

CHAPTER 238

(Senate Bill 916)

AN ACT concerning

Maryland Trauma Physician Services Fund – Reimbursement and Grants

FOR the purpose of requiring certain costs incurred by certain trauma centers to maintain certain surgeons on-call to be reimbursed from the Maryland Trauma Physicians Services Fund at a certain rate under certain circumstances; specifying the maximum number of hours per year that certain trauma centers are eligible for reimbursement; authorizing the Maryland Health Care Commission to establish a certain payment rate for uncompensated care incurred by certain trauma physicians that is above a certain rate under certain circumstances; ~~repealing~~ increasing a certain cap on reimbursements from the Fund to certain physicians; providing that expenditures from the Fund may not exceed revenues except under certain circumstances; requiring the Commission, in consultation with certain entities, to develop a certain process for the award of certain grants to Level II and III trauma centers in the State; requiring certain grants to be issued from a certain fund balance; requiring the Commission to report to certain committees of the General Assembly about a certain process for the award of certain grants; altering the amount for a certain grant to subsidize the stand-by costs for certain out-of-state pediatric trauma centers; defining a certain term; altering a certain definition; and generally relating to the Maryland Trauma Physician Services Fund.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–130
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 484 of the Acts of the General Assembly of 2006
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

19–130.

- (a) (1) In this section the following words have the meanings indicated.

(2) “Fund” means the Maryland Trauma Physician Services Fund.

(3) “Maryland Trauma Specialty Referral Centers” means:

(i) The Johns Hopkins Health System Burn Program;

(ii) The Eye Trauma Center at the Wilmer Eye Institute at The Johns Hopkins Hospital; and

(iii) The Curtis National Hand Center at Union Memorial Hospital.

(4) “REHABILITATION HOSPITAL” MEANS A FACILITY CLASSIFIED AS A SPECIAL REHABILITATION HOSPITAL AS DESCRIBED IN § 19-307 OF THIS TITLE THAT IS AFFILIATED WITH A TRAUMA CENTER BY COMMON OWNERSHIP.

[(4)] **(5)** (i) “Trauma center” means a facility designated by the Maryland Institute for Emergency Medical Services Systems as:

1. The State primary adult resource center;

2. A Level I trauma center;

3. A Level II trauma center;

4. A Level III trauma center;

5. A pediatric trauma center; or

6. The Maryland Trauma Specialty Referral Centers.

(ii) “Trauma center” includes an out-of-state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Medical Services Systems.

[(5)] **(6)** “Trauma physician” means a physician who provides care in a trauma center **OR IN A REHABILITATION HOSPITAL** to trauma patients on the State trauma registry as defined by the Maryland Institute for Emergency Medical Services Systems.

[(6)] **(7)** “Uncompensated care” means care provided by a trauma physician to a trauma patient on the State trauma registry who:

(i) Has no health insurance, including Medicare Part B coverage;

(ii) Is not eligible for medical assistance coverage; and

(iii) Has not paid the trauma physician for care provided by the trauma physician, after documented attempts by the trauma physician to collect payment.

(b) (1) There is a Maryland Trauma Physician Services Fund.

(2) The purpose of the Fund is to subsidize the documented costs:

(i) Of uncompensated care incurred by a trauma physician in providing trauma care to a trauma patient on the State trauma registry;

(ii) Of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry;

(iii) Incurred by a trauma center to maintain trauma physicians on-call as required by the Maryland Institute for Emergency Medical Services Systems; and

(iv) Incurred by the Commission and the Health Services Cost Review Commission to administer the Fund and audit reimbursement requests to assure appropriate payments are made from the Fund.

(3) The Commission and the Health Services Cost Review Commission shall administer the Fund.

(4) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(5) Interest on and other income from the Fund shall be separately accounted for and credited to the Fund, and are not subject to § 6-226(a) of the State Finance and Procurement Article.

(c) The Fund consists of motor vehicle registration surcharges paid into the Fund in accordance with § 13-954(b)(2) of the Transportation Article.

(d) (1) Disbursements from the Fund shall be made in accordance with a methodology established jointly by the Commission and the Health Services Cost Review Commission to calculate costs incurred by trauma physicians and trauma centers that are eligible to receive reimbursement under subsection (b) of this section.

(2) The Fund shall transfer to the Department of Health and Mental Hygiene an amount sufficient to fully cover the State's share of expenditures for the costs of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry.

(3) The methodology developed under paragraph (1) of this subsection shall:

(i) Take into account:

1. The amount of uncompensated care provided by trauma physicians;

2. The amount of undercompensated care attributable to the treatment of Medicaid enrollees in trauma centers;

3. The cost of maintaining trauma physicians on-call;

4. The number of patients served by trauma physicians in trauma centers;

5. The number of Maryland residents served by trauma physicians in trauma centers; and

6. The extent to which trauma-related costs are otherwise subsidized by hospitals, the federal government, and other sources; and

(ii) Include an incentive to encourage hospitals to continue to subsidize trauma-related costs not otherwise included in hospital rates.

