

HOUSE BILL 298

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CF SB 335

By: **The Speaker (By Request – Administration) and Delegates Costa, Cullison, Frick, Gaines, Glenn, Hammen, Hucker, Kaiser, A. Kelly, Luedtke, Oaks, Pena–Melnyk, Reznik, and F. Turner**

Introduced and read first time: January 20, 2014

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2014

CHAPTER _____

1 AN ACT concerning

2 **Health Services Cost Review Commission – Powers and Duties, Regulation of**
3 **Facilities, and Maryland All–Payer Model Contract**

4 FOR the purpose of authorizing the Health Services Cost Review Commission,
5 consistent with Maryland’s all–payer model contract, to establish hospital rate
6 levels and rate increases in a certain manner and promote and approve certain
7 alternative methods of rate determination and payment; increasing the total
8 amount of user fees that the Commission may assess on certain facilities;
9 ~~altering the contents of a certain annual report the Commission is required to~~
10 ~~submit to certain individuals and the General Assembly~~ requiring the
11 Commission to submit to certain individuals and the General Assembly,
12 beginning on a certain date, a certain update and, under certain circumstances,
13 certain notification; requiring the Commission to require certain facilities to
14 disclose publicly the revenue generated by the facilities in providing health
15 services; requiring the Commission to review for reasonableness and certify the
16 revenue of certain facilities; requiring the Commission to develop certain
17 guidelines, receive certain confirmation, and post certain budget agreements on
18 the Commission’s Web site; altering the circumstances under which the
19 Commission may adopt regulations establishing alternative methods for
20 financing certain costs; requiring certain facilities to notify the Commission
21 within a certain time period prior to executing any financial transaction,
22 contract, or other agreement that would result in more than a certain
23 percentage of certain voting rights or governance reserve powers being

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 transferred to or assumed by another person or entity; authorizing the
 2 Commission to review the quality and efficiency of certain services for a certain
 3 purpose; authorizing the Commission, for a certain purpose, to review and
 4 approve or disapprove the reasonableness of the amount of revenue that a
 5 certain facility sets or requests; repealing a certain provision of law authorizing
 6 the Commission to promote and approve certain methods of rate determination
 7 and payment under certain circumstances; requiring certain facilities, health
 8 maintenance organizations, insurers, nonprofit health service plans, fraternal
 9 benefit societies, and certain managed care organizations to comply with a
 10 certain contract; requiring certain workgroups to consider certain matters and
 11 include the findings on the matters in a certain report; and generally relating to
 12 the Health Services Cost Review Commission.

13 BY repealing and reenacting, with amendments,
 14 Article – Health – General
 15 Section 19–207(b)(6), ~~(7), and (8)~~, 19–212, 19–213(c)(1), 19–214(b), 19–217, ~~and~~
 16 19–219, and 19–710(e)
 17 Annotated Code of Maryland
 18 (2009 Replacement Volume and 2013 Supplement)

19 BY adding to
 20 Article – Health – General
 21 Section 19–207(b)(9) and (10)
 22 Annotated Code of Maryland
 23 (2009 Replacement Volume and 2013 Supplement)

24 BY repealing and reenacting, without amendments,
 25 Article – Health – General
 26 Section 19–213(a) and (b)
 27 Annotated Code of Maryland
 28 (2009 Replacement Volume and 2013 Supplement)

29 BY repealing and reenacting, with amendments,
 30 Article – Insurance
 31 Section 15–604
 32 Annotated Code of Maryland
 33 (2011 Replacement Volume and 2013 Supplement)

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

36 **Article – Health – General**

37 19–207.

38 (b) In addition to the duties set forth elsewhere in this subtitle, the
 39 Commission shall:

1 (6) On or before October 1 of each year, submit to the Governor, to the
 2 Secretary, and, subject to § 2-1246 of the State Government Article, to the General
 3 Assembly an annual report on the operations and activities of the Commission during
 4 the preceding fiscal year, including:

5 (i) A copy of each summary, compilation, and supplementary
 6 report required by this subtitle;

7 ~~(ii) An update on the status of the State's [Medicare waiver]~~
 8 ~~COMPLIANCE WITH THE PROVISIONS OF MARYLAND'S ALL-PAYER MODEL~~
 9 ~~CONTRACT;~~

10 ~~(iii) (II)~~ Budget information regarding the Health Services
 11 Cost Review Commission Fund, including:

12 1. Any balance remaining in the Fund at the end of the
 13 previous fiscal year; and

14 2. The percentage of the total annual costs of the
 15 Commission that is represented by the balance remaining in the Fund at the end of
 16 the previous fiscal year;

