Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 231 (Senator Hogan, *et al.*)
Finance Health and Government Operations

Freestanding Medical Facilities - Licensing and Pilot Project

This bill establishes a freestanding medical facility pilot project in Montgomery County. In addition, the Department of Health and Mental Hygiene (DHMH) must license, rather than certify, a freestanding medical facility that uses the word "emergency" in its title or advertising. The Maryland Health Care Commission (MHCC) must adopt regulations specifying licensure requirements. Further, the bill requires various reports regarding the pilot project.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: To the extent the pilot project treats Medicaid enrollees, Medicaid expenditures could increase, potentially by a significant amount. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Pilot Project: DHMH must issue a freestanding medical facility license to one freestanding medical facility pilot project in Montgomery County if: (1) the pilot project is established by and operated administratively as part of an acute care general hospital;

(2) the acute care general hospital is part of a merged asset system with all of its existing acute care general hospitals located in a single jurisdiction; (3) there are no more than five acute care general hospitals in the jurisdiction; (4) one or more of the hospitals in the merged asset system has an emergency department volume of 75,000 or more visits for the 12 months ending June 30, 2004: (5) the capital expenditure to implement the pilot project meets current certificate of need (CON) requirements; and (6) the pilot project meets requirements specified in regulation.

Third-party Payors: A health insurer, nonprofit health service plan, HMO, and Medicaid managed care organization (MCO) must pay a claim for covered services submitted by a freestanding medical facility pilot project at rates consistent with the contract between the carrier and the freestanding medical facility pilot project. Medicaid must pay a fee-for-service claim submitted by a freestanding medical facility pilot project at a rate at least equal to the rate paid by Medicare.

Review Process Regulations: By July 1, 2008, MHCC, in consultation with the Health Services Cost Review Commission (HSCRC) and DHMH, must propose emergency regulations to establish a review process to approve facilities in the State that may seek licensure of a freestanding medical facility.

The regulations must include: (1) a process to identify areas of the State in which a freestanding medical facility could meet health care service delivery needs; (2) a process for submitting and acting on applications; (3) criteria for evaluating and approving applications; and (4) appropriate notice and opportunity for a hearing and judicial review.

Licensure: In order to qualify for licensure as a freestanding medical facility, a facility must meet specified practice standards related to adequate staffing, supplies, equipment, and compliance with specified infection control protocols. In addition, a facility must refrain from the use of the words "emergency department," "emergency room," or "hospital." DHMH must issue a license to a freestanding medical facility that meets licensure requirements and receives approval from MHCC under the review process regulations. DHMH may not require a pilot project to be approved by MHCC as a condition of licensure.

Studies: MHCC, in consultation with HSCRC, must conduct a study of the operations, utilization, and financing of freestanding medical facilities, using the pilot project. The findings must be reported to specified committees by December 31, 2007. HSCRC and Shady Grove Adventist Hospital must report to specified committees by October 1, 2005 on their progress in obtaining provider-based status from the federal Centers for Medicare and Medicaid Services for the freestanding medical facility pilot project. The League of Life and Health Insurers; CareFirst, Inc.; United Healthcare; Kaiser Foundation Health

Plan; and Shady Grove Adventist Hospital must report to specified committees on the status of negotiations for payment of services at the pilot project by November 1, 2005.

Current Law: MHCC must issue a CON before a person may build, develop, or establish a new health care facility. DHMH currently certifies freestanding medical facilities. A freestanding medical facility is a facility in which medical and health services are provided. It is physically separate from a hospital or hospital grounds.

Background: In 2004, Shady Grove Adventist Hospital, a member of Adventist HealthCare (located in Montgomery County) applied for a CON to construct a five-bed hospital and emergency department located in Germantown. The application was denied by MHCC.

In fiscal 2001, there were 46 hospitals with emergency departments. The following five hospitals experienced the highest volume of emergency department visits.

Hospital	**Location**	**Number of Visits***
Johns Hopkins Hospital	Baltimore City	84,839
St. Agnes Health Care	Baltimore City	75,645
North Arundel Hospital	Anne Arundel County	73,917
Shady Grove Adventist	Montgomery County	73,684
Franklin Square Hospital	Baltimore County	71,113

**Trends in Maryland Hospital Emergency Department Utilization (April 2002), Joint Workgroup on Emergency Department Utilization*

State Fiscal Effect: Medicaid expenditures could increase by a significant amount beginning in fiscal 2006. DHMH advises expenditures could increase by $481,857 (50% general funds, 50% federal funds) from the provision requiring Medicaid to reimburse the pilot project at Medicare rates. This cost assumes 13% of the estimated 25,000 visits to the pilot project would be Medicaid enrollees.

While Legislative Services agrees that the pilot project would increase Medicaid expenditures, Legislative Services disagrees with the extent of the increase. While the average percentage of Maryland residents enrolled in Medicaid is about 13%, the percentage of Montgomery County residents enrolled in Medicaid is only about 10%. This percentage is even lower in the two contiguous counties whose Medicaid populations could use the satellite location; about 2% of Frederick and Howard county residents are Medicaid enrollees.

There are insufficient data at this time to reliably estimate the number of Medicaid enrollee visits to the pilot project. *For illustrative purposes only*, if 10% of the visits (or 2,500) to the pilot project were Medicaid enrollees, Medicaid expenditures could increase by at least $330,000 in fiscal 2006. The information and assumptions used in calculating the estimate are stated below:

- all Medicaid enrollee visits are for nonemergency care;
- Medicaid must reimburse the pilot project at Medicare rates;
- to approximate the cost of one visit to the pilot project, it is assumed one visit would include the Medicare ambulatory payment classification rate of $158 and the Medicare emergency department physician rate of $81; and
- Medicaid would reimburse the pilot project at a rate approximately $132 more than a regular Medicaid visit for comparable services.

Promulgating regulations and the study and reporting requirements could be handled with existing budgeted DHMH resources. Revenues would not be affected.

Additional Information

Prior Introductions: None.

Cross File: HB 426 (Delegate Hurson, *et al.*) – Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene (Maryland Health Care Commission, Health Services Cost Review Commission, Office of Health Care Quality), Department of Legislative Services

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