

Chapter 263

(House Bill 298)

AN ACT concerning

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

FOR the purpose of authorizing the Health Services Cost Review Commission, consistent with Maryland's all-payer model contract, to establish hospital rate levels and rate increases in a certain manner and promote and approve certain alternative methods of rate determination and payment; increasing the total amount of user fees that the Commission may assess on certain facilities; ~~altering the contents of a certain annual report the Commission is required to submit to certain individuals and the General Assembly~~ requiring the Commission to submit to certain individuals and the General Assembly, beginning on a certain date, a certain update and, under certain circumstances, certain notification; requiring the Commission to require certain facilities to disclose publicly the revenue generated by the facilities in providing health services; requiring the Commission to review for reasonableness and certify the revenue of certain facilities; requiring the Commission to develop certain guidelines, receive certain confirmation, and post certain budget agreements on the Commission's Web site; altering the circumstances under which the Commission may adopt regulations establishing alternative methods for financing certain costs; requiring certain facilities to notify the Commission within a certain time period prior to executing any financial transaction, contract, or other agreement that would result in more than a certain percentage of certain voting rights or governance reserve powers being transferred to or assumed by another person or entity; authorizing the Commission to review the quality and efficiency of certain services for a certain purpose; authorizing the Commission, for a certain purpose, to review and approve or disapprove the reasonableness of the amount of revenue that a certain facility sets or requests; repealing a certain provision of law authorizing the Commission to promote and approve certain methods of rate determination and payment under certain circumstances; requiring certain facilities, health maintenance organizations, insurers, nonprofit health service plans, fraternal benefit societies, and certain managed care organizations to comply with a certain contract; requiring certain workgroups to consider certain matters and include the findings on the matters in a certain report; and generally relating to the Health Services Cost Review Commission.

BY repealing and reenacting, with amendments,
Article – Health – General

Section 19–207(b)(6), ~~(7), and (8)~~, 19–212, 19–213(c)(1), 19–214(b), 19–217, ~~and~~
19–219, and 19–710(e)

Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY adding to

Article – Health – General
Section 19–207(b)(9) and (10)
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

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

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

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

Article – Health – General

19–207.

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

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

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

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

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

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

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

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

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

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

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

(i) THE STATE'S:

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

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

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

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

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

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

1. PAYMENT MODELS WORKGROUP;
2. PHYSICIAN ALIGNMENT AND ENGAGEMENT WORKGROUP;
3. PERFORMANCE MEASUREMENT WORKGROUP;
4. DATA AND INFRASTRUCTURE WORKGROUP;
5. HSCRC ADVISORY COUNCIL; AND
6. ANY OTHER WORKGROUPS CREATED FOR THIS PURPOSE;

(III) ACTIONS APPROVED AND CONSIDERED BY THE COMMISSION TO PROMOTE ALTERNATIVE METHODS OF RATE DETERMINATION AND PAYMENT OF AN EXPERIMENTAL NATURE, AS AUTHORIZED UNDER § 19-219(C)(2) OF THIS SUBTITLE;

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

(V) ANY KNOWN ADVERSE CONSEQUENCES THAT IMPLEMENTING THE ALL-PAYER MODEL CONTRACT HAS HAD ON THE STATE,

INCLUDING CHANGES OR INDICATIONS OF CHANGES TO QUALITY OR ACCESS TO CARE, AND THE ACTIONS THE COMMISSION HAS TAKEN TO ADDRESS AND MITIGATE THE CONSEQUENCES; AND

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

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

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

19-212.

The Commission shall:

- (1) Require each facility to disclose publicly:
 - (i) Its financial position; and
 - (ii) As computed by methods that the Commission determines, the verified total costs incurred **AND REVENUE GENERATED** by the facility in providing health services;
- (2) Review for reasonableness and certify the rates **AND REVENUE** of each facility;
- (3) Keep informed as to whether a facility has enough resources to meet its financial requirements;
- (4) Concern itself with solutions if a facility does not have enough resources; ~~and~~
- (5) Assure each purchaser of health care facility services that:
 - (i) The total costs of all hospital services offered by or through a facility are reasonable;
 - (ii) The aggregate rates of the facility are related reasonably to the aggregate costs of the facility; and

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

(6) 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 THE COMMISSION DETERMINES WOULD HAVE ADVERSE CONSEQUENCES FOR RECIPIENTS OR PURCHASERS OF SERVICES;

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

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

19–213.

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

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

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

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

19–214.

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

(1) Are in the public interest;

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

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

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

(5) 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] **TERMINATION OF MARYLAND'S ALL-PAYER MODEL CONTRACT APPROVED BY THE FEDERAL CENTER FOR MEDICARE AND MEDICAID INNOVATION.**

19-217.

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

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

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

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

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

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

19-219.

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

(1) The total costs of all hospital services offered by or through a facility 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 or classes of purchasers without undue discrimination or preference.

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

(2) A facility shall:

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

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

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

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

(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.

19-710.

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

Article – Insurance15–604.

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

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

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

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

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

Approved by the Governor, May 5, 2014.