

CHAPTER 245

(House Bill 1587)

AN ACT concerning

Health Services Cost Review Commission – Averted Uncompensated Care – Assessment

FOR the purpose of ~~authorizing~~ requiring the Health Services Cost Review Commission to assess a certain amount in hospital rates to reflect a certain reduction in hospital uncompensated care and to operate and administer the Maryland Health Insurance Plan; requiring, for the portion of the assessment related to a certain expansion of health care coverage, ~~requiring~~ the Commission to ensure that the assessment amount not exceed certain savings and requiring each hospital to remit its assessment amount to the Health Care Coverage Fund; requiring any savings not subject to the assessment to be shared among certain purchasers; requiring, for the portion of the assessment related to the Maryland Health Insurance Plan, ~~requiring~~ the Commission to ensure the assessment is ~~revenue neutral to each hospital and~~ included in the reasonable costs of each hospital when establishing the hospital's rates, is not considered in making certain determinations, and is not less than a certain percentage of net patient revenue; requiring each hospital to remit certain amounts to the Maryland Health Insurance Plan Fund at certain intervals; prohibiting a certain assessment from exceeding a certain percentage of certain hospital revenue; providing that funds generated from the assessment may be used only for certain purposes; requiring the Commission to report certain information to the Governor and General Assembly on or before a certain date each year; repealing requirements for the Commission to determine certain savings and assess a certain amount in hospital rates; repealing certain requirements related to an assessment on hospitals for the operation and administration of the Maryland Health Insurance Plan; requiring the Maryland Health Care Commission to report certain information to the Governor and General Assembly on or before a certain date each year; establishing the intent of the General Assembly with regard to Medicaid day limits on hospital services; ~~requiring that~~ authorizing funds generated from the a certain assessment under this Act be used only for certain purposes to be used for a certain purpose notwithstanding certain provisions of law; requiring the Health Services Cost Review Commission to ensure that a certain assessment does not exceed certain savings; requiring this Act to be abrogated under certain circumstances; altering a certain statutory reference; and generally relating to a Health Services Cost Review Commission assessment on hospitals.

BY repealing

Article – Health – General

Section 19–214(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007
Special Session)

BY adding to

Article – Health – General
Section 19–214(d) and (e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007
Special Session)

BY repealing

Article – Health – General
Section 19–219(d) and (e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance
Section 14–504(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 14–504(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance
Section 15–12A–01(a) and (f)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007
Special Session)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 15–12A–05
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special Session)

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

Article - Health - General

19-214.

[(d) (1) On or after July 1, 2009, if the expansion of health care coverage under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session reduces hospital uncompensated care, the Commission:

(i) Shall determine the savings realized in averted uncompensated care for each hospital individually; and

(ii) May assess an amount in each hospital's rates equal to a portion of the savings realized in averted uncompensated care for that hospital.

(2) The Commission shall ensure that any savings realized in averted uncompensated care not subject to the assessment under paragraph (1) of this subsection be shared among purchasers of hospital services in a manner that the Commission determines is most equitable.

(3) Each hospital shall remit any assessment under this subsection to the Health Care Coverage Fund established under § 15-701 of this article.]

(D) (1) ~~THE~~ EACH YEAR, THE COMMISSION ~~MAY~~ SHALL ASSESS A UNIFORM, BROAD-BASED, AND REASONABLE AMOUNT IN HOSPITAL RATES TO:

(I) REFLECT THE AGGREGATE REDUCTION IN HOSPITAL UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF THE GENERAL ASSEMBLY; AND

(II) OPERATE AND ADMINISTER THE MARYLAND HEALTH INSURANCE PLAN ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE.

(2) (I) FOR THE PORTION OF THE ASSESSMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION:

1. THE COMMISSION SHALL ENSURE THAT THE ASSESSMENT AMOUNT DOES NOT EXCEED THE SAVINGS REALIZED IN AVERTED

HOSPITAL UNCOMPENSATED CARE FROM THE HEALTH CARE COVERAGE EXPANSION; AND

2. EACH HOSPITAL SHALL REMIT ITS ASSESSMENT AMOUNT TO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER § 15-701 OF THIS ARTICLE.

(II) ANY SAVINGS REALIZED IN AVERTED UNCOMPENSATED CARE AS A RESULT OF THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF THE GENERAL ASSEMBLY THAT ARE NOT SUBJECT TO THE ASSESSMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE SHARED AMONG PURCHASERS OF HOSPITAL SERVICES IN A MANNER THAT THE COMMISSION DETERMINES IS MOST EQUITABLE.

(3) FOR THE PORTION OF THE ASSESSMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) THE COMMISSION SHALL ENSURE THAT THE ASSESSMENT:

~~**1. SHALL BE REVENUE NEUTRAL TO EACH HOSPITAL; AND**~~

1. SHALL BE INCLUDED IN THE REASONABLE COSTS OF EACH HOSPITAL WHEN ESTABLISHING THE HOSPITAL'S RATES;

2. MAY NOT BE CONSIDERED IN DETERMINING THE REASONABLENESS OF RATES OR HOSPITAL FINANCIAL PERFORMANCE UNDER COMMISSION METHODOLOGIES; AND

3. MAY NOT BE LESS AS A PERCENTAGE OF NET PATIENT REVENUE THAN THE ASSESSMENT OF .8128% THAT WAS IN EXISTENCE ON JULY 1, 2007; AND

(II) EACH HOSPITAL SHALL REMIT MONTHLY ONE-TWELFTH OF THE AMOUNT ASSESSED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE, FOR THE PURPOSE OF OPERATING AND ADMINISTERING THE MARYLAND HEALTH INSURANCE PLAN.

