

**Maryland General Assembly
Department of Legislative Services**

**Emergency/Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 16-182)**

Overview and Legal and Fiscal Impact

The regulation extends a moratorium on hospitals filing a regular rate application with the Health Services Cost Review Commission and establishes a new date by which certain rate efficiency measures must be adopted by the commission.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Health Services Cost Review Commission: Rate Application and Approval Procedures:
COMAR 10.37.10.03

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; (3) a population-based revenue system; (4) a provision relating to the reduction of hospital readmissions; and (5) a provision relating to the reduction of hospital acquired conditions.

Under current regulations, a hospital may not file a regular rate application with the commission until rate efficiency measures are adopted by the commission which are consistent with the all-payer model contract approved by the Centers for Medicare and Medicaid Services. During this interim period of time, a hospital may seek a rate adjustment under any other administrative remedy available to it under existing law, regulation, or policy. Current regulations require the commission to have adopted rate efficiency measures by July 1, 2016.

Summary of Regulation

The regulation extends a moratorium on hospitals filing a regular rate application with the commission beyond September 30, 2016, the end date for the moratorium specified in current regulations. The regulation also extends the date by which rate efficiency measures must be adopted by the commission from July 1, 2016 to October 31, 2017.

Legal Issues

The regulation presents 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 regulation. 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 a facility sets. Section 19-222(a) prohibits a facility from changing any rate schedule or charge unless the facility files with the commission a written notice of the proposed change.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Emergency Status

The commission requests emergency status beginning September 1, 2016 and expiring February 1, 2017. 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 to extend the moratorium on the filing of regular rate applications while the proposed regulation is being adopted.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation extends the deadline by which certain rate efficiency measures must be adopted by the Health Services Cost Review Commission, thereby extending a moratorium on hospitals filing a regular rate application with the commission. Under the regulation, the new measures must be adopted by October 31, 2017. The commission advises that the regulation has 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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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