

Chapter 311

(Senate Bill 404)

AN ACT concerning

Hospitals – Financial Assistance – Medical Bill Reimbursement Process

FOR the purpose of establishing requirements related to the reimbursement of out-of-pocket costs paid by certain hospital patients who were eligible for free care, including requirements related to the consideration of data and the reporting and disclosure of certain information; modifying the process the Health Services Cost Review Commission is required to develop for identifying and reimbursing certain patients of hospitals; providing that a hospital is not required to provide certain reimbursements under certain circumstances; requiring the implementation of a certain option from a certain report under certain circumstances; requiring a hospital to reimburse certain State government entities for certain costs; making a violation of this Act an unfair, abusive, or deceptive trade practice that is subject to enforcement and penalties under the Maryland Consumer Protection Act; ~~authorizing the State Department of Assessments and Taxation and~~ the Office of the Comptroller to disclose tax information to hospitals and certain units for a certain purpose; and generally relating to hospitals, financial assistance policies, and reimbursement for paid bills.

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 13-301(14)(xxxv)

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 13-301(14)(xxxvi)

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)

BY adding to

Article – Commercial Law

Section 13-301(14)(xxxvii)

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19-214.4

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 13–203(c)
 Annotated Code of Maryland
 (2022 Replacement Volume)

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

Article – Commercial Law

13–301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xxxv) Section 11–210 of the Education Article; [or]

(xxxvi) Title 14, Subtitle 44 of this article; or

**(XXXVII) SECTION 19–214.4 OF THE HEALTH – GENERAL
 ARTICLE BY A HOSPITAL; OR**

Article – Health – General

19–214.4.

(a) The Commission, in coordination with the **DEPARTMENT, THE** Department of Human Services, [the State designated exchange,] the Office of the Comptroller, **THE STATE DEPARTMENT OF EDUCATION, THE HEALTH EDUCATION AND ADVOCACY UNIT**, and the Maryland Hospital Association, shall develop a process that:

(1) Identifies the patients who paid **MORE THAN \$25** for hospital services who may have qualified for free care under § 19–214.1 of this subtitle [at the time of care] **ON THE DATE THE HOSPITAL SERVICE WAS PROVIDED** during calendar years 2017 through 2021;

(2) Provides reimbursement to the patients identified under item (1) of this subsection, which may be applied incrementally;

(3) Ensures that a patient’s alternate address is used if the patient requested an alternate address for safety reasons; and

(4) Determines how the Commission, **THE DEPARTMENT**, the Department of Human Services, [and] the Office of the Comptroller, **AND THE STATE DEPARTMENT OF EDUCATION** should share with or disclose relevant information, including tax information, to the minimum extent necessary, to the hospital and in accordance with federal and State confidentiality laws for the purpose of carrying out the process developed under this subsection.

(B) THE HEALTH EDUCATION ADVOCACY UNIT IN THE OFFICE OF THE ATTORNEY GENERAL SHALL ASSIST PATIENTS IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION IN OBTAINING REIMBURSEMENT UNDER THIS SECTION.

(C) (1) THE PROCESS DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION:

(I) SHALL REQUIRE EACH HOSPITAL TO CONSIDER:

1. TAX DATA FROM THE OFFICE OF THE COMPTROLLER AS DE FACTO EVIDENCE OF A PATIENT'S INCOME; AND

2. DATA FROM THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES, AND THE STATE DEPARTMENT OF EDUCATION AS DE FACTO EVIDENCE OF A PATIENT'S PRESUMPTIVE ELIGIBILITY FOR FREE CARE;

(II) SHALL REQUIRE EACH HOSPITAL TO PROVIDE REFUNDS TO PATIENTS WHO QUALIFY UNDER SUBSECTION (G)(2) OF THIS SECTION; AND

(III) MAY NOT REQUIRE A HOSPITAL TO PROVIDE A PATIENT WITH A REFUND IF THE PATIENT PREVIOUSLY WAS DENIED FREE CARE BECAUSE OF A FAILED ASSET TEST FOR THE IDENTIFIED DATE OF SERVICE.

(2) EACH HOSPITAL SHALL CREATE A WEBPAGE THAT INCLUDES:

(I) INFORMATION ABOUT THE REIMBURSEMENT PROVIDED IN ACCORDANCE WITH THIS SECTION, INCLUDING THE PROCESS TO BE FOLLOWED BY A PATIENT AND RELEVANT TIMELINES; AND

(II) A TELEPHONE NUMBER AND E-MAIL ADDRESS THAT A PATIENT MAY USE TO SUBMIT QUESTIONS ABOUT THE REIMBURSEMENT PROCESS DEVELOPED UNDER THIS SECTION.

(3) IF A PATIENT IS ENTITLED TO A SINGLE REFUND PER YEAR UNDER SUBSECTION (A) OF THIS SECTION IN AN AMOUNT OF \$25 OR LESS, THE HOSPITAL MAY BUT IS NOT REQUIRED TO PROVIDE THE REIMBURSEMENT.

