Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 699 (Delegate Reznik, *et al.*)
Health and Government Operations Finance

Health Facilities - Freestanding Medical Facilities - Rates

This bill requires the State Health Services Cost Review Commission (HSCRC) to set rates for hospital services provided at freestanding medical facilities issued a certificate of need (CON) by the Maryland Health Care Commission (MHCC) after July 1, 2015; a freestanding medical facility licensed prior to July 1, 2007; and freestanding medical facility pilot projects. The bill requires all payors subject to the rate-setting authority of HSCRC, including insurers, nonprofit health service plans, health maintenance organizations (HMOs), managed care organizations (MCOs), and the Medical Assistance Program (Medicaid), to pay the HSCRC rates for hospital services at a freestanding medical facility issued a CON after July 1, 2015, and freestanding medical facility pilot projects. However, the bill limits HSCRC's fiscal 2011 rate-setting authority to hospital services provided at the freestanding medical facility pilot project in Queen Anne's County, and requires that those rates be set in a manner that does not impact the State budget in fiscal 2011. The bill requires that a freestanding facility receiving a CON after July 1, 2015, meet requirements for licensure as a freestanding medical facility and prohibits the licensure of any additional freestanding medical facilities before that date.

The bill takes effect June 1, 2010.

Fiscal Summary

State Effect: Due to the bill's requirement that rates set in FY 2011 not impact the State budget, Medicaid expenditures increase, potentially by a significant amount, beginning in FY 2012 for Medicaid (50% general funds/50% federal funds) to reimburse three freestanding medical facilities at rates set by HSCRC. Future year expenditure increases will continue and reflect Medicaid costs, increased patient volume, and medical facility inflation. However, a portion of the expenditures will be offset to the extent that facility reimbursements replace reimbursements to providers outside of the facilities. Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2011 from the $125 rate and form filing fee. Review and approval of forms and rate filings can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill eliminates the current method of reimbursing freestanding medical facilities and alters the definition of "hospital services" in the HSCRC statutes to specify that emergency services include services provided at specified freestanding medical facilities and freestanding medical facility pilot projects.

HSCRC has to report on the rates established under the bill and its methodology by October 1, 2010.

MHCC, in consultation with HSCRC, must conduct a study of the effect of the rates established for freestanding medical facility pilot projects by HSCRC and report the study results to the Senate Finance and House Health and Government Operations committees by December 31, 2014. The study must review the effect of the rates for two full years after they become effective. MHCC must consider the data in the report and other pertinent data when establishing review criteria and standards for issuing a CON required to establish a freestanding medical facility in the State after July 1, 2015.

Current Law: Chapters 549 and 550 of 2005 established the category of "freestanding medical facility" and required licensure of such facilities by the Department of Health and Mental Hygiene (DHMH).

Chapters 549 and 550 also established a freestanding medical facility pilot project in Montgomery County. Chapter 574 of 2007 added a second project, located in Queen Anne's County, to the freestanding medical facility pilot project. The pilot projects do not require a CON and must submit certain information on the location, operation, and utilization of the project to MHCC.

Carriers and MCOs must reimburse the projects at a rate consistent with the contract between the carrier and the freestanding medical facility. Medicaid must pay a fee-for-service claim submitted by the project at a rate at least equal to the rate paid by Medicare.

Background: A "freestanding medical facility" is a facility in which medical and health services are provided that is physically separate from a hospital or hospital grounds and is an administrative part of a hospital or related institution. Freestanding medical facilities must be open 24 hours a day, seven days a week, and, according to regulations issued by DHMH's Office of Health Care Quality, provide stabilizing treatment to a patient

presenting with an emergency medical condition regardless of a patient's medical condition, insurance status, or ability to pay.

Chapters 549 and 550 resulted from a failed attempt by Shady Grove Adventist Hospital to establish, through the CON process, an emergency department in the Germantown area of Montgomery County. Using information from the pilot project, MHCC, in consultation with HSCRC, was required to conduct a study of the operations, utilization, and financing of freestanding medical facilities. The findings were required to be reported to specified legislative committees by December 31, 2007. MHCC submitted a preliminary report in 2007 and requested an extension of its final report, which was submitted in February 2010.

