

SENATE No. 2443

The Commonwealth of Massachusetts

SENATE, March 23, 2006.

The committee on Children and Families, to whom was referred the petition (accompanied by bill, Senate, No. 1154) of Susan C. Tucker, Michael R. Knapik, Brian A. Joyce, Robert A. Antonioni and other members of the General Court for legislation to eliminate wage disparity among direct care workers for the mentally retarded, report the accompanying bill (Senate, No. 2443).

For the committee,

KAREN E. SPILKA.

The Commonwealth of Massachusetts

In the Year Two Thousand and Six

AN ACT ELIMINATING WAGE DISPARITY AMONG DIRECT CARE WORKERS
FOR THE MENTALLY RETARDED.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 Chapter 19B of the General Laws, as appearing in the 2004
2 Official Edition, is hereby amended by inserting after section 18
3 the following section:—

4 Section 19.

5 (1) In this section the following words shall have the meanings
6 indicated, unless the context requires otherwise:

7 (a) “Community provider” means a community-based agency
8 or program funded by the department of mental retardation to
9 serve individuals with mental retardation.

10 (b) “Community direct care worker” means an employee of a
11 community provider that provides treatment, support, or services
12 to those with mental retardation and/or their families.

13 (c) “Disparity amount” means the monetary calculation of the
14 average difference in wages, compensation, salary between com-
15 munity direct service workers and direct support workers or other
16 comparable employees in the commonwealth’s state operated pro-
17 grams for mental retardation.

18 (d) “Rate” means the reimbursement rate paid by the depart-
19 ment of mental retardation to a community provider from state or
20 federal funds, or a combination of funds.

21 (2) The department of mental retardation shall reimburse com-
22 munity providers as provided in this section.

23 (3) The rate of reimbursement for community services
24 providers shall be increased by an amount that:

25 (a) Reduces the disparity amount to 80% on or before July 1,
26 2008;

27 (b) Reduces the disparity amount to 60% on or before July 1,
28 2009;

29 (c) Reduces the disparity amount to 40% on or before July 1,
30 2010;

31 (d) Reduces the disparity amount to 20% on or before July 1,
32 2011;

33 (e) Eliminates the disparity amount on or before July 1, 2012.

34 (4) All increases in the rate of reimbursement provided for in
35 this section shall be used to increase the compensation of commu-
36 nity direct care workers serving those with mental retardation.
37 Community providers receiving such increases in the rate of reim-
38 bursement pursuant to this section shall provide to the department
39 documentation showing that such funds are used solely for adjust-
40 ments to wages, compensation or salary of direct care workers.

41 (5) The provisions of section 56 of chapter 7 of the General
42 Laws shall apply to payments made to community providers pur-
43 suant to this section and said funds shall not be expended for costs
44 associated with any attorney, consultant, or other person to advise,
45 consult or provide any other service to such contracting person or
46 entity relative to persuading employees thereof to support or
47 oppose any organization of said employees to any other employee
48 self-organization to concerted activity for mutual aid or protec-
49 tion. This restriction shall not apply to the costs of attorneys or
50 consultants to assist in collective bargaining with a union or other
51 employee organization recognized as said employees' bargaining
52 agent or to administer a collective bargaining agreement. The reg-
53 ulations of the division of purchased services shall apply to pay-
54 ments made pursuant to this section.

55 (6) On or before July 1, 2007, the executive office of adminis-
56 tration and the department of mental retardation, working with
57 representatives from the Association of Developmental Disabilities
58 Providers and the SEIU, Local 509 shall report to the Senate
59 Committee on Ways and Means, the House Committee on Ways
60 and Means, the Joint Committee on Children and Families, and
61 the Joint Committee on Public Service their determination of:

62 (i) The disparity amount;

63 (ii) The amount of annual increase in the rate of reimbursement
64 to community providers necessary to reduce and eliminate the dis-
65 parity amount as required under subsection (3) of this section.

66 (7) On or before July 1, 2007, The Commissioner of the
67 Department of Mental Retardation, working with representatives
68 from the Association of Developmental Disabilities Providers and
69 the SEIU, Local 509, shall report to the Joint Committee on
70 Human Services and Elderly Affairs recommendations to establish
71 workforce training and development standards to be met by com-
72 munity providers in accordance with increases in reimbursement
73 provided in this section. Implementation of foregoing standards
74 and framework shall begin on or before January 1, 2008.

75 (7) The Commissioner of the Department of Mental Retardation
76 shall adopt regulations to implement this section.

77 (8) Nothing in this section shall be construed to prohibit the
78 elimination of the disparity amount prior to July 1, 2012.