HB 298

Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 298 (The Speaker, *et al.*) (By Request - Administration)
Health and Government Operations Finance

Health Services Cost Review Commission - Powers and Duties, Regulation of Facilities, and Maryland All-Payer Model Contract

This Administration bill alters State law governing the Health Services Cost Review Commission (HSCRC) to comply with provisions of the Maryland all-payer model, a new five-year contract that will replace the State's Medicare waiver. HSCRC's user fee cap is increased from $7.0 million to $12.0 million. The bill also requires a facility to notify HSCRC at least 30 days prior to executing any financial transaction, contract, or other agreement that would result in more than 50% of all corporate voting rights or governance reserve powers being transferred to or assumed by another person or entity.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: HSCRC special fund revenues and expenditures increase by $2.9 million in FY 2015 to reflect a higher user fee assessment. These revenues and expenditures are included in the Governor's proposed FY 2015 budget. Medicaid expenditures increase by a total of $514,400 (50% federal funds, 50% general funds) in FY 2015 due to increased hospital rates associated with a higher user fee assessment. Federal fund revenues increase correspondingly. Any increase in the cost of providing health insurance through the State Employee and Retiree Health and Welfare Benefits Program is anticipated to be minimal. Future year expenditures reflect inflation.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
SF Revenue	$2,858,000	$2,358,000	$2,732,300	$3,121,600	$3,526,500
FF Revenue	$257,200	$212,200	$245,900	$280,900	$317,400
GF Expenditure	$257,200	$212,200	$245,900	$280,900	$317,400
SF Expenditure	$2,858,000	$2,358,000	$2,732,300	$3,121,600	$3,526,500
FF Expenditure	$257,200	$212,200	$245,900	$280,900	$317,400
Net Effect	($257,200)	($212,200)	($245,900)	($280,900)	($317,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Any increase in the cost of providing health insurance to local governments is anticipated to be negligible.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: HSCRC must require each hospital to publicly disclose the *revenue generated* by the facility in providing health services and review for reasonableness and certify the rates *and revenue* of each hospital. HSCRC must develop guidelines for the establishment of global budgets for each facility under Maryland's all-payer model contract, including guidelines to prevent facilities from taking actions to meet a budget that HSCRC determines would have adverse consequences for recipients or purchasers of services. HSCRC must receive confirmation from staff that facility global budget agreements, as they are developed, are consistent with these guidelines and, after review for compliance, must post each executed global budget agreement on the HSCRC website.

The bill authorizes HSCRC, consistent with Maryland's all-payer model contract, to (1) establish hospital rate levels and rate increases in the aggregate or on a hospital-specific basis and (2) promote and approve alternative methods of rate determination and payment of an experimental nature for the duration of the all-payer model contract.

HSCRC is also authorized to review the quality and efficiency of facility services.

Each facility, as well as each authorized insurer, nonprofit health service plan, fraternal benefit society, health maintenance organization, and managed care organization must comply with the applicable terms and conditions of Maryland's all-payer model contract.

The bill requires workgroups created by HSCRC to provide technical input and advice on the new all-payer model contract to consider the impact and implications that defensive medicine has on hospital costs and the goals underling the all-payer model contract and include their findings in the appropriate workgroup report submitted to HSCRC.

Beginning October 1, 2014, and every six months thereafter, HSCRC must submit to the Governor, the Secretary of Health and Mental Hygiene, and the General Assembly an update on the status of the State's compliance with Maryland's all-payer model contract.

This must include (1) updates on the State's performance and progress in specified areas; (2) a summary of the work conducted, recommendations made, and HSCRC action on recommendations made by specified workgroups and the HSCRC Advisory Council; (3) actions approved and considered by HSCRC to promote alternative methods of rate determination and payment of an experimental nature; (4) reports submitted to the federal Center for Medicare and Medicaid Innovation (CMMI) relating to the all-payer model contract; and (5) any known adverse consequences that implementing the all-payer model contract has had on the State and the actions HSCRC has taken to address and mitigate the consequences.

If CMMI issues a warning notice related to a "triggering event" (as described in the all-payer model contract), HSCRC must provide written notification to the Governor, the Secretary, and the General Assembly within 15 days after issuance of the notice and submit the required update report every *three* months rather than every six months.

Current Law: HSCRC must submit an annual report on the operations and activities of the commission that includes an update on the status of the State's Medicare waiver. HSCRC must require each facility to publicly disclose its financial position and the verified total costs incurred by the facility in providing health services. HSCRC must review for reasonableness and certify the rates of each facility.

