

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 677 (Delegates Ali and Nathan-Pulliam)
Health and Government Operations

Patient Referrals for Radiation Therapy Services

This bill allows any health care practitioner, not just a radiologist, to make referrals for radiation therapy services to a health care entity in which the practitioner or his/her immediate family owns a beneficial interest or has a compensation arrangement. However, the radiation therapy services still have to be provided and billed in a specified manner.

Fiscal Summary

State Effect: Any decrease in State investigations and disciplinary actions as a result of the bill has minimal or no direct effect on governmental finances.

Local Effect: None.

Small Business Effect: Meaningful for any group practice that performs radiation therapy services.

Analysis

Current Law: “In-office ancillary services” are basic health services and tests routinely performed in the office of one or more health care practitioners. Except for a radiologist group practice or an office consisting of only one or more radiologists, this does not include magnetic resonance imaging (MRI), radiation therapy, or computer tomography (CT) scan services.

With certain exceptions, a health care practitioner may not refer a patient, or direct an employee of or person under contract with the health care practitioner to refer a patient to

a health care entity (1) in which the practitioner or the practitioner and his/her immediate family owns a beneficial interest; (2) in which the practitioner's immediate family owns a beneficial interest of 3% or greater; or (3) with which the practitioner, the practitioner's immediate family, or the practitioner and the practitioner's immediate family has a compensation arrangement. This is known as self-referral.

Self-referral *is* allowed when a health care practitioner refers a patient to another practitioner in the same group practice as the referring practitioner. In addition, a health care practitioner may refer in-office ancillary services or tests that are (1) personally furnished by the referring health care practitioner, a practitioner in the same group practice as the referring practitioner, or an individual employed and personally supervised by the qualified referring practitioner or a practitioner in the same group practice as the referring practitioner; (2) provided in the same building where the referring practitioner or a practitioner in the same group practice as the referring practitioner furnishes services and; (3) billed by the practitioner performing or supervising the services or a group practice of which the practitioner performing or supervising the services is a member.

Regulations require any facility operating major medical equipment (including MRIs, radiation therapy equipment, and CT scanners) in the State to be licensed by the Department of Health and Mental Hygiene. Licensees are subject to random inspections and have to demonstrate that all operating personnel meet appropriate qualifications. Licensees must also meet specific safety standards and develop and implement a quality assurance program that ensures all personnel supervising or operating major medical equipment follow appropriate use guidelines.

Background: A January 4, 2006 letter of advice from the Attorney General's Office stated that the State's self-referral law would bar a patient referral for an MRI if the MRI machine is being leased by the group practice of which the referring practitioner is a member and the test is being performed by the group practice. State law would bar this referral even if the MRI is performed by or under the direct supervision of the referring practitioner. Further, the letter of advice states that the statutory definition of a "health care service" includes MRIs, CT scans, and radiation therapy services and includes ordinary medical activities performed by a physician in the course of treatment. A February 23, 2006 opinion letter affirmed the analysis and conclusions in that letter of advice.

In December 2006, the Board of Physicians issued a Declaratory Ruling that a referral by an orthopedic physician for an MRI to be performed on or by an MRI machine owned or leased by the orthopedic practice is an illegal self-referral within the meaning of the Maryland Self-referral Law. In October 2007, the Circuit Court for Montgomery County upheld the board's decision; an appeal is pending.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 1414 of the 2008 session. The bill was withdrawn after it was heard by the House Health and Government Operations Committee.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2009
mcp/mcr

Analysis by: Sarah K. Volker

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