[(b)] (D) (1) The Commission may modify the process developed under subsection (a) of this section as necessary.

(2) IF REIMBURSEMENTS ARE PROVIDED INCREMENTALLY AND LESS THAN ~~10%~~ 5% OF THE ESTIMATED REIMBURSEMENTS ARE MADE EACH YEAR DURING THE FIRST INCREMENT, THE COMMISSION IS NOT REQUIRED TO IMPLEMENT ADDITIONAL INCREMENTS OF THE PROCESS.

(E) THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES, THE OFFICE OF THE COMPTROLLER, THE STATE DEPARTMENT OF EDUCATION, AND EACH HOSPITAL SHALL REPORT INFORMATION ON THE PROCESS DEVELOPED UNDER THIS SECTION TO THE COMMISSION, IN THE TIME AND MANNER DETERMINED BY THE COMMISSION.

(F) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSION, THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES, THE OFFICE OF THE COMPTROLLER, THE STATE DEPARTMENT OF EDUCATION, AND EACH HOSPITAL SHALL DISCLOSE TO ~~EACH~~:

(I) EACH OTHER, TO THE MINIMUM EXTENT NECESSARY, RELEVANT INFORMATION, INCLUDING TAX INFORMATION, NECESSARY FOR IMPLEMENTATION OF THE PROCESS DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) THE HEALTH EDUCATION AND ADVOCACY UNIT RELEVANT INFORMATION NECESSARY FOR THE HEALTH EDUCATION AND ADVOCACY UNIT TO ASSIST PATIENTS IN OBTAINING REIMBURSEMENT UNDER SUBSECTION (A) OF THIS SECTION, ON RECEIPT OF THE PATIENT'S EXECUTED AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION FORM PROVIDED BY THE HEALTH EDUCATION AND ADVOCACY UNIT OR OTHER AUTHORIZATION FORM REQUIRED BY THE DEPARTMENT OF HUMAN SERVICES, THE OFFICE OF THE COMPTROLLER, OR THE STATE DEPARTMENT OF EDUCATION.

(2) IF THE HEALTH EDUCATION AND ADVOCACY UNIT REQUESTS INFORMATION FROM THE COMMISSION, THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES, THE OFFICE OF THE COMPTROLLER, THE STATE DEPARTMENT OF EDUCATION, OR A HOSPITAL TO ASSIST A PATIENT IN OBTAINING REIMBURSEMENT UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION, THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES, THE OFFICE OF THE COMPTROLLER, THE STATE DEPARTMENT OF EDUCATION, OR THE HOSPITAL SHALL PROVIDE THE INFORMATION TO THE HEALTH EDUCATION AND ADVOCACY UNIT WITHIN 10 BUSINESS DAYS AFTER THE DATE OF THE RECEIPT OF THE REQUEST.

~~(2)~~ **(3)** THIS SECTION MAY NOT BE CONSTRUED TO MAKE A HOSPITAL RESPONSIBLE FOR THE CONFIDENTIALITY OF THE INFORMATION IN POSSESSION OF EACH STATE ENTITY LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

~~[(c)]~~ **(G)** (1) **(I)** On or before January 1, 2023, and ~~[January 1]~~ **OCTOBER 1, 2024**, the Commission shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, on the development and implementation by hospitals of the process required under subsection (a) of this section.

~~[(2)]~~ **(II)** If the process developed under subsection (a) of this section requires legislation for implementation, the Commission shall include the legislative recommendations in the report required on or before January 1, 2023, under ~~[paragraph (1)]~~ **SUBPARAGRAPH (I)** of this ~~[subsection]~~ **PARAGRAPH**.

~~[(3)]~~ **(III)** If the process established under subsection (a) of this section does not require legislation, each hospital shall implement the process developed under subsection (a) of this section on or before January 1, 2023.

(2) **(I)** **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH HOSPITAL THE COMMISSION, THE OFFICE OF THE COMPTROLLER, THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES, AND THE STATE DEPARTMENT OF EDUCATION SHALL IMPLEMENT OPTION 3 FROM THE “FREE HOSPITAL CARE REFUND PROCESS” REPORT SUBMITTED BY THE COMMISSION IN DECEMBER 2022 AS REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION AND IN ACCORDANCE WITH THIS SECTION AND ~~§ 12-203(c)~~ § 13-203(C) OF THE TAX – GENERAL ARTICLE.**

(II) **UNDER THE PROCESS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A PATIENT SHALL QUALIFY FOR REFUNDS WHO PAID AN OUT-OF-POCKET EXPENSE FOR SERVICES BASED ON THE FOLLOWING:**

1. THE OFFICE OF THE COMPTROLLER DETERMINING THAT THE PATIENT’S FAMILY INCOME WAS AT OR BELOW 200% OF THE FEDERAL POVERTY LEVEL DURING THE YEAR OF SERVICE DATE OR DATES; OR

2. THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT, OR THE STATE DEPARTMENT OF EDUCATION DETERMINING THAT DURING THE YEAR OF SERVICE DATE OR DATES, THE PATIENT:

