

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 327 (Delegate Kelly)
Health and Government Operations

Finance

Health - Ambulatory Surgical Facility - Definitions

This bill alters the definitions of “ambulatory surgical facility” and “surgical services” as they relate to freestanding ambulatory care facilities to conform to federal regulatory guidelines.

Fiscal Summary

State Effect: The bill does not substantively change State activities or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Freestanding ambulatory care facilities are regulated under Title 19, Subtitle 3B of the Health-General Article. Freestanding ambulatory care facilities include ambulatory surgical facilities, freestanding endoscopy facilities, kidney dialysis centers, freestanding birthing centers, and freestanding facilities that use major medical equipment. Under Subtitle 3B, “ambulatory surgical facility” means any center, service, office facility, or other entity that (1) operates primarily for the purpose of providing surgical services to patients requiring a period of postoperative observation but not requiring overnight hospitalization and (2) seeks reimbursement from payors as an ambulatory surgery center. The bill specifies that an ambulatory surgical facility operates *exclusively* (rather than primarily) for the purpose of providing surgical services.

The bill also specifies that, rather than providing surgical services that do not require *overnight hospitalization*, an ambulatory surgical facility can provide services as long as

they do not (1) require hospitalization and (2) in which the expected duration of services would not exceed 24 hours following admission.

Under Subtitle 3B, “surgical services” means any invasive procedure whether therapeutic or diagnostic involving the use of (1) any cutting instrument; (2) microscopic, endoscopic, arthroscopic, or laparoscopic equipment; or (3) a laser for the removal or repair of an organ or other tissue. Under the bill, this definition is replaced with a cross reference to the meaning included in the federal Centers for Medicare and Medicaid Services (CMS) State Operations Manual.

Background: Under Medicare regulations, CMS defines an ambulatory surgical center as a “distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours.” Based on CMS’s interpretive guidelines, the 24-hour mark begins when the patient is checked in and ends when the patient is discharged, independent of the time of day. Furthermore, the regulations specify that an ambulatory surgical center may only perform procedures “that would not be expected to pose a significant safety risk to a Medicare beneficiary when performed in [such a setting] and for which standard medical practice dictates that the beneficiary would not typically be expected to require active medical monitoring and care at midnight following the procedure.”

The definition of surgery is incorporated in CMS’s [State Operations Manual Appendix L - Guidance for Surveyors: Ambulatory Surgical Centers](#). Generally, surgery is performed for the purpose of structurally altering the human body by the incision or destruction of tissues and is part of the practice of medicine. Surgery also is the diagnostic or therapeutic treatment of conditions or disease processes by any instruments causing localized alteration or transposition of live human tissue which include lasers, ultrasound, ionizing radiation, scalpels, probes, and needles.

The bill is intended to conform Maryland’s definitions to reflect federal regulations and current practice of the Office of Health Care Quality (OHCQ) surveyors. According to OHCQ, 22 states currently define an ambulatory surgical center using the federal regulatory guidelines.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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