

SENATE BILL 42

J3, C3

01r0105

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Health)**

Requested: September 24, 2019

Introduced and read first time: January 8, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Services Cost Review Commission – Duties and Reports – Revisions**

3 FOR the purpose of altering the information required to be included in a certain annual
4 report required to be submitted to certain persons by the Health Services Cost
5 Review Commission; altering a certain reporting date; repealing certain provisions
6 of law rendered obsolete by certain provisions of this Act; repealing the requirement
7 that the Commission annually publish certain acute care hospital charges;
8 authorizing the Commission, on request of the Secretary of Health, to assist in the
9 implementation of certain model programs; defining a certain term; making
10 conforming and technical changes; and generally relating to the Health Services Cost
11 Review Commission.

12 BY repealing and reenacting, with amendments,

13 Article – Health – General

14 Section 19–201, 19–207(b)(6), (7), and (10), 19–214(b)(5), 19–219(b)(2)(ii) and (c),
15 19–225(a), and 19–226(a)

16 Annotated Code of Maryland

17 (2019 Replacement Volume)

18 BY repealing

19 Article – Health – General

20 Section 19–207(b)(8) and (9)

21 Annotated Code of Maryland

22 (2019 Replacement Volume)

23 BY repealing and reenacting, with amendments,

24 Article – Insurance

25 Section 15–604

26 Annotated Code of Maryland

27 (2017 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health – General**

4 19–201.

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

6 **(B) “ALL–PAYER MODEL CONTRACT” MEANS THE PAYMENT MODEL**
7 **DEMONSTRATION AGREEMENT AUTHORIZED UNDER § 1115A OF THE SOCIAL**
8 **SECURITY ACT, INCLUDING ANY AMENDMENTS TO THE AGREEMENT, BETWEEN THE**
9 **STATE AND THE FEDERAL CENTER FOR MEDICARE AND MEDICAID INNOVATION.**

10 **[(b)] (C)** “Commission” means the State Health Services Cost Review
11 Commission.

12 **[(c)] (D)** “Facility” means, whether operated for a profit or not:

13 (1) Any hospital; or

14 (2) Any related institution.

15 **[(d)] (E)** (1) “Hospital services” means:

16 (i) Inpatient hospital services as enumerated in Medicare
17 Regulation 42 C.F.R. § 409.10, as amended;

18 (ii) Emergency services, including services provided at a
19 freestanding medical facility licensed under Subtitle 3A of this title;

20 (iii) Outpatient services provided at a hospital;

21 (iv) Outpatient services, as specified by the Commission in
22 regulation, provided at a freestanding medical facility licensed under Subtitle 3A of this
23 title that has received:

24 1. A certificate of need under § 19–120(o)(1) of this title; or

25 2. An exemption from obtaining a certificate of need under §
26 19–120(o)(3) of this title; and

27 (v) Identified physician services for which a facility has
28 Commission–approved rates on June 30, 1985.

1 (2) “Hospital services” includes a hospital outpatient service:

2 (i) Of a hospital that, on or before June 1, 2015, is under a merged
3 asset hospital system;

4 (ii) That is designated as a part of another hospital under the same
5 merged asset hospital system to make it possible for the hospital outpatient service to
6 participate in the 340B Program under the federal Public Health Service Act; and

7 (iii) That complies with all federal requirements for the 340B
8 Program and applicable provisions of 42 C.F.R. § 413.65.

9 (3) “Hospital services” does not include:

10 (i) Outpatient renal dialysis services; or

11 (ii) Outpatient services provided at a limited service hospital as
12 defined in § 19–301 of this title, except for emergency services.

13 **[(e)] (F)** (1) “Related institution” means an institution that is licensed by the
14 Department as:

15 (i) A comprehensive care facility that is currently regulated by the
16 Commission; or

17 (ii) An intermediate care facility–intellectual disability.

18 (2) “Related institution” includes any institution in paragraph (1) of this
19 subsection, as reclassified from time to time by law.

20 19–207.

