

**Maryland General Assembly
Department of Legislative Services**

**Emergency/Proposed Regulations
Department of Health and Mental Hygiene**
(DLS Control No. 15-366)

Overview and Legal and Fiscal Impact

The regulations impose a moratorium on hospitals filing a regular rate application with the Health Services Cost Review Commission and repeal a provision that states that the moratorium applies only to partial rate applications associated with a capital project.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Health Services Cost Review Commission: Rate Application and Approval Procedures:
COMAR 10.37.10.03 and .03-1

Legal Analysis

Background

In March 2013, the Department of Health and Mental Hygiene submitted an initial model proposal to the federal Center for Medicare and Medicaid Innovation (CMMI) to replace the State's all-payer, rate-regulated hospital financing system. On January 10, 2014, CMMI announced approval of the new model – the Maryland all-payer model. Under the model, Maryland will transition from the current waiver to a new five-year demonstration contract. The model contract includes (1) an all-payer total hospital cost growth ceiling; (2) a Medicare total hospital cost growth ceiling; (2) a population-based revenue system; (3) a provision relating to the reduction of hospital readmissions; and (4) a provision relating to the reduction of hospital acquired conditions.

Summary of Regulation

The regulations amend COMAR 10.37.10.03 to prohibit a hospital from filing a regular rate application with the commission until rate efficiency measures are adopted by the commission that are consistent with the all-payer model contract approved by the Centers for Medicare and Medicaid Services. The rate efficiency measures must be adopted by the commission on or about July 1, 2016. The moratorium is not to continue to be in effect beyond September 30, 2016.

The regulations also amend COMAR 10.37.10.03-1 to repeal the provision that provides that the moratorium provisions in Regulation .03A apply only to partial rate applications associated with a capital project.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 19-207, 19-219, and 19-222 of the Health – General Article as statutory authority for the regulations. More specifically, § 19-207(a)(1) authorizes the commission to adopt rules and regulations to carry out Title 19, Subtitle 2 of the Health – General Article, which governs the commission and health care facility rate setting. Section 19-219 authorizes the commission to review and approve or disapprove the reasonableness of any rate that facility sets. Section 19-222(a) prohibits a facility from changing any rate schedule or charge unless the hospital or related institution files with the commission a written notice of the proposed change.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Emergency Status

The commission requests emergency status beginning December 1, 2015 and expiring May 1, 2016. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The commission indicates the emergency status is necessary because the rate efficiency standards in place for full rate applications do not adequately address the requirements of the new all-payer model. The commission states that it believes that it is best to suspend the filing of full rate applications immediately.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations prohibit a hospital from filing a regular rate application with the commission until rate efficiency measures are adopted by the commission that are consistent with the all-payer model contract approved by the federal Centers for Medicare and Medicaid Services. The rate efficiency measures must be adopted by the commission by July 1, 2016, and the moratorium may not continue beyond September 30, 2016. The commission advises that the

regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Jodie L. Chilson – (410) 946/(301) 970-5350

Fiscal Analysis: Jennifer B. Chasse – (410) 946/(301) 970-5510