

**Maryland General Assembly
Department of Legislative Services**

**Emergency/Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 15-077)**

Overview and Legal and Fiscal Impact

The regulation adds language to specify that there will be no Maryland Health Insurance Plan assessment for fiscal year 2016.

The regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies beyond that already assumed in the fiscal and policy note for Chapter 489 of 2015 (HB 72 – the Budget Reconciliation and Financing Act of 2015).

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Health Services Cost Review Commission: Rate Application and Approval Procedures:
COMAR 10.37.10.26-1

Legal Analysis

Background

Section 22 of Chapter 489 of 2015, the Budget Reconciliation and Financing Act of 2015, prohibits the Health Services Cost Review Commission from assessing hospital rate assessments under § 19-214 of the Health – General Article for the operation and administration of the Maryland Health Insurance Plan (MHIP). The prohibition is for fiscal year 2016 only. Fiscal year 2016 begins July 1, 2015.

Summary of Regulation

COMAR 10.37.10.26-1B requires the commission to assess each hospital up to 1% of its net patient revenue to operate and administer MHIP. Language is being added to specify that there is no MHIP assessment for fiscal year 2016.

Statutory Authority and Legislative Intent

The commission cites §§ 19-207 and 19-214 of the Health – General Article and §§ 14-502 and 15-504 of the Insurance Article as authority for the regulation. More specifically, § 19-207 of the Health – General Article requires the commission to adopt regulations to carry

out the provisions of law governing the commission. Section 19-214 of the Health – General Article requires the commission to assess a uniform, broad-based, and reasonable amount in hospital rates of which part is required to be used for the operation and administration of MHIP. Section 14-502 of the Insurance Article establishes MHIP. Finally, Section 15-504 of the Insurance Article is an incorrect citation. It was repealed as of January 1, 2014 and dealt with the effect of breast implants on health insurance coverage. The citation should be to § 14-504 of the Insurance Article, which establishes the MHIP Fund and states that the fund contents include money collected in accordance with § 19-214(d) of the Health – General Article.

Chapter 489 of 2015 needs to be cited as authority, as well. Under the provisions cited by the commission, the commission must assess the MHIP assessment. Since the language being added to the regulations state that there will be no MHIP assessment for fiscal year 2016, the commission must cite the provision of law that overrides the statutory requirement. That authority is Chapter 489 of 2015, which prohibits the commission from making the assessment for fiscal year 2016.

With the addition of Chapter 489 of 2015, the authority complete. The regulation complies with the legislative intent of the law.

Reason for Emergency Status

The commission is requesting emergency status from July 1, 2015 until November 1, 2015. This emergency period is within normal timeframes approved by the committee. The commission indicates the emergency status is needed to impose a moratorium on the MHIP assessment for fiscal year 2016 in response to the Budget Reconciliation and Financing Act of 2015. Fiscal year 2016 begins July 1, 2015.

Technical Corrections and Special Notes

The commission was contacted regarding two issues with the statutory authority cited. First, as discussed above, the citation to § 15-504 of the Insurance Article is a typographical error. The citation should be to § 14-504, which is the section that is cited for the existing regulations. Second, also as discussed above, Chapter 489 of 2015 needs to be cited as legal authority for the regulation. The commission agreed and the changes will be made.

Fiscal Analysis

There is no fiscal impact on State or local agencies beyond that already assumed in the fiscal and policy note for Chapter 489 of 2015 (HB 72 - the Budget Reconciliation and Financing Act of 2015).

Agency Estimate of Projected Fiscal Impact

The regulation specifies that there will be no MHIP assessment for fiscal 2016. Chapter 489 of 2015 prohibits the Health Services Cost Review Commission from imposing an assessment on hospital rates for the operation and administration of MHIP for fiscal 2016 only. The commission advises that the fiscal 2015 MHIP assessment yielded \$62.2 million in special fund revenues based on an assessed rate of 1% of net patient revenue for three months and 0.3%

for the remaining nine months. As assumed in the fiscal and policy note for Chapter 489, special fund revenues decline by \$39.4 million in fiscal 2016 (based on a rate of 0.3% for the full fiscal year) due to the one-year moratorium on imposing the MHIP assessment. Medicaid general fund expenditures also decline by \$3.2 million to reflect lower hospital rates in the absence of the assessment. Federal fund revenues and expenditures decline to reflect a reduction in federal matching funds. The fiscal 2016 budget reduces the general fund appropriation for Medicaid by \$955,000, contingent on enactment of legislation reducing the MHIP assessment to 0.0% of net patient hospital revenue for fiscal 2016 only, and redirects the remaining \$2.2 million in general fund savings to other legislative priorities.

Impact on Budget

There is no impact on the State operating or capital budget beyond that already assumed in the fiscal and policy note for Chapter 489 of 2015, as discussed above.

Agency Estimate of Projected Small Business Impact

The commission advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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