21 (b) In addition to the duties set forth elsewhere in this subtitle, the Commission
22 shall:

23 (6) On or before **[October] MAY** 1 of each year, submit to the Governor, to
24 the Secretary, and, subject to § 2–1257 of the State Government Article, to the General
25 Assembly an annual report on the operations and activities of the Commission during the
26 preceding fiscal year, including:

27 (i) A copy of each summary, compilation, and supplementary report
28 required by this subtitle;

29 (ii) Budget information regarding the Health Services Cost Review
30 Commission Fund, including:

31 1. Any balance remaining in the Fund at the end of the

1 previous fiscal year; and

2 2. The percentage of the total annual costs of the
3 Commission that is represented by the balance remaining in the Fund at the end of the
4 previous fiscal year;

5 (iii) A summary of the Commission's role in hospital quality of care
6 activities, including information about the status of any pay for performance initiatives;

7 (iv) An update on the status of the State's compliance with the
8 provisions of [Maryland's] THE all-payer model contract that includes [the information
9 specified in item (9) of this subsection];

10 **1. PERFORMANCE IN LIMITING INPATIENT AND**
11 **OUTPATIENT HOSPITAL PER CAPITA COST GROWTH FOR ALL PAYERS TO A TREND**
12 **BASED ON THE STATE'S 10-YEAR COMPOUND ANNUAL GROSS STATE PRODUCT;**

13 **2. ANNUAL PROGRESS TOWARD ACHIEVING THE**
14 **STATE'S FINANCIAL TARGETS ESTABLISHED BY THE CURRENT ALL-PAYER MODEL**
15 **CONTRACT;**

16 **3. A SUMMARY OF THE WORK CONDUCTED,**
17 **RECOMMENDATIONS MADE, INCLUDING RECOMMENDATIONS MADE BY**
18 **WORKGROUPS CREATED TO PROVIDE TECHNICAL INPUT AND ADVICE, AND**
19 **COMMISSION ACTION ON ACTIVITIES RELATED TO THE ALL-PAYER MODEL**
20 **CONTRACT;**

21 **4. ACTIONS APPROVED AND CONSIDERED BY THE**
22 **COMMISSION TO PROMOTE ALTERNATIVE METHODS OF RATE DETERMINATION AND**
23 **PAYMENT OF AN EXPERIMENTAL NATURE, AS AUTHORIZED UNDER § 19-219(C)(2)**
24 **OF THIS SUBTITLE;**

25 **5. REPORTS SUBMITTED TO THE FEDERAL CENTER FOR**
26 **MEDICARE AND MEDICAID INNOVATION RELATING TO THE ALL-PAYER MODEL**
27 **CONTRACT; AND**

28 **6. ANY KNOWN ADVERSE CONSEQUENCES THAT**
29 **IMPLEMENTING THE ALL-PAYER MODEL CONTRACT HAS HAD ON THE STATE,**
30 **INCLUDING CHANGES OR INDICATIONS OF CHANGES TO QUALITY OF OR ACCESS TO**
31 **CARE, AND THE ACTIONS THE COMMISSION HAS TAKEN TO ADDRESS AND MITIGATE**
32 **THE CONSEQUENCES; and**

33 (v) Any other fact, suggestion, or policy recommendation that the
34 Commission considers necessary;

1 (7) Oversee and administer the Maryland Trauma Physician Services
2 Fund in conjunction with the Maryland Health Care Commission; **AND**

3 [(8) In consultation with the Maryland Health Care Commission, annually
4 publish each acute care hospital's severity-adjusted average charge per case for the 15 most
5 common inpatient diagnosis-related groups;

6 (9) Subject to item (10)(ii) of this subsection, on or before May 1 each year,
7 submit to the Governor, the Secretary, and, subject to § 2-1257 of the State Government
8 Article, the General Assembly an update on the status of the State's compliance with the
9 provisions of Maryland's all-payer model contract, including:

10 (i) The State's:

11 1. Performance in limiting inpatient and outpatient hospital
12 per capita cost growth for all payers to a trend based on the State's 10-year compound
13 annual gross State product;

14 2. Progress toward achieving aggregate savings in Medicare
15 spending in the State equal to or greater than \$330,000,000 over the 5 years of the contract,
16 based on lower increases in the cost per Medicare beneficiary;

17 3. Performance in shifting from a per-case rate system to a
18 population-based revenue system, with at least 80% of hospital revenue shifted to global
19 budgeting;

