MARYLAND
Health Care
Commission

Andrew N. Pollak, MD, Chairman
Ben Steffen, Executive Director

March 3, 2022

The Honorable Shane E. Pendergrass
Chairman, Health and Government Operations Committee
Room 241
House Office Building
Annapolis, Maryland 214013 East

RE: HB 1148 - Health Insurance - Two-Sided Incentive Arrangements and Capitated Payments - Authorization

Dear Chairman Pendergrass:

The Maryland Health Care Commission (the "MHCC") is submitting this letter of information on *HB 1148 - Health Insurance - Two-Sided Incentive Arrangements and Capitated Payments - Authorization*

HB 1148 expands the Value-Based Care arrangements that carriers and providers may enter. The bill allows providers to voluntarily enter contracts with insurance carriers in either a two-sided incentive arrangement or a capitation arrangement, similar to the arrangements that exist in most other states. The bill also clarifies that health care providers or a set of health care providers that accepts capitated payments is not engaging in the business of insurance and is not considered to be performing acts of an insurance business. Additionally, the bill requires the MHCC to aggregate and report data on these arrangements on an annual basis from 2023 through 2032.

Value Based Payment (VBP) is a concept by which purchasers of health care (government, employers, and consumers) and payers (public and private) hold the health care delivery system at large (physicians and other providers, hospitals, etc.) accountable for both quality and cost of care.[1] Value-based care differs from a fee-for-service or capitated approach, in which providers are paid based on the amount of healthcare services they deliver. The "value" in value-based healthcare is derived from measuring health outcomes against the cost of delivering the outcomes.

[1] American Academy of Family Physicians, Value-Based Payment, 2022, https://www.aafp.org/about/policies/all/value-based payment.html#:~:text=Value%20Based%20Payment%20(VBP)%20is,quality%20and%20cost%20of%20care.

VBP is a framework for restructuring health care systems with the overarching goal of value for patients, with value defined as health outcomes per unit of costs.[2] Value in health care is the measured improvement in a patient's health outcomes for the cost of achieving that improvement.[3]

The goal of value-based care transformation is to enable the health care system to create more value for patients. Because value is created only when a person's health outcomes improve, descriptions of value-based health care that focus on cost reduction are incomplete. Value-based health care is often conflated with quality, a vague concept that implies myriad virtues and in health care often focuses on inputs and process compliance. Improving a patient's health outcomes relative to the cost of care is an aspiration embraced across the health care continuum, including patients, providers, health plans, employers, and government organizations.[4] The goal of value-based health care is better health outcomes. By focusing on the outcomes that matter most to patients, value aligns care with how patients experience their health.[5]

Moving from a fee-for-service to a payment for-value system will take time. As the healthcare landscape continues to evolve and providers increase their adoption of value-based care models, they may see short-term financial issues before longer-term costs decline. These short-term risks have proven to be stumbling blocks in the adoption of VBPs, particularly for smaller practices. HB 1148 does not permit private payors to mandate participation in a VBP, nor does it permit payors to penalize practices that do not join a VBP. This feature of HB 1148 is noteworthy as it allows health care providers to opt-in to VBP as their practice transformation efforts mature. In that regard, MHCC has launched a grant program to assist practices in preparing for participation in VBPs.

HB 1148 aligns with the Maryland Total Cost of Care Model (TCOC) and enables Maryland commercial payors to launch VBP that are well-established in other commercial markets. Negative dynamics in commercial markets can modulate the impact of the TCOC policies on our performance under the TCOC targets. Private-sector contracts and competitive relationships influence a provider's overall business strategy, including how they assess and

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[2] Porter ME (December 2010). "What is value in health care?". *The New England Journal of Medicine*. **363** (26): 2477–81. doi:10.1056/NEJMp1011024. PMID 21142528

[3]Porter ME, Teisberg EO. *Redefining Health Care: Creating Value-Based Competition on Results*. 2006Boston, MA: Harvard Business School Press. [Google Scholar]

[4] Reinhardt UE. Health Reform: Porter and Teisberg's utopian vision. Health Affairs. https://www.healthaffairs.org/do/10.1377/hblog20061010.000063/full. Published October 10, 2006. Accessed November 12, 2019.

[5] Teisberg, Elizabeth et al. "Defining and Implementing Value-Based Health Care: A Strategic Framework." *Academic medicine: journal of the Association of American Medical Colleges* vol. 95,5 (2020): 682-685. doi:10.1097/ACM.0000000000003122

engage with the Maryland TCOC. HB 1148 provides a framework for enabling commercial payors to offer models aligned with the TCOC.

Disparities in health care are well documented in Maryland as they are in all the United States. Fee-For-Service is not the sole cause of disparities and simply moving to VBPs will not eliminate these inequities. However, population-based approaches, which are common in VBPs provides a stronger foundation for reducing disparities. In Massachusetts, Blue Cross Blue Shield's Alternative Quality Contract, a two-sided population-based payment model with substantial incentives tied to quality yielded larger or comparable improvements in outcome and spending measures among enrollees in areas with lower socioeconomic status.[6] MHCC believes that directly addressing health disparities in the design of VBP programs and in the recruitment of providers to participate is critical to reducing these health inequities.

MHCC is committed to working even more collaboratively with providers and payors on practice transformation efforts and in the design of VBPs that incorporate reductions of health disparities as a measure of success should this legislation pass.

I hope you find this information useful. If you would like to discuss this further, please contact Tracey DeShields, Director of Policy Development and External Affairs, Maryland Health Care Commission at tracey.deshields2@maryland.gov.

Sincerely,

Andrew Pollack, M.D.
Chair

Ben Steffen,
Executive Director

cc: Tracey DeShields, Director of Policy Development and External Affairs, Maryland Health Care Commission

[6] Song Z, Rose S, Chernew M, and Safran D, Lower- Versus Higher-Income Populations In The Alternative Quality Contract: Improved Quality And Similar Spending, Health Affairs 36, No. 1 (2017): 74–82, accessed at https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.0682.