



BROCATO & SHATTUCK

Date: Wednesday, March 9, 2022
Committee: Senate Finance Committee
The Honorable Delores Kelley, Chair
Bill: [Senate Bill 834](#) - Health Insurance - Two-Sided Incentive Arrangements and Capitated Payments - Authorization
Position: **Favorable with Amendment**

On behalf of our clients: the Maryland Society of Anesthesiologists (MSA); US Acute Care Solutions (USACS); US Anesthesia Partners (USAP); and the Maryland Society of Otolaryngology (MSO) we support the need for innovation, improved efficiency, and improving the quality of patient care. With the advance of new models of care, physicians need adequate safeguards and guardrails within these models to ensure continued access to high quality and equitable care for all Marylanders. While we support many of the provisions of Senate Bill 834, **we urge the passage of a critically essential amendment that provides protection for physicians who treat a patient who is part of a 2-sided risk model, but the physician is not a direct participant in the 2-sided risk model.**

Over the past year, the Medical Society, the Maryland Hospital Association and CareFirst have worked together to develop mutually agreeable safeguards and guardrails for providers who voluntarily agree to participate in a 2-sided risk arrangement. However, CareFirst refused to include safeguards and guardrails for other providers who will be impacted by the 2-sided risk arrangement – all those caring for patients included in the targeted budget. These providers fees (e.g., family physicians, internists, hospital-based physicians, physical therapists) have a direct impact on whether the physician in a 2-sided risk arrangement receives a bonus or must pay money back to the carrier.

This introduces a new dynamic into the insurance marketplace at a time when physicians and other health care practitioners are continuing to grapple with implications from Covid-19 related practice changes. Maryland has an extensive history and track record of advancing innovation and addressing barriers to care. However, the health care delivery landscape and patient access to care has never been at a more pivotal juncture.

Many studies have documented the low physician reimbursement rate in Maryland when compared to the national average. In 2017, commercial reimbursement for physician services averaged 122% for the U.S. but only 104% in Maryland.¹ In 2019, commercial reimbursement was about 103% of Medicare in Maryland.² These low reimbursement rates mean physicians in Maryland earn less than their national counterparts.³

¹ See <https://healthcostinstitute.org/hcci-research/comparing-commercial-and-medicare-professional-service-prices>

² See https://mhcc.maryland.gov/mhcc/pages/home/commissioners/documents/20201119/Ag6_Pymt_for_Professional_Services_in_Maryland_2019.pdf

³ See https://www.merrithawkins.com/uploadedFiles/MerrittHawkins/Content/Pdf/MerrittHawkins_2018_MedChi_Survey.pdf

We all agree there is room to improve the health care delivery system to ensure access to high quality, equitable care for all Marylanders. However, we need to protect against the unintended consequence that physicians will not come to Maryland because reimbursement levels fall dangerously below what can be earned in other states. Such an outcome would place the health of all Marylanders at risk.

To be sure this bill delivers on its promise of improving access to high quality, equitable health care and does not result in physician shortages, we urge you to adopt the amendment below.

Amendment: 15-113 (c)

5. A CARRIER MAY NOT REDUCE THE FEE SCHEDULE OF A:

(I) HEALTH CARE PRACTITIONER OR A SET OF HEALTH CARE PRACTITIONERS **BASED WHOLLY OR IN PART ON THE HEALTH CARE PRACTITIONER OR SET OF HEALTH CARE PRACTITIONERS NON-PARTICIPATION IN THE CARRIER'S BONUS OR OTHER INCENTIVE-BASED COMPENSATION OR TWO-SIDED INCENTIVE ARRANGEMENT PROGRAM; OR**

(II) HEALTH CARE PRACTITIONER OR A SET OF HEALTH CARE PRACTITIONERS BASED WHOLLY OR IN PART ON THE HEALTH CARE PRACTITIONER'S OR SET OF HEALTH CARE PRACTITIONER'S PERFORMANCE UNDER AN ELIGIBLE PROVIDER'S TWO-SIDED INCENTIVE ARRANGEMENT WITH THE CARRIER.

6. PARTICIPATION IN A TWO-SIDED INCENTIVE ARRANGEMENT MAY NOT BE THE SOLE OPPORTUNITY FOR A HEALTH CARE PRACTITIONER OR A SET OF HEALTH CARE PRACTITIONERS TO BE ELIGIBLE TO RECEIVE INCREASES IN REIMBURSEMENT. *(already accepted by carriers)*

We request that you pass this bill only if it includes the amendment to provide safeguards and guardrails for all providers.

For these reasons we ask for a **Favorable report on Senate Bill 834 with this amendment.**

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