(4) The methodology developed under paragraph (1) of this subsection shall use the following parameters to determine the amount of reimbursement made to trauma physicians and trauma centers from the Fund:

(i) 1. The cost incurred by a Level II trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on-call shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on-call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level II trauma centers;

2. The cost incurred by a Level III trauma center to maintain trauma surgeons, orthopedic surgeons, neurosurgeons, and anesthesiologists on-call shall be reimbursed:

A. At a rate of up to 35% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on-call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level III trauma centers; [and]

3. THE COST INCURRED BY A LEVEL I TRAUMA CENTER OR PEDIATRIC TRAUMA CENTER TO MAINTAIN TRAUMA SURGEONS, ORTHOPEDIC SURGEONS, AND NEUROSURGEONS ON-CALL WHEN A POST-GRADUATE RESIDENT IS ATTENDING IN THE TRAUMA CENTER SHALL BE REIMBURSED:

A. AT A RATE OF UP TO 30% OF THE REASONABLE COST EQUIVALENTS HOURLY RATE FOR THE SPECIALTY, INFLATED TO THE CURRENT YEAR BY THE PHYSICIAN COMPENSATION COMPONENT OF THE MEDICARE ECONOMIC INDEX AS DESIGNATED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; AND

B. WHEN A POST-GRADUATE RESIDENT IS PERMITTED TO BE IN THE TRAUMA CENTER, AS SPECIFIED BY THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS IN ITS CRITERIA FOR LEVEL I TRAUMA CENTERS OR PEDIATRIC TRAUMA CENTERS;

4. THE COST INCURRED BY A MARYLAND TRAUMA SPECIALTY REFERRAL CENTER TO MAINTAIN TRAUMA SURGEONS ON-CALL IN THE SPECIALTY OF THE CENTER WHEN A POST-GRADUATE RESIDENT IS ATTENDING IN THE CENTER SHALL BE REIMBURSED:

A. AT A RATE OF UP TO 30% OF THE REASONABLE COST EQUIVALENTS HOURLY RATE FOR THE SPECIALTY, INFLATED TO THE CURRENT YEAR BY THE PHYSICIAN COMPENSATION COMPONENT OF THE MEDICARE ECONOMIC INDEX AS DESIGNATED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; AND

B. WHEN A POST-GRADUATE RESIDENT IS PERMITTED TO BE IN THE CENTER, AS SPECIFIED BY THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS IN ITS CRITERIA FOR A MARYLAND TRAUMA SPECIALTY REFERRAL CENTER; AND

[3.] **5. A.** A Level II trauma center is eligible for a maximum of 24,500 hours of trauma on-call per year; [and]

B. A Level III trauma center is eligible for a maximum of 35,040 hours of trauma on-call per year;

C. A LEVEL I TRAUMA CENTER SHALL BE ELIGIBLE FOR A MAXIMUM OF 4,380 HOURS OF TRAUMA ON-CALL PER YEAR;

D. A PEDIATRIC TRAUMA CENTER SHALL BE ELIGIBLE FOR A MAXIMUM OF 4,380 HOURS OF TRAUMA ON-CALL PER YEAR; AND

E. A MARYLAND TRAUMA SPECIALTY REFERRAL CENTER SHALL BE ELIGIBLE FOR A MAXIMUM OF 2,190 HOURS OF TRAUMA ON-CALL PER YEAR;

(ii) The cost of undercompensated care incurred by a trauma physician in providing trauma care to enrollees of the Maryland Medical Assistance Program who are trauma patients on the State trauma registry shall be reimbursed at a rate of up to 100% of the Medicare payment for the service, minus any amount paid by the Maryland Medical Assistance Program;

(iii) The cost of uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry shall be reimbursed at a rate of [up to] 100% of the Medicare payment for the service, minus any recoveries made by the trauma physician for the care; ~~and~~

(iv) [The total reimbursement to emergency physicians from the Fund may not exceed \$275,000 annually] **THE COMMISSION, IN CONSULTATION WITH THE HEALTH SERVICES COST REVIEW COMMISSION, MAY ESTABLISH A PAYMENT RATE FOR UNCOMPENSATED CARE INCURRED BY A TRAUMA PHYSICIAN IN PROVIDING TRAUMA CARE TO TRAUMA PATIENTS ON THE STATE TRAUMA REGISTRY THAT IS ABOVE 100% OF THE MEDICARE PAYMENT FOR THE SERVICE IF:**

1. THE COMMISSION DETERMINES THAT INCREASING THE PAYMENT RATE ABOVE 100% OF THE MEDICARE PAYMENT

FOR THE SERVICE WILL ADDRESS AN UNMET NEED IN THE STATE TRAUMA SYSTEM; AND

2. THE COMMISSION REPORTS ON ITS INTENTION TO INCREASE THE PAYMENT RATE TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AT LEAST 60 DAYS BEFORE ANY ADJUSTMENT TO THE RATE; AND

(V) THE TOTAL REIMBURSEMENT TO EMERGENCY PHYSICIANS FROM THE FUND MAY NOT EXCEED \$300,000 ANNUALLY.

