

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1376 (Delegate Rosenberg)  
Health and Government Operations

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Maryland Medical Assistance Program, Maryland Children's Health Program,  
and Health Insurance - Special Pediatric Hospitals

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This bill requires insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) to provide coverage for a “special administrative day” at a “special pediatric hospital” if the patient is eligible for discharge but there is no safe environment for transfer. A carrier must reimburse for a special administrative day on the same basis and at the same rate as the reimbursement provided for a combination of an “administrative day” and “ancillary services” provided by a special pediatric hospital. Beginning July 1, 2025, Medicaid must provide the same coverage under the bill as carriers. A carrier, Medicaid, and the Maryland Children’s Health Program (better known as MCHP) may not require prior authorization for a transfer to a special pediatric hospital. The bill also alters specified appeals rights for Medicaid enrollees. **The bill takes effect January 1, 2025, and applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after that date.**

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Fiscal Summary

**State Effect:** Minimal increase in special fund revenues for the Maryland Insurance Administration in FY 2025 from the \$125 rate and form filing fee; review of additional forms can be handled with existing resources. Medicaid expenditures (63% federal funds, 37% federal funds) increase by an indeterminate but significant amount beginning in FY 2025, as discussed below. Federal fund revenues increase accordingly. No meaningful impact on the State Employee and Retiree Health and Welfare Benefits Program. **This bill increases the cost of an entitlement program beginning in FY 2025.**

**Local Effect:** To the extent the bill increases health insurance premiums, expenditures for local governments that purchase fully insured plans may increase. No effect on revenues.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** “Special pediatric hospital” means a facility that provides nonacute medical, rehabilitation, therapy, and palliative services to individuals (1) younger than age 22 or (2) who are at least two years old and younger than age 23 and have co-occurring physical and behavioral health conditions. “Administrative day” means a day of medical services delivered to a patient who no longer requires the level of care that the provider is licensed to deliver. “Ancillary services” means diagnostic and therapeutic services (including radiology, laboratory tests, pharmacy, and physical therapy services) provided exclusive of room and board. “Special administrative day” means a day of medical services and ancillary services delivered to a patient who no longer requires the level of care that the provider is licensed to deliver.

### *Alterations to Appeals Rights under Medicaid*

For Medicaid determinations under the bill, “medical necessity” means that the service or benefit is (1) directly related to diagnostic, preventative, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition; (2) consistent with standards of good medical practice; (3) the most cost-efficient service that can be provided without sacrificing effectiveness or access to care; and (4) not primarily for the convenience of the participant, family, or provider.

A Medicaid enrollee who is a patient at a special pediatric hospital may file an appeal from a proposed Medicaid “medical necessity” determination even if the enrollee will not benefit financially from the appeal. A special pediatric hospital may file an appeal on behalf of an enrollee if the enrollee signs an authorizing agreement.

**Current Law:** Medicaid generally provides health coverage to children, pregnant women, elderly or disabled individuals, low-income parents, and childless adults. To qualify for Medicaid, applicants must pass certain income and asset tests. Medicaid covers medically necessary inpatient hospital services and medically necessary services performed in an acute rehabilitation hospital under specified conditions. Medicaid does not cover inpatient days provided in excess of the days approved.

The Maryland Department of Health (MDH) advises that, when a Medicaid participant’s hospital stay exceeds the number of days approved, Medicaid pays an administrative day rate for fee-for-service participants, as well as select medically necessary ancillary services. Reimbursement for an administrative day covers medically necessary services delivered to a participant who no longer requires an acute level of care. HealthChoice managed care organizations are responsible for payment of all medically necessary ancillary services provided on inpatient hospital days, including those days for which the

inpatient hospitalization is otherwise appropriately denied. None of these rates includes room and board charges.

MDH advises that Medicaid is currently in the process of adopting regulations that would increase the amount hospitals are paid for care on administrative days by permitting them to bill select ancillary services revenue codes in conjunction with the revenue code for an administrative day. A proposed rule change will apply these regulations to inpatient hospital stays at all acute and specialty pediatric hospitals.

**State Fiscal Effect:** Medicaid expenditures (63% federal funds, 37% general funds) increase by an indeterminate but significant amount beginning in fiscal 2025, primarily due to the requirement to reimburse special pediatric hospitals for a special administrative day, which requires provision of such a rate to all hospital types, as discussed below.

#### *Special Administrative Days*

MDH advises that special pediatric hospitals do not typically bill for administrative days or related ancillary costs. However, under the bill, Medicaid must pay for a special administrative day on the same basis and at the same rate as the combination of an administrative day and ancillary services. Special pediatric hospitals had a total of 7,203 admissions in fiscal 2023. While the number of cases at special pediatric hospitals that will meet the bill's criteria is not anticipated to be significant, MDH advises that Medicaid cannot establish a separate policy for reimbursement of a special administrative day solely for special pediatric hospitals. Any reimbursement policy must be consistent for all hospitals. Therefore, to comply with the bill, MDH advises that it must establish a special administrative day rate for all hospitals, driving a substantial fiscal impact (MDH advises an estimated \$36.2 million in total funds annually).

#### *Prohibition Against Prior Authorization for Transfers to Special Pediatric Hospitals*

MDH notes that the bill's prohibition against prior authorization for transfers to special pediatric hospitals will result in increased costs. Specifically, there will be a fiscal impact for days that are not medically necessary following the transfer that are not identified until after the hospital stay begins during concurrent review. This will have an indeterminate but significant impact on Medicaid expenditures (63% federal funds, 37% general funds) beginning in fiscal 2025. The Department of Legislative Services (DLS) notes that Medicaid waived prior authorization requirements for special pediatric hospitals during COVID-19.

## *Appeals from Proposed Medicaid Medical Necessity Determinations*

The bill also authorizes a Medicaid enrollee who is a patient at a special pediatric hospital to file an appeal from a proposed Medicaid medical necessity determination even if the enrollee will not benefit financially from the appeal. A special pediatric hospital may file an appeal on behalf of an enrollee if the enrollee signs an authorizing agreement. MDH did not provide specified information about the impact of this provision. DLS assumes that these provisions may increase the number of appeals regarding proposed medical necessity determinations at special pediatric hospitals and, if such appeals are granted, result in additional paid days of Medicaid reimbursement. However, any such costs are not anticipated to be significant.

**Additional Comments:** When a patient no longer requires the level of care a hospital provides, a carrier or Medicaid may deny coverage. Hospitals must keep a patient beyond when they are eligible for discharge until a safe discharge plan is in place. Hospitals can receive an administrative day rate for these extended stays, but the rate does not include daily nursing and room and board charges. Reimbursement for ancillary costs may also be available but does not necessarily cover all ancillary services provided. Special pediatric hospitals treating medically complex children face obstacles at discharge when, for example, family members require additional training for home care responsibilities, or an out-of-home placement is required for the child. Special pediatric hospitals typically offer significantly more ancillary services (such as extensive respiratory care, wound care, and rehabilitation) beyond custodial care during these extended stays.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Department of Budget and Management; Maryland Department of Health; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2024  
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Analysis by: Jennifer B. Chasse

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510