

**Maryland General Assembly
Department of Legislative Services**

**Emergency/Proposed Regulations
Department of Health and Mental Hygiene**
(DLS Control No. 15-412)

Overview and Legal and Fiscal Impact

The regulation authorizes the Health Services Cost Review Commission to begin setting rates for outpatient services in anticipation of a hospital obtaining provider-based status for purposes of the federal 340B Program.

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 10.37.10.07-1

Legal Analysis

Background

The commission sets rates for services provided at hospitals under the State's all-payer model contract approved by the federal Center for Medicare and Medicaid Innovation. The services for which the commission sets rates include outpatient services associated with the federal 340B Program under the federal Public Health Service Act and that are provided in a department of a regulated hospital that, on or before June 1, 2015, is under merged asset hospital system and that are physically located at another regulated hospital under the same merged asset hospital system.

Summary of Regulation

The regulation authorizes the commission to begin setting rates for outpatient services in anticipation of a hospital obtaining provider-based status for purposes of the federal 340B Program.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 19-201, 19-207, and 19-219(c) 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 the provisions of law governing the commission. Section 19-291(c)(1) authorizes the commission to establish hospital rate levels and rate increases in the aggregate or on a hospital-specific basis consistent with the State’s all-payer model contract. The remaining cited authority is not relevant to this regulation.

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

Emergency Status

The commission requests emergency status beginning January 2, 106 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 Medicare requires cost report information for at least three months prior to conveying provider-based status on a federal 340B program.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation authorizes the Health Services Cost Review Commission to begin setting rates for outpatient services associated with the federal 340B Drug Pricing Program in anticipation of the hospital obtaining provider-based status in the program. 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 commission advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

Participation by hospitals in the 340B program (which provides outpatient drug savings of 25% to 50%, on average) results in net savings for the Medicaid program (50% general funds, 50% federal funds), as well as moderate savings for payers and patients.

Contact Information

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