HB 613

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 613 (Delegate Hammen)
Health and Government Operations Finance

Hospitals - Rate-Setting - Participation in 340B Program Under the Federal Public Health Service Act

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This bill alters the definition of "hospital services" for purposes of rate setting to clarify that merged asset hospital systems may operate a federal 340B Drug Pricing Program at another system hospital. Specifically, "hospital services" includes a hospital outpatient service (1) of a hospital, that on or before June 1, 2015, is under a merged asset hospital system; (2) that is designated as a part of another hospital under the same merged asset hospital system to make it possible for the hospital outpatient service to participate in the federal 340B program; and (3) that complies with all federal requirements for the 340B program and related regulations.

Fiscal Summary

State Effect: Increased participation by hospitals in the 340B program results in net savings for the Medicaid program (50% general funds, 50% federal funds). Given the significant variation in rebates received, the exact savings cannot be reliably estimated.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: For purposes of hospital rate setting, "hospital services" means (1) inpatient hospital services under Medicare regulation 42 CFR 409.10; (2) emergency services, including services provided at a freestanding medical facility pilot project or a freestanding medical facility issued a certificate of need by the Maryland Health Care

Commission after July 1, 2015; (3) outpatient services provided at the hospital; and (4) identified physician services for which a facility has rates approved by the Health Services Cost Review Commission (HSCRC) on June 30, 1985.

Background: The federal 340B Drug Pricing Program requires drug manufacturers to provide outpatient drugs to eligible covered entities at significantly reduced prices. The 340B program enables covered entities to stretch scarce federal resources, reaching more eligible patients and providing more comprehensive services. Only nonprofit health care organizations that have certain federal designations or receive funding from specific federal programs are eligible, including certain types of hospitals. Qualified hospitals include children's hospitals, critical access hospitals, disproportionate share hospitals, freestanding cancer hospitals, rural referral centers, and sole community hospitals. Approximately 18 Maryland hospitals currently participate in the program. The average savings on outpatient drug purchases for 340B covered entities is 25% to 50%.

According to HSCRC, the bill permits hospitals eligible to participate in the 340B program to extend participation to a related hospital, provided that the hospital meets the requirements of federal law and regulation. HSCRC estimates that about 8 to 10 additional hospitals could participate under the bill.

In other states, hospitals are allowed to move their hospital outpatient services to other sites and still maintain their drug discount, but because of Maryland's unique hospital payment system, legislation is needed to allow this practice in the State.

State Fiscal Effect: The Department of Health and Mental Hygiene (DHMH) receives nearly $1.0 million annually in drug rebates for pharmaceuticals provided by hospitals through the 340B program. Due to restrictions preventing duplicate discounts, DHMH would no longer be eligible to collect a Medicaid drug rebate for any new drugs dispensed under the 340B program. However, DHMH advises that increased participation by hospitals under the bill still yields net savings to Medicaid. Given the significant variation in the amount of 340B rebates received, the exact amount of such savings cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: SB 513 (Senator Klausmeier) **-** Finance.

Information Source(s): U.S. Department of Health and Human Services (Health Resources and Services Administration), Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History:	First Reader - March 10, 2015
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