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March 1, 2022

The Honorable Shane E. Pendergrass
Health and Government Operations Committee, Chair
Maryland General Assembly
Room 241, House Office Building
Annapolis, Maryland 21401

Re: HB 1148 / SB 834 Two-Side Incentive Arrangements

Dear Delegate Pendergrass;

On behalf of AHIP and its members, we appreciate the opportunity to provide our input on proposed legislation related to the critical issue of value-based care. AHIP and our members are in full support of HB 1148, which updates Maryland's law to provide flexibility when linking provider revenues to improved health outcomes and aligns with other states' current laws.

The health care payment system has historically been based on a fee-for-service model that reimburses providers based on the volume of services that patients receive. In recognition that this model does not promote efficiency, care coordination, or equity, the health care system has been working for more than a decade to advance payment models that instead tie provider reimbursement to the value of services they provide. This movement brings together public and private payers, the physician community, patients, and policymakers who all have a shared interest in leveraging value-based payment models to improve clinical outcomes, while also containing or reducing health care costs.

Studies[i] recognize the critical need to improve health care quality, patient safety, coordination of chronic care, and support of evidence-based medicine. Health insurance providers have long been at the forefront of developing innovative payment arrangements to promote accountable, high-quality care furnished in a cost-effective manner. **Value-based payment arrangements:**

- **Incentivize higher-quality care and improved patient experience;**
- **Promote health equity and reduce disparities by focusing on quality and outcomes;**
- **Increase affordability by emphasizing value, not volume.**

HB 1148 will update Maryland law to permit providers and commercial payers to enter voluntary value-based contracts that encourage accountable, high-quality care using two-sided incentives. Value-based arrangements offer physicians additional flexibility around the way they provide patient care, as it frees them from a volume-based fee-for-service system that only pays for certain services and creates pressure to increase the volume of patient visits. The benefit to patients is an increased focus on high-value services, outcomes, disease management and prevention, care coordination, and affordability. Moreover, the bill includes extensive patient and provider protections.

Physician participation in Accountable Care Organizations (ACOs), which is a type of value-based care model, has increased steadily over time. A study conducted by the American Medical Association showed one-third of physicians (66.8%) participated in at least one value-based contract in 2020[ii], compared to 59.1% in 2016.[iii] Furthermore, participation in value-based models with two-sided incentives has also been increasing: More than half of Medicare Shared Savings Program (MSSP) ACOs (59%) are in a two-sided incentive arrangement in performance year (PY) 2022, an increase from 41% in PY 2021 and from 37% in PY 2020.

The MSSP is the largest and longest running value-based care model in the country. Evaluations of MSSP performance results suggest that ACOs who participated in value-based programs with other payers, in addition to Medicare, were more likely to receive bonuses and generate savings for Medicare.[iv] Specifically, an analysis published in Health Affairs showed:

- Organizations who only participated in Medicare ACO programs received 65% bonus payments and 81% generated savings;
- ACOs who participated in commercial ACO programs in addition to Medicare, 73% received bonuses and 88% achieved savings.
- The effect was further increased if the providers participated in Medicare, Medicaid, and commercial ACO programs: 92% of these ACOs received a bonus payment and 100% generated savings. [v]

The Center for Medicare and Medicaid Innovation Center has also recognized the value of alignment across payers: the Innovation Center recently released a strategic refresh that includes a commitment to multi-payer alignment in value-based payment models. Another predictor for success in the MSSP is the participation in two-sided incentive models: in 2020, 88% of ACOs in two-sided arrangements received shared savings bonuses compared to 55% in one-sided arrangements.[vi]

The Maryland law, as currently written, creates restrictions that impede plan and provider flexibility in creating innovative payment arrangements built on the aforementioned predictors of success. It also impedes the Center for Medicare & Medicaid Innovation Center's stated goal of promoting multi-payer alignment, as commercial plans are restricted from aligning their contracts with Medicare models that entail two-sided incentives.

Maryland is the only state in the nation that prevents payers and providers from partnering into certain types of value-based care arrangements in the commercial market. However, these arrangements are not new in the state, which currently permits them in both the Medicare and Medicaid markets. The Total Cost of Care Model, which has been rightfully hailed as transformative, is a form of a value-based care arrangement. The state should afford commercial payers the same flexibility in undertaking such arrangements with providers.

AHIP members are at the forefront of value-based care as they work hand in hand with employers and providers building progressive networks in which quality and affordability are fundamental and not in opposition with each other. For these reasons, AHIP and its members advocate for the passage of HB 1148.

Thank you for the opportunity to provide feedback on this legislation. If you have any questions or concerns regarding our feedback and would like to discuss the matter further, please contact me at khathaway@ahip.org or by phone at (202)-870-4468.

Sincerely,

Kris Hathaway
Vice President, State Affairs
America's Health Insurance Plans

America's Health Insurance Plans (AHIP) is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health.

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[i] Studies for review:

- Better Medicare Alliance, "State of Medicare Advantage Report". May 2021
- National Academy of Medicine. "Priorities in Advancing High Quality Value-Based Health & Health Care", May 2021
- Commonwealth Fund Task Force on Payment and Delivery System Reform, "Health Care Delivery System Reform: Six Policy Imperatives", November 2020

[ii] Apoorva Rama, PhD, "Payment and Delivery in 2020: Fee-for-Service Revenue Remains Stable While Participation Shifts in Accountable Care Organizations During the Pandemic," AMA; available from: https://www.ama-assn.org/system/files/2020-prp-payment-and-delivery.pdf

[iii] Apoorva Rama, PhD, "Payment and Delivery in 2016: The Prevalence of Medical Homes, Accountable Care Organizations, and Payment Methods Reported by Physicians," AMA; available from: https://www.ama-assn.org/sites/ama-assn.org/files/corp/media-browser/public/health-policy/prp-medical-home-aco-payment.pdf.

[iv] Mark McClellan, et al. The Medicare Shared Savings Program In 2020: Positive Movement (And Uncertainty) During A Pandemic, Health Affairs (Oct. 14, 2021).

[v] Ibid.

[vi] Ibid.