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FACT SHEET

Chapter 257 of the Acts of 2008
An Act Relative To Rates For Human And Social Service Programs

Background

- Nearly one in six Massachusetts residents face challenges that require the attention and assistance of social service providers. These challenges include child abuse, homelessness, health care problems, developmental disabilities, mental health issues, drug and alcohol addiction and threats to personal safety.
- More than 1,100 social service providers, most of whom are community-based non-profit entities, contract with the agencies of the Executive Office of Health and Human Services to deliver a large and comprehensive system of vital services.

The Problem

- For 20 years (1987-2007) there had not been a statewide adjustment to the rates of reimbursement paid by the commonwealth to human service providers for their services. Rates had largely been a function of historic costs. Providers were not being reimbursed for their actual costs to administer their programs, including such items as rent, heat, fuel, insurance and staff training. And when the commonwealth did increase appropriations for social services, it did so to expand services for needy citizens, while still paying providers the same low rates.
- The Executive Office of Health and Human Services released a report in 2007 detailing the looming financial crisis confronting the state's human service providers. The report painted a picture of funding mechanism and procurement process that was endangering the continued viability of those providers and threatening the human service system itself.
- Among the reports findings was the fact that 60 percent of providers had less than 30 days cash on hand at the end of the year and that half of all providers had liabilities in excess of net assets—warning signs of businesses in crisis.

The Solution

- Responding to the financial crisis confronting the state's human and social service providers, the Legislature unanimously enacted *Chapter 257 of the Acts of 2008, An Act Relative To The Rates For Human And Social Service Programs*. Signed by Governor Deval Patrick on August 4, 2008, Chapter 257 was a landmark achievement for the Association for Behavioral Healthcare, the Association of Developmental Disabilities Providers and the Massachusetts Council of Human Service Providers (known collectively as "The Collaborative") in reforming how the commonwealth establishes rates of reimbursement for social services.

Chapter 257

- Chapter 257 ended the past practice whereby rates of payment for various social services were determined by each agency of the Executive Office of Health and Human Services and through individually negotiated contracts.
- In its place, it established a transparent, uniform and evidence-based process for the establishment of rates “which are reasonable and adequate to meet the costs which are incurred by efficiently and economically operated social service program providers.” In doing so, Chapter 257 created a level playing field for social service providers, allowing them to bid on contracts based upon uniform rates that reimbursed them for the actual cost of the services.
- The Secretary of the Executive Office of Health and Human Services has the sole responsibility for establishing rates of reimbursement to be paid by all agencies when procuring social services from private providers. It does so through a process that provides for technical input from providers and the opportunity to submit oral and written testimony at a public hearing.
- When establishing rates of payment, the secretary is required by law to adjust rates to take into account the following factors:
 - (a) The reasonable cost to social service program providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority;
 - (b) A cost adjustment factor to reflect changes in reasonable costs of goods and services of social service programs, including those attributed to inflation; and
 - (c) Geographic differences in wages, benefits, housing and real estate costs in each metropolitan statistical area of the commonwealth, and in any city or town therein where such costs are substantially higher than the average cost within that area as a whole.
- Once a rate of payment for a unit of service has been set, the secretary is mandated to review and adjust that rate every two years.
- Providers who are aggrieved by a rate established pursuant to Chapter 257, have the right to legally challenge that rate in the courts.
- Because of the enormity of the task of transforming an entire system by which the commonwealth contracted for social services, Chapter 257 established a four-year timeline for implementing the new rate setting process. Originally, not less than 10% of the contracts with social service providers were to be subject to the new rate setting process by October 1, 2009; not less than 40% of the contracts by October 1, 2010; not less than 70% of the contracts by October 1, 2011; and 100% of the contracts by October 1, 2012.
- Through an agreement with the Association for Behavioral Healthcare, the Association of Developmental Disabilities Providers, the Massachusetts Council of Human Service Providers and the Patrick Administration, those timelines were extended as follows: not less than 40% of the contracts by January 1, 2012; not less than 70% of the contracts by January 1, 2013; and 100% of the contracts by January 1, 2014.
- The Executive Office of Health and Human Services has developed a written plan to complete the implementation of Chapter 257. That plan and other information regarding Chapter 257 can be found at: <http://www.mass.gov/hhs/chapter257>

Other Facts About Chapter 257

- Chapter 257 does not require the procurement of social services as part of the rate setting process. Indeed, Chapter 257 does not require the commonwealth to purchase any human services. However, when social services are purchased, the commonwealth must pay all providers of such services the same rate for a unit of service as established through the Chapter 257 process.

- Chapter 257 does not mandate the redesign of human service programs as part of the rate setting process nor does it prohibit the possible redesign of a program by any agency of the Executive Office of Health and Human Services.
- Once the secretary has promulgated a rate for a unit of service, the commonwealth must pay 100% of the rate when procuring that service.
- At the request of The Collaborative, Governor Patrick issued Executive Order No. 536 establishing the *Chapter 257 of the Acts of 2008 Provider and Consumer Advisory Council* on August 25, 2011. The purpose of the council is to provide information, advice and guidance to the Secretary of Health and Human Services on system-wide factors that have implications for the development of rates of payment for social service programs and on the overall implementation of Chapter 257 across all agencies of the secretariat. The Association for Behavioral Healthcare, the Association of Developmental Disabilities Providers, and the Massachusetts Council of Human Service Providers all have representation on the council.