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March 25, 2024

TO: Joseline A. Pena-Melnyk, Chair
House, Health and Government Operations Committee

FROM: Heather Forsyth, Deputy Director, Health Education and Advocacy Unit, on
behalf of Anthony G. Brown, Attorney General, and
The Office of the Attorney General

RE: HB1149/SB1103 – Hospitals and Related Institutions – Outpatient Facility Fees

The Office of the Attorney General sought the protections in HB1149/SB1103 in the 2024 legislative session on behalf of Marylanders who have been shocked and dismayed by unexpected and unaffordable facility fees added to bills for routine visits to hospitals and hospital-owned facilities for outpatient services.

As originally drafted, the bill would have expanded existing statutory notice (Md. Code Ann., Health-Gen §19-349.2 (2020 Md. Laws, Chs. 365,366), to all outpatient services except emergency room visits; required out of state hospitals who operate outpatient facilities within the state to also comply with statutory notice requirements; and authorized an extensive study of the impact of facility fees on Maryland's health care systems, convened by the Health Services Cost Review Commission (HSCRC) with input from providers, insurers, patients, and advocates.

The version passed by the Senate and before the Health and Government Operations Committee for consideration now removes the expanded notice provision and the requirement that out of state hospitals operating in-state outpatient facilities abide by the same notice requirements as our in-state hospitals. While the OAG supports the proposition that, at minimum,

consumers have the right to know about a facility fee upfront so they can make an informed choice about where to receive their outpatient health care services, we recognize the consumer protections offered do not address that:

- hospital outpatient facility fees are increasing costs for both consumers and employers by rising out-of-pocket costs and insurance premiums;
- carriers are responding to these increased costs by, in turn, increasing cost-sharing for services provided in hospital outpatient settings; and
- as more provider offices become regulated spaces, consumers have fewer facility-fee-free locations to obtain care.

These are the important concerns which will be studied by the HSCRC, in consultation with stakeholders and subject matter experts in all areas of the health care system, and provide information critical to understanding our options for structural changes to facility fee bills that might better protect consumers, reduce costs, increase transparency, and improve our health care systems in the long run.

Working with the HSCRC and other stakeholders, and Committee members Delegate Robbyn Lewis and Delegate Kathy Szeliga, the version before you offers additional amendments to the bill passed by the Senate. These changes clarify the scope of the study, include representatives from out of state operators of in-state outpatient facilities in the workgroup and study, and bifurcates the study topics and due dates to prioritize review and recommendations to the General Assembly for expanded notice this year, and more impactful recommendations for facility fee reform the following year. The Senate bill also includes a provision for expedited procurement for the HSCRC so that work can begin as soon as possible, which the OAG views as a friendly amendment.

For these reasons, we ask your support and favorable report for Senate Bill 1103.

C: Del. Robbyn Lewis
Del. Kathy Szeliga