17 ~~(iv) (III)~~ A summary of the Commission's role in hospital
 18 quality of care activities, including information about the status of any pay for
 19 performance initiatives; and

20 ~~(v) (IV)~~ Any other fact, suggestion, or policy recommendation
 21 that the Commission considers necessary;

22 (7) ~~Oversee and administer the Maryland Trauma Physician Services~~
 23 Fund in conjunction with the Maryland Health Care Commission; [and]

24 (8) ~~In consultation with the Maryland Health Care Commission,~~
 25 annually publish each acute care hospital's severity-adjusted average charge per case
 26 for the 15 most common inpatient diagnosis-related groups;

27 (9) BEGINNING OCTOBER 1, 2014, AND, SUBJECT TO ITEM
 28 (10)(II) OF THIS SUBSECTION, EVERY 6 MONTHS THEREAFTER, SUBMIT TO THE
 29 GOVERNOR, THE SECRETARY, AND, SUBJECT TO § 2-1246 OF THE STATE
 30 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN UPDATE ON THE STATUS
 31 OF THE STATE'S COMPLIANCE WITH THE PROVISIONS OF MARYLAND'S
 32 ALL-PAYER MODEL CONTRACT, INCLUDING:

33 (I) THE STATE'S:

1 1. PERFORMANCE IN LIMITING INPATIENT AND
 2 OUTPATIENT HOSPITAL PER CAPITA COST GROWTH FOR ALL PAYERS TO A
 3 TREND BASED ON THE STATE'S 10-YEAR COMPOUND ANNUAL GROSS STATE
 4 PRODUCT;

5 2. PROGRESS TOWARD ACHIEVING AGGREGATE
 6 SAVINGS IN MEDICARE SPENDING IN THE STATE EQUAL TO OR GREATER THAN
 7 \$330,000,000 OVER THE 5 YEARS OF THE CONTRACT, BASED ON LOWER
 8 INCREASES IN THE COST PER MEDICARE BENEFICIARY;

9 3. PERFORMANCE IN SHIFTING FROM A PER-CASE
 10 RATE SYSTEM TO A POPULATION-BASED REVENUE SYSTEM, WITH AT LEAST 80%
 11 OF HOSPITAL REVENUE SHIFTED TO GLOBAL BUDGETING;

12 4. PERFORMANCE IN REDUCING THE HOSPITAL
 13 READMISSION RATE AMONG MEDICARE BENEFICIARIES TO THE NATIONAL
 14 AVERAGE; AND

15 5. PROGRESS TOWARD ACHIEVING A CUMULATIVE
 16 REDUCTION IN THE STATE HOSPITAL-ACQUIRED CONDITIONS OF 30% OVER
 17 THE 5 YEARS OF THE CONTRACT;

18 (II) A SUMMARY OF THE WORK CONDUCTED,
 19 RECOMMENDATIONS MADE, AND COMMISSION ACTION ON RECOMMENDATIONS
 20 MADE BY THE FOLLOWING GROUPS CREATED TO PROVIDE TECHNICAL INPUT
 21 AND ADVICE ON IMPLEMENTATION OF MARYLAND'S ALL-PAYER MODEL
 22 CONTRACT:

23 1. PAYMENT MODELS WORKGROUP;

24 2. PHYSICIAN ALIGNMENT AND ENGAGEMENT
 25 WORKGROUP;

26 3. PERFORMANCE MEASUREMENT WORKGROUP;

27 4. DATA AND INFRASTRUCTURE WORKGROUP;

28 5. HSCRC ADVISORY COUNCIL; AND

29 6. ANY OTHER WORKGROUPS CREATED FOR THIS
 30 PURPOSE;

31 (III) ACTIONS APPROVED AND CONSIDERED BY THE
 32 COMMISSION TO PROMOTE ALTERNATIVE METHODS OF RATE DETERMINATION

1 AND PAYMENT OF AN EXPERIMENTAL NATURE, AS AUTHORIZED UNDER §
 2 19-219(C)(2) OF THIS SUBTITLE;

3 (IV) REPORTS SUBMITTED TO THE FEDERAL CENTER FOR
 4 MEDICARE AND MEDICAID INNOVATION RELATING TO THE ALL-PAYER MODEL
 5 CONTRACT; AND

6 (V) ANY KNOWN ADVERSE CONSEQUENCES THAT
 7 IMPLEMENTING THE ALL-PAYER MODEL CONTRACT HAS HAD ON THE STATE,
 8 INCLUDING CHANGES OR INDICATIONS OF CHANGES TO QUALITY OR ACCESS TO
 9 CARE, AND THE ACTIONS THE COMMISSION HAS TAKEN TO ADDRESS AND
 10 MITIGATE THE CONSEQUENCES; AND

