C)(2)(H) OF~~ SUBSECTION (D) OF**
16 **THIS SECTION.**

17 **(G) INCREASED FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS**
18 **SECTION MAY BE USED ONLY TO INCREASE THE RATES PAID TO:**

19 **(1) COMMUNITY PROVIDERS ACCREDITED BY A STATE-APPROVED**
20 **ACCREDITING BODY AND LICENSED BY THE STATE; AND**

21 **(2) HEALTH CARE PROVIDERS WHO ARE ACTING WITHIN THE SCOPES**
22 **OF PRACTICE OF THE HEALTH CARE PROVIDERS' LICENSES OR CERTIFICATES AS**
23 **SPECIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE.**

24 ~~(E)~~ **(H)** **(1) ON OR BEFORE DECEMBER 1, 2019, AND ON OR BEFORE**
25 **DECEMBER 1 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A**
26 **REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE**
27 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE IMPACT OF THE**
28 **~~REIMBURSEMENT RATE ADJUSTMENT~~ ADJUSTMENTS AND THE PAYMENT SYSTEM**
29 **REQUIRED UNDER THIS SECTION ON COMMUNITY PROVIDERS, INCLUDING THE**
30 **IMPACT ON:**

31 **(I) THE WAGES AND SALARIES PAID AND THE BENEFITS**
32 **PROVIDED TO DIRECT CARE STAFF AND LICENSED CLINICIANS EMPLOYED BY**
33 **COMMUNITY PROVIDERS;**

(II) THE TENURE AND TURNOVER OF DIRECT CARE STAFF AND
LICENSED CLINICIANS EMPLOYED BY COMMUNITY PROVIDERS; AND

(III) THE ABILITY OF COMMUNITY PROVIDERS TO RECRUIT
QUALIFIED DIRECT CARE STAFF AND LICENSED CLINICIANS.

(2) THE DEPARTMENT MAY REQUIRE A COMMUNITY PROVIDER TO
SUBMIT, IN THE FORM AND MANNER REQUIRED BY THE DEPARTMENT,
INFORMATION THAT THE DEPARTMENT DEEMS NECESSARY FOR COMPLETION OF
THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
2019, the Department of Health and Mental Hygiene shall submit a report to the Governor
and, in accordance with § 2-1246 of the State Government Article, the General Assembly
that:

(1) details outcome measures that reasonably can be collected for each
treatment modality offered by community providers for which the rate of reimbursement
would be adjusted under § 16-201.3 of the Health – General Article, as enacted by Section
1 of this Act; and

(2) includes recommendations regarding how reimbursement rates can be
tied to outcomes, such as:

(i) differential payment for implementation of, and adherence to,
evidence-based and promising practices;

(ii) differential payment based on outcomes;

(iii) payments made to align incentives with the goals of the State's
all-payer model contract; and

(iv) any other financial payment system linking reimbursement to
outcomes.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene shall notify the Department
of Legislative Services within 5 days after the payment system required under §
16-201.3(d) of the Health – General Article, as enacted by Section 1 of this Act, has been
implemented.

(b) If the notice required under subsection (a) of this section is not received by the
Department of Legislative Services on or before June 30, 2023, this Act shall be null and
void without the necessity of further action by the General Assembly.

1 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.