

The Honorable Ulysses Currie  
Chairman  
Senate Budget and Taxation Committee  
3 West Miller Senate Office Bldg.  
Annapolis, MD 21401-1991

The Honorable Norman H. Conway  
Chairman  
House Appropriations Committee  
131 Lowe House Office Bldg.  
Annapolis, MD 21401-1991

The Honorable Thomas M. Middleton  
Chairman  
Senate Finance Committee  
3 East Miller Senate Office Bldg.  
Annapolis, MD 21401-1991

The Honorable Peter A. Hammen  
Chairman  
House Health and Government  
Operations Committee  
161 Lowe House Office Bldg.  
Annapolis, MD 21401-1991

**RE: HB 771 – Department of Health and Mental Hygiene – Therapeutic Behavioral Services – Rate Adequacy Study (Ch. 351 of the Acts of 2006)**

Dear Chairmen Currie, Conway, Middleton and Hammen:

In accordance with of Section 1 of HB 771 – *Department of Health and Mental Hygiene – Therapeutic Behavioral Services – Rate Adequacy Study*, the Department submits this report on the adequacy of rates paid to therapeutic behavioral services providers. The Mental Hygiene Administration (MHA) and the Office of Health Care Financing (Medicaid) jointly fund and supervise the provision of therapeutic behavioral services (TBS).

Therapeutic behavioral services are intensive rehabilitative services intended to restore the child or adolescent’s previously-acquired behavioral skills and provide the consumer with behavioral management skills to effectively manage the behaviors or symptoms that place the consumer at-risk of requiring a higher level-of-care. TBS is intended to supplement other specialty mental health services by addressing and resolving the targeted behavior(s) or symptom(s) that are jeopardizing their current living situation. Children and adolescents who receive TBS must have an initial assessment conducted by the TBS provider who is responsible for the development and implementation of a behavioral plan that includes goals and treatment interventions. TBS involves a one-to-one therapeutic intervention by a trained provider, known as a TBS “aide.” The aide provides modeling, structure, support and immediate, frequent one-to-one behavioral intervention, which assists the child in changing or managing target behaviors. The majority of the staff providing the direct care are not licensed healthcare workers. Any unlicensed aide must be supervised by licensed staff and at a minimum, must meet with the aide at the site of the TBS to ensure services are being provided in accordance to the behavior plan.

Individualized behavioral interventions that are provided include support for and work with the parent/caregiver to assist them in providing new ways of managing problem behavior and ways of increasing the kinds of behavior that will allow the child to achieve his or her treatment goals. Each child must also be reassessed periodically by the TBS provider, which includes a re-evaluation of the behavior plan, progress and efforts made towards completing the identified goals, and a new plan that incorporates the behavioral needs and request for hours of service to achieve his or her treatment goals. Each child must also be reassessed periodically by the TBS provider, which includes a re-evaluation of the behavior plan, progress and efforts made towards completing the identified goals, and a new plan that incorporates the behavioral needs and request for hours of service.

Under the definition of TBS, the children who receive the service have behaviors that are challenging to manage in the current environment. The provider of TBS delivers service on a one-to-one basis in the home or other community setting. Even though these services are to be provided to children who have been determined that they could safely be managed in the community, their behaviors can be aggressive at times. It becomes imperative that the staff is skilled and well trained in the behavioral plan that is to be implemented.

Medicaid has been providing TBS to children for the past several years at a rate of \$20 per hour for one-on-one aide services and \$100 for the initial assessment of the child. In November 2005, the Medical Care Program promulgated regulations to codify these already-established rates. In addition, a rate of \$94.00 was established for the required periodic re-assessment of the child. The regulations also include the requirement that the actual worker providing TBS must either be a licensed healthcare provider or if not licensed, supervised by a licensed provider with on-site supervision occurring once every 60 days.

According to HB771, the study shall assess the impact of the current rates on providers (advocates have stated that the hourly rate was too low to meet the requirements of providing the salary, fringe, training, supervision by licensed professionals, and to cover administrative costs). In addition, the legislation requires the Department to assess the impact of the current rates on:

- 1) the participation of existing and potential therapeutic behavioral services providers;
- 2) the ability of TBS providers to recruit and retain staff;
- 3) the ability of the Department to promptly refer a child for receipt of TBS; and
- 4) the ability of TBS providers to deliver the requisite number of therapeutic behavioral services hours.

The Department is also required by HB 771 to solicit input from TBS providers, mental health professionals, advocates, and families of children receiving TBS. In order to gather this input, the Medical Care Program (Medicaid) and MHA jointly conducted a meeting in August 2006 with the TBS providers, mental health professionals and advocates to identify their

concerns with the current rate structure. At the meeting, providers also stated that it is difficult to maintain well-trained staff, and to meet the hours of authorized services. Providers recommended increasing the hourly rate by \$5 to \$25, indicating that \$25 per hour would be enough to retain qualified staff and provide the hours of needed services.

In addition to the hourly rate, providers identified as a barrier to providing services the rate for the Reassessment. Providers have indicated that the \$94 rate for the reassessment does not provide money for the face-to-face on-site supervision of the aide, as well as the evaluation and development of a new behavior plan. Some providers indicated that the reassessment rate should be increased to \$250-\$287 to include all of these costs. Other providers recommended establishing a rate specifically for the on-site supervision (i.e., \$125 twice per 60-day period). The need for supervision is only required when the aide is not a licensed professional. One other recommendation was to change the regulations to allow aides to be individuals who carry a licensed level in the state, but are not allowed to practice under that license without supervision (such as licensed graduate or associate-level social workers). The Department notes that all comments regarding rates were anecdotal information. A detailed rate study or review of providers' certified financial reports was not performed. The Department would require an outside consultant to perform those tasks if necessary.

Copies of all written comments are attached to this report. If further information is required, please contact Brenda Rose, Deputy Director of the Acute Care Administration, at (410) 767-5204.

Sincerely,

John M. Colmers  
Secretary

Attachment

cc: Diane Herr  
Brenda Rose  
Stacey Diehl  
Susan Steinberg