11 (10) IF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES
 12 ISSUES A WARNING NOTICE RELATED TO A “TRIGGERING EVENT” AS DESCRIBED
 13 IN THE ALL-PAYER MODEL CONTRACT:

14 (I) PROVIDE WRITTEN NOTIFICATION TO THE GOVERNOR,
 15 THE SECRETARY, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
 16 ARTICLE, THE GENERAL ASSEMBLY WITHIN 15 DAYS AFTER THE ISSUANCE OF
 17 THE NOTICE; AND

18 (II) SUBMIT THE UPDATE REQUIRED UNDER ITEM (9) OF
 19 THIS SUBSECTION EVERY 3 MONTHS.

20 19-212.

21 The Commission shall:

22 (1) Require each facility to disclose publicly:

23 (i) Its financial position; and

24 (ii) As computed by methods that the Commission determines,
 25 the verified total costs incurred AND REVENUE GENERATED by the facility in
 26 providing health services;

27 (2) Review for reasonableness and certify the rates AND REVENUE of
 28 each facility;

29 (3) Keep informed as to whether a facility has enough resources to
 30 meet its financial requirements;

31 (4) Concern itself with solutions if a facility does not have enough
 32 resources; ~~and~~

1 (5) Assure each purchaser of health care facility services that:

2 (i) The total costs of all hospital services offered by or through a
3 facility are reasonable;

4 (ii) The aggregate rates of the facility are related reasonably to
5 the aggregate costs of the facility; and

6 (iii) Rates are set equitably among all purchasers of services
7 without undue discrimination;

8 **(6) DEVELOP GUIDELINES FOR THE ESTABLISHMENT OF GLOBAL**
9 **BUDGETS FOR EACH FACILITY UNDER MARYLAND'S ALL-PAYER MODEL**
10 **CONTRACT, INCLUDING GUIDELINES TO PREVENT FACILITIES FROM TAKING**
11 **ACTIONS TO MEET A BUDGET THAT THE COMMISSION DETERMINES WOULD**
12 **HAVE ADVERSE CONSEQUENCES FOR RECIPIENTS OR PURCHASERS OF**
13 **SERVICES;**

14 **(7) RECEIVE CONFIRMATION FROM COMMISSION STAFF THAT**
15 **FACILITY GLOBAL BUDGET AGREEMENTS, AS THEY ARE DEVELOPED, ARE**
16 **CONSISTENT WITH THE GUIDELINES; AND**

17 **(8) AFTER REVIEW BY THE COMMISSION FOR COMPLIANCE WITH**
18 **THE GUIDELINES, POST EACH EXECUTED GLOBAL BUDGET AGREEMENT ON THE**
19 **COMMISSION'S WEB SITE.**

20 19–213.

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

22 (2) “Facilities” means hospitals and related institutions whose rates
23 have been approved by the Commission.

24 (b) The Commission shall assess and collect user fees on facilities as defined
25 in this section.

26 (c) (1) The total fees assessed by the Commission may not exceed
27 **[\$7,000,000] \$12,000,000.**

28 19–214.

29 (b) The Commission may adopt regulations establishing alternative methods
30 for financing the reasonable total costs of hospital uncompensated care and the
31 disproportionate share hospital payment provided that the alternative methods:

1 (1) Are in the public interest;

2 (2) Will equitably distribute the reasonable costs of uncompensated
3 care and the disproportionate share hospital payment;

4 (3) Will fairly determine the cost of reasonable uncompensated care
5 and the disproportionate share hospital payment included in hospital rates;

6 (4) Will continue incentives for hospitals to adopt fair, efficient, and
7 effective credit and collection policies; and

8 (5) Will not result in significantly increasing costs to Medicare or [the
9 loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act]
10 **TERMINATION OF MARYLAND'S ALL-PAYER MODEL CONTRACT APPROVED BY**
11 **THE FEDERAL CENTER FOR MEDICARE AND MEDICAID INNOVATION.**

12 19–217.

13 (a) Except as provided in subsection (c) of this section, a facility shall notify
14 the Commission at least 30 days prior to executing any financial transaction, contract,
15 or other agreement that would:

16 (1) Pledge more than 50% of the operating assets of the facility as
17 collateral for a loan or other obligation; [or]

18 (2) Result in more than 50% of the operating assets of the facility
19 being sold, leased, or transferred to another person or entity; **OR**

20 **(3) RESULT IN MORE THAN 50% OF ALL CORPORATE VOTING**
21 **RIGHTS OR GOVERNANCE RESERVE POWERS BEING TRANSFERRED TO OR**
22 **ASSUMED BY ANOTHER PERSON OR ENTITY.**

23 (b) Except as provided in subsection (c) of this section, the Commission shall
24 publish a notice of the proposed financial transaction, contract, or other agreement
25 reported by a facility in accordance with subsection (a) of this section in a newspaper
26 of general circulation in the area where the facility is located.

