Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1399 (Delegates Smigiel and Hammen)
Health and Government Operations

Hospitals - Credentialing and Privileging Process - Telemedicine

This bill authorizes a hospital, in its credentialing and privileging process for a physician who provides medical services to patients at the hospital only by "telemedicine" from a distant-site hospital or telemedicine entity, to rely on the credentialing and privileging decisions made for the physician by the distant-site hospital or telemedicine entity, as authorized under specified federal rules.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Telemedicine" is the use of interactive audio, video, or other telecommunications or electronic technology by a physician in the practice of medicine outside the physical presence of the patient. Telemedicine does not include audio-only telephone calls, email messages, or communications via fax.

Current Law: As a condition of licensure, each hospital must establish a credentialing process for physicians who are employed by or who have staff privileges at the hospital and use the uniform standard credentialing form as the initial application of a physician seeking to be credentialed. Minimum standards for a credentialing process must include (1) a formal written appointment documenting the physician's education, clinical

expertise, licensure history, insurance history, medical history, claims history, and professional experience; (2) a requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period; and (3) a formal, written reappointment process to be completed at least every two years. The reappointment process must document the physician's pattern of performance by analyzing (1) claims filed against the physician; (2) data dealing with utilization, quality, and risk; (3) clinical skills; (4) adherence to hospital bylaws, policies, and procedures; (5) compliance with continuing education requirements; (6) mental and physical status; and (7) the results of a specified practitioner performance evaluation.

If requested by the Department of Health and Mental Hygiene, a hospital must provide documentation that, prior to granting or renewing privileges or employment to a physician, the hospital has complied with these requirements. If a hospital fails to establish or maintain the required credentialing process, the Secretary of Health and Mental Hygiene may delicense the hospital or impose a $500 penalty for each day the violation continues.

Background: Telemedicine is the use of medical information exchanged from one site to another via electronic communications to improve a patient's health status. There are generally two types of telemedicine encounters – those that require two providers and those that do not. Certain telemedicine encounters require a provider at the location with the patient to "present" the patient and manage the telemedicine technology, while another provider conducts the evaluation or consultation remotely. Other forms of telemedicine, such as remote monitoring, require only one provider to receive and interpret clinical data or provide consultation to another provider.

In May 2011, the federal Centers for Medicare and Medicaid Services (CMS) adopted final rules (42 CFR Part 482 and 485), titled "Medicare and Medicaid Programs: Changes Affecting Hospital and Critical Access Hospital Conditions of Participation: Telemedicine Credentialing and Privileging." The rule allows for a hospital to rely upon the credentialing and privileging decisions made by the distant-site telemedicine entity when making its own decisions on privileges for the distant-site physicians and practitioners providing such services. A hospital must ensure, through a written agreement with the distant-site telemedicine entity, that the distant-site telemedicine entity's medical staff credentialing and privileging process and standards meet or exceed specified federal standards.

In June 2010, the Maryland Health Quality and Cost Council approved the creation of the Maryland Telemedicine Task Force. A final report to the council was issued in December 2011. The report found that effective use of telemedicine can increase access to health care, reduce health disparities, and create efficiencies in health care delivery. Telemedicine is generally considered as a viable means of delivering health care remotely

through the use of communication technologies and can bridge the gaps of distance and health care disparity. Although telemedicine is well established, a number of technology and policy challenges need to be resolved before its full potential can be realized.

The task force's clinical advisory group noted challenges around credentialing, privileging, and licensing. With regards to hospital-based care, federal and State regulations have traditionally required that telemedicine providers be credentialed and privileged at the facilities on *both ends* of a telemedicine encounter: the originating site, where the patient is located, and the remote site, where the provider is located. However, the Joint Commission, the national organization that accredits and certifies hospitals, intends to change its standards regarding telemedicine to conform to the new CMS credentialing and privileging rules.

Based on these findings, the task force's recommendations include implementing changes in the credentialing and privileging of providers to facilitate the adoption of telemedicine. Specifically, the task force recommends that regulations should be aligned with newly revised CMS rules that permit privileging and credentialing by proxy. As telemedicine advances, additional consideration regarding expanding existing regulations to support out-of-state providers that meet certain conditions to provide telemedicine services to patients in Maryland is required.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): *Telemedicine Recommendations: A Report Prepared for the Maryland Health Quality and Cost Council*, December 2011; American Telemedicine Association; Department of Legislative Services

Fiscal Note History: First Reader - March 19, 2012
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