HSCRC must assess and collect user fees on all hospitals and related institutions whose rates have been approved by the commission. The total fees assessed may not exceed $7.0 million.

HSCRC may adopt regulations establishing alternative methods for financing the reasonable total costs of hospital uncompensated care and the disproportionate share hospital payment provided that, among other things, the alternative methods will not result in significantly increasing costs to Medicare or the loss of Maryland's Medicare waiver under § 1814(b) of the Social Security Act.

With specified exceptions, a facility must notify HSCRC at least 30 days prior to executing any financial transaction, contract, or other agreement that would pledge more than 50% of operating assets of the facility as collateral for a loan or other obligation or result in more than 50% of operating assets of the facility being sold, leased, or transferred to another person or entity. HSCRC must publish a notice of the financial transaction, contract, or other agreement reported in a newspaper of general circulation in the area where the facility is located.

HSCRC may review costs and rates and make any investigation it considers necessary to assure each purchaser of health care facility services that (1) the total costs of all hospital services are reasonable; (2) the aggregate rates of the facility are related reasonably to the

aggregate costs of the facility; and (3) the rates are set equitably among all purchasers. HSCRC may review and approve or disapprove the reasonableness of any rate that a facility sets or requests. To promote the most efficient and effective use of health care facility services and, if it is in the public interest, HSCRC may promote and approve alternate methods of rate determination and payment that are of an experimental nature.

Background: HSCRC, an independent commission within the Department of Health and Mental Hygiene (DHMH), was established in 1971 to contain hospital costs, maintain fairness in hospital payment, provide for financial access to hospital care, and disclose information on the operation of hospitals in the State. HSCRC administers the nation's only all-payer hospital rate regulation system, as authorized by State and federal law. HSCRC sets hospital rates paid by all private and public payers, including Medicare and Medicaid. The commission is 100% special funded by user fees assessed on hospitals.

Maryland All-payer Model: In March 2013, DHMH submitted an initial model proposal to CMMI to replace the State's all-payer, rate-regulated hospital financing system. On January 10, 2014, CMMI announced approval of the new model – the Maryland all-payer model. Under the model, Maryland will transition from the current waiver to a new five-year demonstration contract. The model contract includes the following major components:

- **All-payer Total Hospital Cost Growth Ceiling:** Maryland will limit inpatient and outpatient hospital cost growth for all payers to a trend based on the State's 10-year compound annual gross State product (3.58% for the first three years).
- **Medicare Total Hospital Cost Growth Ceiling:** Maryland will limit Medicare per-beneficiary total hospital cost growth, setting a per-beneficiary spending target sufficient to produce $330.0 million in cumulative Medicare savings over five years beginning with an estimated $49.5 million in savings in 2015.
- **Population-based Revenue:** Hospital reimbursement will shift from a per-case system to a population-based system, with at least 80% of hospital revenues shifted to global budgeting over the five-year period.
- **Reduction of Hospital Readmissions:** Maryland will commit to reducing its Medicare readmission rate over five years.
- **Reduction of Hospital Acquired Conditions:** Maryland will achieve an annual aggregate reduction of 6.89% in potentially preventable conditions measures through the current Hospital Acquired Conditions Program for a cumulative reduction of 30% over five years.

The demonstration will be deemed successful if Maryland can meet the hospital cost and quality targets without inappropriately shifting costs to nonhospital settings *and* if there is a measurable improvement in quality of care. DHMH anticipates that the model will

produce net savings for the federal government, the State, and private payers, while providing stability and predictability for Maryland.

User Fee Cap: HSCRC's annual user fee cap is $7.0 million. Assessed user fees must be used only to cover the actual documented direct costs of fulfilling HSCRC's specified statutory and regulatory duties and any administrative costs for services provided to the commission by DHMH. Legislative changes to HSCRC's user fee cap since 1983 are summarized in **Exhibit 1**.