(5) In order to receive reimbursement, a trauma physician in the case of costs of uncompensated care under subsection (b)(2)(i) of this section, or a trauma center in the case of on-call costs under subsection (b)(2)(iii) of this section, shall apply to the Fund on a form and in a manner approved by the Commission and the Health Services Cost Review Commission.

(6) (i) The Commission and the Health Services Cost Review Commission shall adopt regulations that specify the information that trauma physicians and trauma centers must submit to receive money from the Fund.

(ii) The information required shall include:

1. The name and federal tax identification number of the trauma physician rendering the service;
2. The date of the service;
3. Appropriate codes describing the service;
4. Any amount recovered for the service rendered;
5. The name of the trauma patient;
6. The patient's trauma registry number; and
7. Any other information the Commission and the Health Services Cost Review Commission consider necessary to disburse money from the Fund.

(iii) It is the intent of the General Assembly that trauma physicians and trauma centers shall cooperate with the Commission and the Health Services Cost Review Commission by providing information required under this paragraph in a timely and complete manner.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EXPENDITURES FROM THE FUND FOR COSTS INCURRED IN ANY FISCAL YEAR MAY NOT EXCEED REVENUES OF THE FUND IN THAT FISCAL YEAR.

(2) (I) THE COMMISSION, IN CONSULTATION WITH THE HEALTH SERVICES COST REVIEW COMMISSION AND THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS, SHALL DEVELOP A PROCESS FOR THE AWARD OF GRANTS TO LEVEL II AND LEVEL III TRAUMA CENTERS IN THE STATE TO BE USED FOR EQUIPMENT PRIMARILY USED IN THE DELIVERY OF TRAUMA CARE.

(II) 1. THE COMMISSION SHALL ISSUE GRANTS UNDER THIS PARAGRAPH FROM ANY BALANCE CARRIED OVER TO THE FUND FROM PRIOR FISCAL YEARS.

2. THE TOTAL AMOUNT OF GRANTS AWARDED UNDER THIS PARAGRAPH IN A FISCAL YEAR MAY NOT EXCEED 10% OF THE BALANCE REMAINING IN THE FUND AT THE END OF THE FISCAL YEAR IMMEDIATELY PRIOR TO THE FISCAL YEAR IN WHICH GRANTS ARE AWARDED.

(III) THE PROCESS DEVELOPED BY THE COMMISSION FOR THE AWARD OF GRANTS UNDER THIS PARAGRAPH SHALL INCLUDE:

1. GRANT APPLICATIONS AND REVIEW AND SELECTION CRITERIA FOR THE AWARD OF GRANTS;

2. REVIEW BY THE COMMISSION, IF NECESSARY, FOR ANY PROJECT THAT EXCEEDS CERTIFICATE OF NEED THRESHOLDS; AND

3. ANY OTHER PROCEDURE DETERMINED NECESSARY BY THE COMMISSION.

(IV) BEFORE AWARDING GRANTS UNDER THIS SUBSECTION IN A FISCAL YEAR, THE COMMISSION SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE PROCESS THAT THE COMMISSION HAS DEVELOPED FOR AWARDING GRANTS IN THAT FISCAL YEAR.

[(e)] (F) On or before November 1 of each year, the Commission and the Health Services Cost Review Commission shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

- (1) The amount of money in the Fund on the last day of the previous fiscal year;
- (2) The amount of money applied for by trauma physicians and trauma centers during the previous fiscal year;
- (3) The amount of money distributed in the form of trauma physician and trauma center reimbursements during the previous fiscal year;
- (4) Any recommendations for altering the manner in which trauma physicians and trauma centers are reimbursed from the Fund;
- (5) The costs incurred in administering the Fund during the previous fiscal year; and
- (6) The amount that each hospital that participates in the Maryland trauma system and that has a trauma center contributes toward the subsidization of trauma-related costs for its trauma center.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 484 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission shall develop guidelines for the approval of an annual grant from the Maryland Trauma Physician Services Fund under § 19-130 of the Health – General Article of up to [\$490,000] **\$590,000** to subsidize the stand-by costs for an out-of-state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Services Systems.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.