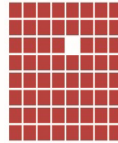




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Maryland Chapter  
AMERICAN COLLEGE OF  
EMERGENCY PHYSICIANS



TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
The Honorable Pamela Beidle

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer  
J. Steven Wise  
Christine K. Krone

DATE: March 9, 2022

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 834 – *Health Insurance – Two-Sided Incentive Arrangements and Capitated Payments – Authorization*

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The Maryland Academy of Family Physicians, the Maryland Chapter of the American College of Emergency Physicians, and the Maryland Chapter of the American Academy of Pediatrics **supports with amendment** Senate Bill 834. Senate Bill 834 changes the scope of the payment and care delivery landscape in Maryland by authorizing two-sided incentive arrangements. The bill also permits capitation arrangements for self-funded group health insurance plans.

Under a two-sided incentive arrangement, a carrier may enter into a contract with a physician that allows a physician to receive a bonus payment (currently allowed under Maryland law) but also subjects the physician to the recoupment of funds. Arrangements such as these have been prohibited in Maryland because they have been determined to be the “practice of insurance.” Up until this bill, the practice of insurance has been rightfully left to the insurance carriers. Whereas the main responsibility of an insurance carrier is to manage risk, the main responsibility of a physician is to manage a patient’s health care needs. Yet this bill puts the physician in the position of managing risk.

Therefore, if Maryland is to enact this legislation, it is imperative that adequate protections are in place for both the physicians that want to enter into these arrangements and those that do not. Both are equally important. As currently drafted, we believe that the protections outlined in the bill requiring minimum contract standards for entering into a two-sided incentive arrangement will assist in ensuring that physicians have a fair starting point for negotiating such agreements. However, we remain concerned that the protections for those physicians that do not want to enter into such arrangements are not adequate, especially as it relates to ensuring that an insurance carrier cannot reduce a physician’s fee structure for non-participation in a two-sided arrangement. While we recognize that the bill states that such arrangements are “voluntary,” the reality of the situation is that physicians rarely have equal negotiating power, especially when one carrier controls the majority of the market. As such, we support strengthening this provision to remove the term “solely” and replace it with “wholly or in part”; to add protections for those physicians that may not contract directly with a carrier under a two-sided incentive arrangement but may still be otherwise affected; and to include language stating that there must be other opportunities for reimbursement increases that do not include entering into a two-sided incentive arrangement. With this change, which we consider paramount to the legislation, we urge a favorable vote on Senate Bill 834.

**For more information call:**

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