Exhibit 1
Legislative Changes to HSCRC User Fee Cap
1983-2011

Year	Chapter	Change	Percentage Change
1983	132	Authorized HSCRC to collect user fees and established a $1.0 million cap.	-
1986	683	Increased cap to $2.5 million.	150.0%
1995	319	Increased cap to $3.0 million.	20.0%
1999	613	Increased cap to $3.5 million.	16.7%
2001	498	Increased cap to $4.0 million.	14.3%
2004	430	Increased cap to $4.5 million for fiscal 2005 only.	12.5%
2005	444	Increased cap to $4.5 million for fiscal 2006 only.	0.0%
2006	107	Restored cap to $4.0 million.	-11.1%
2007	628	Increased cap to $5.5 million.	37.5%
2011	582	Increased cap to $7.0 million.	27.3%

Source: Laws of Maryland

The Governor's proposed fiscal 2015 budget for HSCRC is $9.86 million, which exceeds the current user fee cap by $2.86 million (41%). According to HSCRC, managing under a new model contract will require additional expenditures for personnel, data analysis, and consulting services. Increasing the user fee cap authorizes the additional spending necessary to provide the commission with the resources it will need to design, plan, implement, and monitor the tools, structures, and methodologies necessary to comply with the terms of the all-payer model contract.

Notification of Certain Financial Transactions: Current law does not require notification of mergers that do not transfer or pledge operating assets. According to HSCRC, several mergers of this type have occurred recently. The bill ensures notification of such mergers in the future.

Global Budgets: Total patient revenue (TPR) is a revenue-constraint system developed by HSCRC to provide hospitals with a financial incentive to manage their resources efficiently and effectively in order to slow the rate of increase in the cost of health care. TPR is based on the assurance of a certain amount of revenue each year, independent of the number of patients treated and the amount of services provided. Therefore, a participating hospital has the incentive to reduce length-of-stay, ancillary testing, and unnecessary admissions and readmissions, as well as to improve efficiency in the provision of services. Ten acute care hospitals currently use TPR rate-setting methodology. One hospital, Garrett County Memorial, has used TPR for more than 20 years. A second hospital, Edward W. McCready Memorial, transitioned to TPR in fiscal 2008. An additional eight hospitals (Calvert Memorial, Chester River, Dorchester, Memorial at Easton, Carroll Hospital Center, Meritus, Union of Cecil, and Western Maryland Regional) adopted TPR in fiscal 2011. TPR is the basis for the global budget model. HSCRC staff continues to negotiate global budget arrangements to be effective as early as the end of fiscal 2014.

State Fiscal Effect: Special fund revenues and expenditures increase by $2,857,986 in fiscal 2015 to reflect the amount in the Governor's proposed fiscal 2015 HSCRC budget that is above the current $7.0 million user fee cap. The proposed fiscal 2015 budget includes three new positions (to manage information technology infrastructure, assist in ongoing rate-setting responsibilities, oversee coordination of monthly reporting and data needs, and handle additional audit and compliance requirements) and $2.0 million for additional contractual expenses. The additional staff can also handle the bill's reporting requirements.

In fiscal 2016, special fund revenues and expenditures are anticipated to decline by approximately $500,000, reflecting start-up costs and one-time contractual items included in the commission's fiscal 2015 budget. Future year special fund expenditures reflect 4% annual growth.

Medicaid expenditures increase by $514,437 in fiscal 2015 (50% federal funds, 50% general funds) due to increased hospital rates associated with the higher user fee assessment. Medicaid expenditures account for 18% of total hospital revenues annually, and increased Medicaid expenditures are therefore estimated to equal 18% of the special fund revenues in excess of the current user fee cap of $7.0 million. Federal fund revenues also increase by $257,219 to reflect federal matching funds.

Future year Medicaid expenditures reflect the assumption that Medicaid expenditures continue to account for 18% of total hospital revenues annually.

Additional Comments: Beginning in fiscal 2015, costs to commercial insurers increase by an estimated $1.1 million annually (rising to $1.3 million by fiscal 2019) as a result of increased hospital rates associated with the higher user fee assessment. Commercial insurance comprises 37% of total hospital revenues annually. Commercial insurers may pass this cost on to consumers by increasing premiums.

Additional Information

Prior Introductions: None.

Cross File: SB 335 (The President, *et al.*) (By Request - Administration) - Finance.

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

Fiscal Note History: First Reader - February 4, 2014
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Health Services Cost Review Commission – Powers and Duties, Regulation of Facilities, and Maryland All-Payer Model Contract

BILL NUMBER: SB335/HB298

PREPARED BY: Department of Health and Mental Hygiene

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

____ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__X__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Many small businesses pay for all or a portion of the cost of health care for its employees. Under the all-payer model design proposed to CMMI, the growth trend in non-Medicare per capita hospital payments are projected to be reduced from a 10-year average of 7% to under 3%. To the extent that these per capita costs translate into reduced premiums and health care costs for businesses, small businesses could see reduced premium costs, although it could not be quantified at this time.