27 (c) The provisions of this section do not apply to any financial transaction,
28 contract, or other agreement made by a facility with any issuer of tax-exempt bonds,
29 including the Maryland Health and Higher Education Facilities Authority, the State,
30 or any county or municipal corporation of the State, if a notice of the proposed
31 issuance of revenue bonds that meets the requirements of § 147(f) of the Internal
32 Revenue Code has been published.

33 19–219.

1 (a) The Commission may review **THE** costs, and rates, **QUALITY, AND**
2 **EFFICIENCY OF FACILITY SERVICES**, and make any investigation that the
3 Commission considers necessary to assure each purchaser of health care facility
4 services that:

5 (1) The total costs of all hospital services offered by or through a
6 facility are reasonable;

7 (2) The aggregate rates of the facility are related reasonably to the
8 aggregate costs of the facility; and

9 (3) The rates are set equitably among all purchasers or classes of
10 purchasers without undue discrimination or preference.

11 (b) (1) To carry out its powers under subsection (a) of this section, the
12 Commission may review and approve or disapprove the reasonableness of any rate **OR**
13 **AMOUNT OF REVENUE** that a facility sets or requests.

14 (2) A facility shall:

15 (I) ~~charge~~ **CHARGE** for services only at a rate set in accordance
16 with this subtitle; **AND**

17 (II) **COMPLY WITH THE APPLICABLE TERMS AND**
18 **CONDITIONS OF MARYLAND'S ALL-PAYER MODEL CONTRACT APPROVED BY THE**
19 **FEDERAL CENTER FOR MEDICARE AND MEDICAID INNOVATION.**

20 (3) In determining the reasonableness of rates, the Commission may
21 take into account objective standards of efficiency and effectiveness.

22 (c) [To promote the most efficient and effective use of health care facility
23 services and, if it is in the public interest and consistent with this subtitle, the
24 Commission may promote and approve alternate methods of rate determination and
25 payment that are of an experimental nature] **CONSISTENT WITH MARYLAND'S**
26 **ALL-PAYER MODEL CONTRACT APPROVED BY THE FEDERAL CENTER FOR**
27 **MEDICARE AND MEDICAID INNOVATION, AND NOTWITHSTANDING ANY OTHER**
28 **PROVISION OF THIS SUBTITLE, THE COMMISSION MAY:**

29 (1) **ESTABLISH HOSPITAL RATE LEVELS AND RATE INCREASES IN**
30 **THE AGGREGATE OR ON A HOSPITAL-SPECIFIC BASIS; AND**

31 (2) **PROMOTE AND APPROVE ALTERNATIVE METHODS OF RATE**
32 **DETERMINATION AND PAYMENT OF AN EXPERIMENTAL NATURE FOR THE**
33 **DURATION OF THE ALL-PAYER MODEL CONTRACT.**

1 19-710.

2 (e) The provisions of Title 4, Subtitle 3 (Risk Based Capital Standards for
3 Insurers) AND § 15-604 (RATES FOR PAYMENTS TO HOSPITALS) of the Insurance
4 Article apply to health maintenance organizations in the same manner as they apply
5 to insurers.

6 **Article – Insurance**

7 15-604.

8 Each authorized insurer, nonprofit health service plan, and fraternal benefit
9 society, and each managed care organization that is authorized to receive Medicaid
10 prepaid capitation payments under Title 15, Subtitle 1 of the Health – General Article,
11 shall:

12 (1) pay hospitals for hospital services rendered on the basis of the rate
13 approved by the Health Services Cost Review Commission; AND

14 (2) COMPLY WITH THE APPLICABLE TERMS AND CONDITIONS OF
15 MARYLAND’S ALL-PAYER MODEL CONTRACT APPROVED BY THE FEDERAL
16 CENTER FOR MEDICARE AND MEDICAID INNOVATION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the appropriate
18 workgroup or workgroups that have been created by the Health Services Cost Review
19 Commission to provide technical input and advice on implementation of Maryland’s
20 new all-payer model contract shall consider the impact and implications that
21 defensive medicine has on hospital costs and the goals underlying the all-payer model
22 contract. The findings of the appropriate workgroup or workgroups on this matter
23 shall be included in the appropriate workgroup report submitted to the Commission.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.