The pilot project in Germantown, affiliated with Shady Grove Adventist Hospital under the Adventist Health Care System, opened in August 2006. On September 21, 2006, MHCC approved final regulations to implement the data-reporting requirements for freestanding medical facilities. The regulations require freestanding medical facilities, including the pilot project, to submit information that includes specified aggregate facility and patient-level data according to the form, format, and schedule specified by MHCC.

Queen Anne's County does not have a hospital. Therefore, the pilot project will be operated administratively by Memorial Hospital at Easton and affiliated with the University of Maryland Medical System/Shore Health. The hospital expects to open the facility in late 2010. In addition, the Bowie Health Center in Prince George's County is also licensed as a freestanding medical facility (as of June 13, 2007) and has rates set by HSCRC. However, Medicaid has never paid those rates – only a professional fee.

HSCRC is an independent agency, established to contain hospital costs, maintain fairness in hospital payments, provide financial access to hospital care, and disclose information on the operation of hospitals in the State. In this role, HSCRC sets standard rates that hospitals may charge for the purchase of care. HSCRC does not currently set rates for freestanding medical facility pilot projects. Since HSCRC does not set rates for freestanding medical facility pilot projects, the Centers for Medicare and Medicaid Services (CMS) has refused to grant the Germantown pilot project a facility rate under Medicare. Since Medicare is not paying a facility rate, Medicaid does not pay one either. Thus, the Germantown facility is not reimbursed a facility fee for patients treated – only a provider fee.

State Fiscal Effect: DHMH advises that, while it pays provider fees at freestanding medical facility pilot projects, it does not pay facility fees to any of the three existing freestanding medical facilities – even though HSCRC sets rates for the Bowie freestanding medical facility.

Legislative Services notes that the Bowie Freestanding Medical Facility does not fall into either one of the categories subject to the all-payor requirement so it is unclear as to whether the bill actually would require all payors to reimburse Bowie for hospital services in the same manner as the freestanding medical facility pilot projects. Even so, for purposes of this estimate, Legislative Services assumes that all payors pay the three freestanding medical facilities at the rates set by HSCRC.

Given the requirement that HSCRC set rates that apply to all payors for the freestanding medical facility pilot project in Queen Anne's County in a manner that does not result in a fiscal impact to the State in fiscal 2011, there is no impact in that year. However, Medicaid expenditures (50% general funds, 50% federal funds) increase, potentially by a significant amount, beginning in fiscal 2012 to reimburse three freestanding medical facilities at rates set by HSCRC. This assumes that HSCRC will then revise its rates for the freestanding medical facility pilot project in Queen Anne's County to more closely reflect actual costs in fiscal 2012. However, a portion of the expenditures will be offset to the extent that facility reimbursements replace reimbursements to providers outside of the facilities due to a substitution effect in services obtained.

Estimate for the Germantown Facility – for illustrative purposes only: While rates paid to the Germantown facility ($481.91) are lower than those paid to its Shady Grove Adventist Hospital affiliate ($551.57), overall patient volume has increased in the area since the facility's opening due to increased access to care. Therefore, an additional 15,721 people could be served in fiscal 2012 as a result of the increased access, and 20.5% of this additional volume is payable by Medicaid. While some savings would result from an estimated 5,587 Medicaid patients that would have accessed services at the Shady Grove Adventist Hospital shifting to the less expensive Germantown facility, Medicaid expenditures could increase by $652,432 in fiscal 2012 to pay facility rates to the Germantown facility.

Legislative Services advises that, to the extent that rates set by HSCRC are lower than the projected $481.91 per patient rate estimated above, expenditures will actually be lower. In addition, HSCRC advises that costs at the facility in Bowie are generally much lower than at the Germantown, making the application of the Germantown cost example to the other facilities unrealistic. In addition, Legislative Services advises that much of the increased patient volume seen at the Germantown facility likely resulted from a shift in patients who may have instead chosen to see a provider outside the facility or hospital before Germantown existed. Therefore, a portion of the expenditures will be offset to the extent that facility payments to Germantown replace reimbursements that Medicaid would have made anyway to providers outside of the facility.

Additional Information

Prior Introductions: None.

Cross File: SB 593 (Senator Garagiola, *et al.*) - Finance.

Information Source(s): Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2010
ncs/mwc Revised - Updated Information - March 2, 2010
Revised - House Third Reader - April 12, 2010

Analysis by: Sarah K. Volker

Direct Inquiries to:
(410) 946-5510
(301) 970-5510