20 4. Performance in reducing the hospital readmission rate
21 among Medicare beneficiaries to the national average; and

22 5. Progress toward achieving a cumulative reduction in the
23 State hospital-acquired conditions of 30% over the 5 years of the contract;

24 (ii) A summary of the work conducted, recommendations made, and
25 Commission action on recommendations made by any workgroup created to provide
26 technical input and advice on implementation of Maryland's all-payer model contract;

27 (iii) Actions approved and considered by the Commission to promote
28 alternative methods of rate determination and payment of an experimental nature, as
29 authorized under § 19-219(c)(2) of this subtitle;

30 (iv) Reports submitted to the federal Center for Medicare and
31 Medicaid Innovation relating to the all-payer model contract; and

32 (v) Any known adverse consequences that implementing the
33 all-payer model contract has had on the State, including changes or indications of changes
34 to quality or access to care, and the actions the Commission has taken to address and

1 mitigate the consequences; and]

2 [(10)] (8) If the Centers for Medicare and Medicaid Services issues a
3 warning notice related to a “triggering event” as described in the all–payer model contract[:

4 (i) Provide], **PROVIDE** written notification to the Governor, the
5 Secretary, and, subject to § 2–1257 of the State Government Article, the General Assembly
6 within 15 days after the issuance of the notice[; and

7 (ii) Submit the update required under item (9) of this subsection
8 every 3 months].

9 19–214.

10 (b) The Commission may adopt regulations establishing alternative methods for
11 financing the reasonable total costs of hospital uncompensated care and the
12 disproportionate share hospital payment provided that the alternative methods:

13 (5) Will not result in significantly increasing costs to Medicare or
14 termination of [Maryland’s] **THE** all–payer model contract [approved by the federal Center
15 for Medicare and Medicaid Innovation].

16 19–219.

17 (b) (2) A facility shall:

18 (ii) Comply with the applicable terms and conditions of [Maryland’s]
19 **THE** all–payer model contract [approved by the federal Center for Medicare and Medicaid
20 Innovation].

21 (c) Consistent with [Maryland’s] **THE** all–payer model contract [approved by the
22 federal Center for Medicare and Medicaid Innovation], and notwithstanding any other
23 provision of this subtitle, the Commission may:

24 (1) Establish hospital rate levels and rate increases in the aggregate or on
25 a hospital–specific basis; [and]

26 (2) Promote and approve alternative methods of rate determination and
27 payment of an experimental nature for the duration of the all–payer model contract; **AND**

28 **(3) ON REQUEST OF THE SECRETARY, ASSIST IN THE**
29 **IMPLEMENTATION OF FEDERALLY APPROVED MODEL PROGRAMS.**

30 19–225.

1 (a) In any matter that relates to the cost of services in facilities **AND**
2 **CONSISTENT WITH THE ALL-PAYER MODEL CONTRACT**, the Commission may:

- 3 (1) Hold a public hearing;
- 4 (2) Conduct an investigation;
- 5 (3) Require the filing of any information; or
- 6 (4) Subpoena any witness or evidence.

7 19-226.

8 (a) If the Commission considers a further investigation necessary or desirable to
9 authenticate information in a report that a facility files under this subtitle, **CONSISTENT**
10 **WITH THE ALL-PAYER MODEL CONTRACT**, the Commission may make any necessary
11 further examination of the records or accounts of the facility, in accordance with the rules
12 or regulations of the Commission.

13 **Article – Insurance**

14 15-604.

15 Each authorized insurer, nonprofit health service plan, and fraternal benefit society,
16 and each managed care organization that is authorized to receive Medicaid prepaid
17 capitation payments under Title 15, Subtitle 1 of the Health – General Article, shall:

18 (1) pay hospitals for hospital services rendered on the basis of the rate
19 approved by the Health Services Cost Review Commission; and

20 (2) comply with the applicable terms and conditions of [Maryland's] **THE**
21 **all-payer model contract [approved by the federal Center for Medicare and Medicaid**
22 **Innovation], AS DEFINED IN § 19-201 OF THE HEALTH – GENERAL ARTICLE.**

23 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect July
24 1, 2020.