(4) THE ASSESSMENT AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED 3% IN THE AGGREGATE OF ANY HOSPITAL'S TOTAL NET REGULATED PATIENT REVENUE.

(5) FUNDS GENERATED FROM THE ASSESSMENT UNDER THIS SUBSECTION MAY BE USED ONLY TO:

(I) SUPPLEMENT COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM BEYOND THE ELIGIBILITY REQUIREMENTS IN EXISTENCE ON JANUARY 1, 2008; AND

(II) PROVIDE FUNDING FOR THE OPERATION AND ADMINISTRATION OF THE MARYLAND HEALTH INSURANCE PLAN.

(E) ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE FOLLOWING INFORMATION:

(1) THE AGGREGATE REDUCTION IN HOSPITAL UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE GENERAL ASSEMBLY OF THE 2007 SPECIAL SESSION; AND

(2) THE NUMBER OF INDIVIDUALS WHO ENROLLED IN MEDICAID AS A RESULT OF THE CHANGE IN ELIGIBILITY STANDARDS UNDER § ~~15-103(IX)~~ 15-103(A)(2)(IX) AND (X) OF THE HEALTH - GENERAL ARTICLE AND THE EXPENSES ASSOCIATED WITH THE UTILIZATION OF HOSPITAL INPATIENT CARE BY THESE INDIVIDUALS.

19-219.

[(d) (1) In this subsection, "base hospital rate" means the aggregate value to participating commercial health insurance carriers of the substantial, available, and affordable coverage purchaser differential as determined by the Commission for the calendar year 2002.

(2) The Commission, in accordance with this subsection, shall calculate the amount of funds necessary to operate and administer the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article.

(3) (i) The Commission shall determine the percentage of total net patient revenue received in calendar year 2002 by all hospitals for which the Commission approved hospital rates that is represented by the base hospital rate.

(ii) The percentage under subparagraph (i) of this paragraph shall be determined by dividing the base hospital rate by the total net patient revenue received in calendar year 2002 by all hospitals for which the Commission approved hospital rates.

(4) On or before May 1 of each year, the Commission shall:

(i) Determine the amount of funding to allocate to the Maryland Health Insurance Plan by multiplying the percentage determined under paragraph (3) of this subsection by the value of the total net patient revenues received in the immediately preceding State fiscal year by all hospitals for which rates were approved by the Commission; and

(ii) Determine the share of total funding owed by each hospital for which rates have been approved by the Commission proportionate to the percentage of the base hospital rate attributable to each hospital.

(5) Each hospital shall remit monthly one-twelfth of the amount determined under paragraph (4)(ii) of this subsection to the Maryland Health Insurance Plan Fund.]

[(e) (1) The Commission shall adjust hospital rates to ensure that the assessment collected under subsection (d) of this section is revenue neutral to each hospital.

(2) The Commission may not consider the assessment required under subsection (d) of this section in determining:

(i) The reasonableness of rates under this section; or

(ii) Hospital financial performance.]

Article – Insurance

14–504.

(a) (1) There is a Maryland Health Insurance Plan Fund.

(b) The Fund shall consist of:

(1) premiums for coverage that the Plan issues;

(2) except as provided in § 14–513(a) of this subtitle, premiums paid by enrollees of the Senior Prescription Drug Assistance Program;

- (3) money collected in accordance with [§ 19–219] § **19–214(D)** of the Health – General Article;
- (4) money deposited by a carrier in accordance with § 14–513 of this subtitle;
- (5) income from investments that the Board makes or authorizes on behalf of the Fund;
- (6) interest on deposits or investments of money from the Fund;
- (7) premium tax revenue collected under § 14–107 of this title;
- (8) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;
- (9) money donated to the Fund; and
- (10) money awarded to the Fund through grants.

15–12A–01.

(a) In this subtitle the following words have the meanings indicated.

(f) “Program” means the Small Employer Health Benefit Plan Premium Subsidy Program.

15–12A–05.

On or before January 1, 2009, and annually thereafter, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on:

(1) the implementation of the Program; AND

(2) THE UNCOMPENSATED CARE SAVINGS DERIVED FROM THE PROGRAM AND THE METHODOLOGY USED BY THE COMMISSION TO TRACK THE UNCOMPENSATED CARE SAVINGS.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Health and Mental Hygiene policy of imposing Medicaid day limits on hospital services shall cease effective July 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That ~~funds generated from the assessment under this Act may be used only to:~~

~~(1) supplement coverage under the Medical Assistance Program beyond the eligibility requirements in existence on January 1, 2008;~~

~~(2) provide funding for the Maryland Health Insurance Plan; and~~

~~(3) assist in eliminating Medicaid day limits on hospital services effective July 1, 2008 notwithstanding § 19-214(d)(1), (2), and (5) of the Health – General Article, as enacted by Section 1 of this Act, § 15-701 of the Health – General Article, or a delay in the expansion of health care coverage beyond July 1, 2008, under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session:~~

(1) funds generated from the assessment under § 19-214(d)(1)(i) of the Health – General Article, as enacted by Section 1 of this Act, may be used to pay for the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008; and

(2) the Health Services Cost Review Commission shall ensure that the assessment under § 19-214(d)(1)(i) of the Health – General Article, as enacted by Section 1 of this Act, does not exceed the savings realized in averted hospital uncompensated care from:

(i) the health care coverage expansion; and

(ii) the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008.

SECTION 4. AND BE IT FURTHER ENACTED, That if the State's Medicare waiver under § 1814(b) of the federal Social Security Act terminates or the provisions of 42 C.F.R. 433.68 are changed to prohibit the assessment authorized under this Act, this Act shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.