

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 632

(Senator Kelley, *et al.*)

Finance

Health and Government Operations

**Health Facilities - Hospitals - Disclosure of Outpatient Facility Fees (Facility Fee
Right-to-Know Act)**

This bill requires a hospital that charges an outpatient facility fee to provide a patient with a written notice containing specified information. A hospital may not charge, bill, or attempt to collect an outpatient facility fee unless the patient was given a notice in accordance with the bill's requirements. By January 31 each year, beginning in 2022, each hospital must report to the Health Services Cost Review Commission (HSCRC) a list of hospital-based, rate-regulated outpatient services provided by the hospital. On or before February 28 each year, beginning in 2022, HSCRC must post on its website and provide the Maryland Insurance Administration and the Health Education and Advocacy Unit in the Office of the Attorney General the list of hospital-based, rate-regulated outpatient services provided by each hospital. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: HSCRC can implement the bill with existing budgeted resources. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: “Electronically” means a secure digital or electronic transmission in compliance with federal and State law, including by (1) patient Internet portal; (2) encrypted electronic mail; or (3) text message with a link to an encrypted notice.

“Outpatient facility fee” means a hospital outpatient charge approved by HSCRC for an outpatient clinic service, supply, or equipment, including the service of a nonphysician clinician. “Outpatient facility fee” does not include a charge billed for services delivered in an emergency department or a physician fee billed for professional services provided at the hospital.

“Patient” includes (1) a person authorized to consent to health care for an individual consistent with any authority granted; (2) an individual who is a minor, if the minor seeks treatment to which the minor has the right to consent and has consented; (3) a parent, guardian, custodian, or representative of an individual who is a minor; and (4) a person authorized to consent to health care for an individual who is a minor consistent with any authority granted.

Notice – Required Form, Timing, and Acknowledgement of Receipt

The written notice required under the bill must include (1) relevant identifying information (for both the facility and patient); (2) the expected fee; (3) another location that does not charge a facility fee, if applicable; (4) insurance information regarding facility fees; (5) procedures for complaints; and (6) a section for the patient to acknowledge, by signature, receipt of the information on facility fees and related charges.

If a patient does not speak English or requires the notice to be in an alternative format, the hospital must provide the notice in a language or format that is understood by the patient to the extent practicable.

A hospital must determine the range of hospital outpatient facility fees and fee estimates to be provided in the required notice. The facility fees and fee estimates must be based on typical or average facility fees for the same or similar appointments, consistent with the hospital’s most recent rate order as approved by HSCRC. Each hospital that charges an outpatient facility fee must use the range of hospital outpatient facility fees and fee estimates determined by the hospital.

When an appointment is made in person or by telephone, *oral* notice of information available in the form must be given at the time the appointment is made. When an appointment is made electronically or using a website, *written* notice must be provided at that time. Regardless of how the appointment is made, written notice also must be sent to

the patient *electronically* at the time the appointment is made. However, if a patient refuses electronic communication, written notice must instead be sent to the patient by first-class mail.

Before professional medical services are provided on the date of the appointment, the patient must acknowledge in writing that the notice required under the bill was provided at the time the appointment was made.

When lack of notice is alleged in a consumer complaint, HSCRC must give consideration in its investigatory and audit procedures as to whether notice was not feasible due to circumstances beyond the hospital's control.

Current Law: Statute does not require a hospital that charges an outpatient facility fee to provide a patient with a written notice. Generally, a hospital must provide oral and written notice to a patient of the patient's outpatient status, the billing implications of the outpatient status, and the impact of the outpatient status on the patient's eligibility for Medicare rehabilitation services if (1) the patient receives on-site services from the hospital for more than 23 consecutive hours; (2) the on-site services received by the patient include a hospital bed and meals that have been provided in an area of the hospital other than the emergency room; and (3) the patient is classified as an outpatient at the hospital for observation rather than an admitted inpatient.

Additionally, on request of a patient made before or during treatment, a hospital must provide a written estimate of the total charges for the hospital services, procedures, and supplies that reasonably are expected to be provided and billed to the patient by the hospital. The written estimate must state clearly that it is only an estimate and actual charges could vary. A hospital may restrict the availability of a written estimate to normal business office hours.

Additional Information

Prior Introductions: SB 803 of 2019, a bill with similar provisions, was amended in the Senate, but received no further action from the House Health and Government Operations Committee. Its cross file, HB 849, was amended in the House, but received no further action from the Senate Finance Committee.

Designated Cross File: HB 915 (Delegate R. Lewis, *et al.*) - Health and Government Operations.

Information Source(s): Office of the Attorney General; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2020
rh/jc Enrolled - April 2, 2020
Revised - Amendment(s) - April 2, 2020

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