A. RECEIVED BENEFITS THROUGH THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM;

B. RECEIVED BENEFITS THROUGH THE STATE'S ENERGY ASSISTANCE PROGRAM;

C. RECEIVED BENEFITS THROUGH THE FEDERAL SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN; OR

D. LIVED IN A HOUSEHOLD WITH CHILDREN ENROLLED IN THE FREE AND REDUCED-COST MEAL PROGRAM.

(3) THE OFFICE OF THE COMPTROLLER, THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT, THE STATE DEPARTMENT OF EDUCATION, THE COMMISSION, AND EACH HOSPITAL MAY NOT IMPLEMENT THE ALTERNATIVE APPROACH INCLUDED WITH OPTION 3 IN THE REPORT IDENTIFIED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION.

(H) (1) EACH HOSPITAL SHALL REIMBURSE THE COMMISSION, THE OFFICE OF THE COMPTROLLER, THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES, THE STATE DEPARTMENT OF EDUCATION, AND THE HEALTH EDUCATION ADVOCACY UNIT IN THE OFFICE OF THE ATTORNEY GENERAL FOR THE COSTS INCURRED BY EACH STATE ENTITY IN COMPLYING WITH THIS SECTION.

(2) (I) REIMBURSEMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE HOSPITAL'S PROPORTION OF THE TOTAL NUMBER OF PATIENTS WHO WERE IDENTIFIED BY THE STATE ENTITY AS POTENTIALLY ELIGIBLE FOR REIMBURSEMENT IN A DESIGNATED YEAR, AS DETERMINED BY THE COMMISSION.

(II) FOR THE PURPOSE OF DETERMINING THE REIMBURSEMENT DUE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE ENTITIES IDENTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE QUARTERLY COST INFORMATION TO THE COMMISSION.

(3) THE COMMISSION SHALL PROVIDE EACH HOSPITAL WITH THE REIMBURSEMENT AMOUNT DUE TO THE APPROPRIATE STATE ENTITY BASED ON THE COSTS INCURRED BY THE ENTITY IN COMPLYING WITH THIS SECTION.

(I) (1) (I) IF A HOSPITAL FAILS TO PROVIDE REFUNDS TO PATIENTS WHO QUALIFY UNDER SUBSECTION (G)(2) OF THIS SECTION AS REQUIRED, THE COMMISSION MAY IMPOSE A FINE NOT EXCEEDING \$50,000 PER VIOLATION.

(II) IN DETERMINING THE AMOUNT OF A FINE TO BE IMPOSED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL CONSIDER THE APPROPRIATENESS OF THE FINE IN RELATION TO THE SEVERITY OF THE VIOLATION.

(2) A VIOLATION OF THIS SECTION BY A HOSPITAL IS:

(I) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE, AS DEFINED UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

(II) SUBJECT TO ENFORCEMENT AND PENALTY PROVISIONS OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

Article – Tax – General

13–203.

(c) Tax information may be disclosed to:

(1) an employee or officer of the State who, by reason of that employment or office, has the right to the tax information;

(2) another tax collector;

(3) the Maryland Tax Court;

(4) a legal representative of the State, to review the tax information about a taxpayer:

(i) who applies for review under this title;

(ii) who appeals from a determination under this title; or

(iii) against whom an action to recover tax or a penalty is pending or will be initiated under this title;

(5) any license issuing authority of the State required by State law to verify through the Comptroller that an applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection;

(6) a local official as defined in § 13–925 of this title to the extent necessary to administer Subtitle 9, Part V of this title;

(7) a federal official as defined in § 13–930 of this title to the extent necessary to administer Subtitle 9, Part VI of this title;

(8) the Maryland Department of Health in accordance with the federal Children’s Health Insurance Program Reauthorization Act of 2009;

(9) the State Board of Individual Tax Preparers;

(10) the Alcohol and Tobacco Commission;

(11) the Maryland 9–1–1 Board; [and]

(12) a person or governmental entity authorized by the Comptroller in writing to receive tax information for the purpose of identifying, preventing, or responding to fraud, provided that the tax information is:

(i) anonymized to the extent possible consistent with the information’s intended use; and

(ii) in addition to any other protections and safeguards under law, subject to any protections and safeguards set forth by the Comptroller in the written authorization; [and]

(13) the Maryland Higher Education Commission; AND

(14) A HOSPITAL, THE HEALTH SERVICES COST REVIEW COMMISSION, THE DEPARTMENT OF HUMAN SERVICES, THE MARYLAND DEPARTMENT OF HEALTH, AND THE STATE DEPARTMENT OF EDUCATION, TO THE EXTENT NECESSARY TO ADMINISTER § 19–214.4 OF THE HEALTH – GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023. It shall remain effective until the taking effect of the termination provision specified in Section 2 of Chapter 683 of the Acts of the General Assembly of 2022. If that termination provision takes effect, this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

Approved by the Governor, May 3, 2023.