

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 923
Finance

(Senator Hershey)

Maryland All-Payer Model Agreement - Medicare Skilled Nursing Facility 3-Day Rule - Waiver

This bill requires the Maryland Department of Health (MDH), by September 1, 2018, to request federal approval of a waiver of the Medicare Skilled Nursing Facility 3-Day Rule (SNF 3-Day Rule) and its applicability to Maryland Medicare beneficiaries. The request must be included in an MDH request for updates to and extension of the Maryland All-Payer Model Agreement. By December 31, 2018, MDH must report to the Governor and the General Assembly on the status of the request for the waiver. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: The Health Services Cost Review Commission (HSCRC) advises that an SNF 3-Day Rule waiver request is part of the new Total Cost of Care All-Payer Model, as discussed below. Potential impact on Medicaid expenditures (50% federal funds, 50% general funds), as discussed below.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background:

Medicare Skilled Nursing Facility 3-Day Rule

The Medicare skilled nursing facility (SNF) benefit applies to beneficiaries who require a short-term intensive stay in a SNF and need skilled nursing, and/or skilled rehabilitation care. Beneficiaries must have a prior inpatient hospital stay of no fewer than three consecutive days to be eligible for Medicare coverage of inpatient SNF care. This requirement is referred to as the SNF 3-Day Rule. The federal Centers for Medicare and Medicaid Services (CMS) may provide a waiver of the SNF 3-Day Rule as may be necessary to carry out the Medicare Shared Savings Program.

Maryland All-Payer Model Contract

Effective January 1, 2014, Maryland entered into a five-year contract with the federal government to replace the State's 36-year-old Medicare waiver with the Maryland all-payer model contract. The model contract will be deemed successful if Maryland can meet cost and quality targets without inappropriately shifting costs to nonhospital settings and if there is a measurable improvement in quality of care.

The all-payer model contract required Maryland to submit a proposal for a new model to limit Medicare beneficiary total cost of care (TCOC) growth. The new "Maryland Total Cost of Care Model" is designed to (1) improve population health; (2) improve outcomes for individuals; and (3) control growth of TCOC. To accomplish these goals, the model must move beyond hospitals to address Medicare patients' care in the community. Under the new model, the State will be required to address care delivery across the health care system with the objective of improving health and quality of care, while limiting State growth in Medicare spending to a level lower than the national rate.

State Fiscal Effect: HSCRC advises that the term sheet for the TCOC model that was developed with CMS in May 2017 includes language signaling Maryland's intent to apply for a SNF 3-Day Rule waiver. The SNF 3-Day Rule waiver is one of a number of waivers that may be necessary for Maryland as part of the process to develop new care redesign tracks and programs.

MDH notes that waiving the SNF 3-Day Rule could result in greater spending on Medicaid long-term care services because individuals access the long-term care benefit sooner than they would have otherwise. It may also result in Medicare beneficiaries being discharged to SNFs with higher acuity levels, which could further increase costs. *For illustrative purposes only*, if a waiver of the SNF 3-Day Rule shortened all hospital stays by two days,

Medicaid expenditures could increase by \$1.3 million (50% federal funds, 50% general funds). This reflects the cost of two additional long-term care days per person at an average cost of \$251 per day for 2,655 individuals. However, the Department of Legislative Services notes that these additional costs may be offset by a reduction in expenditures on hospital stays.

Small Business Effect: Small business health care providers that participate as accountable care organizations in the Medicare Shared Savings Program gain additional flexibility to increase quality and decrease costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Centers for Medicare and Medicaid Services; Maryland Department of Health; Department of Legislative Services

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