Maryland
Hospital Association

House Bill 694 - Hospitals - Financial Assistance - Medical Bill Reimbursement

Position: ***Support with Amendments***
March 2, 2022
House Health & Government Operations Committee

MHA Position

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment on House Bill 694. Maryland hospitals have only one core mission: to provide the best patient care possible. Hospitals believe every person should receive the care they need without financial worry. Maryland hospitals make every effort to inform patients about available financial assistance, including free or reduced-cost care. That includes helping patients enroll in Medicaid or other insurance options and set up reasonable payment options when needed.

Hospitals' financial assistance and billing collections practices are governed by extensive state and federal laws. Over the past two years, this legislature strengthened the state's already-robust hospital financial assistance laws by passing HB 1420, Chapter 420, Hospitals – Financial Assistance Policies and Bill Collection and HB 565, Chapter 770, Health Facilities – Hospitals – Medical Debt Protection. These comprehensive reforms have been in effect for less than two years, and hospitals worked diligently during the COVID-19 pandemic to ensure timely implementation of both.

House Bill 694, as introduced, requires the Health Services Cost Review Commission (HSCRC), the Office of the Comptroller, and the Department of Human Services (DHS) to provide information to certain patients on their possible eligibility for refunds from hospitals for care delivered in 2017 and 2018. The bill also includes a triggering mechanism that would expand the refund requirement to qualifying patients who received care in 2019 through 2021. While the sponsor's intent is clear, the bill as drafted is unnecessarily complex and raises significant operational and analytical challenges, as well as data privacy concerns. These considerations are outlined in the letter of information submitted by HSCRC and are addressed in MHA's proposed amendments.

HSCRC was required to issue a 2021 report on how potential policy changes might affect uncompensated care built into hospital rates. HB 694 relies on a data set used in this report that **"HSCRC developed to estimate the impact of future policy changes, not to provide individual refunds to patients."** The report contained many broad assumptions, including general percentages of cost sharing for insured patients but the data do not have individual claims information that would clearly determine actual out-of-pocket costs. HSCRC continues that it "would have structured the data set and analysis differently if the original purpose of the data had been to retrospectively hold hospitals accountable on a patient-by-patient basis. As indicated in the letter, **HSCRC believes that there are likely fewer charges that would be refunded to individuals under HB 694 than the $60 million per year stated in the report under Chapter 470 (2020)."** Nevertheless, Maryland hospitals agree that if a patient was billed for services when they were eligible for free care it was done unknowingly. Our

proposed amendments address some of the operational concerns with the bill as introduced. There are two areas that go beyond operational considerations:

First, as noted by HSCRC, the exchange of patient income data among state agencies to determine eligibility for free care and delivery of postcards may raise privacy concerns. It will be important to assess compliance with state rules and Health Insurance Portability and Accountability Act (HIPAA) federal privacy requirements before implementing the proposal outlined in HB 694.

Second, while we agree a mechanism to appropriately issue refunds is well intended, we do not believe the current mechanism outlined in the bill is appropriate to evaluate this pilot program. HSCRC agrees with this concern, as noted in their letter. Given HSCRC's conclusions, MHA urges the triggering mechanism be replaced with a report by HSCRC to determine if further action is required.

MHA supports the broader policy goal and attached amendments that would simplify and streamline this bill to make a meaningful impact for those individuals who should have received free care at the time of service.

For these reasons, we urge a favorable report with amendments.

For more information, please contact: Nicole Stallings, Chief External Affairs Officer and Senior Vice President, nstallings@mhaonline.org.

MHA Amendments for House Bill 694 - Hospitals - Financial Assistance - Medical Bill Reimbursement

March 2, 2022

Amendment NO. 1

On page 2, in line 10 after **"SECTION"** insert "**THE FOLLOWING WORDS HAVE THE MEANING INDICIATED.**
On page 2, in line 10 before **"OFFICE"** insert **"(1)"**
On page 2, after line 11 insert **"(2) "OUT-OF-POCKET PAYMENT" MEANS THE AMOUNT PAID DIRECTLY BY A PATIENT AND NOT A HEALTH INSURER.**

Rationale: Clarifies that the patient will only be reimbursed what the patient paid.

Amendment NO. 2

On page 2, in line 17, strike "**PAID"** and insert **"OUT-OF-POCKET PAYMENTS FOR"**

Rationale: Clarifies that the reimbursement is only for that amount the patient paid.

Amendment NO. 3

On page 3, in line 5, after "**SHALL**" insert "**DETERMINE"** and strike "**MAKE A DETERMINATION THAT THE PATIENT WAS ELIGIBLE FOR FREE CARE"**
On page 3, in line 6, strike "**BASED ON"**

Rationale: HSCRC has stated in their January 21st letter and reiterated in their February 5th letter that State agencies cannot make a final determination of eligibility because they do not have information about the patient's assets and if the hospital may have applied an asset test.

Amendment NO. 4

On page 3, in line 7, after "**PATIENT'S**" insert "**FAMILY**".

Rationale: Clarifies the proposed language is referencing the patient's family income. This is a conforming change to keep the proposed language consistent with § 19-214.1 through 19-214.3.

Amendment NO. 5

On page 3, in line 8, after "**LEVEL**" insert "**IN THE YEAR OF SERVICE**"
On page 3, in line 13, after "**LEVEL**" insert "**AT THE TIME OF SERVICE**"

Rationale: Clarifies the federal poverty level calculation should be adjusted based on the year the patient received the service since the 200% federal poverty level adjusts every year.

AMENDMENT NO. 6

On page 3, in line 11 to line 12, strike "**PATIENT WAS DETERMINED TO BE ELIGIBLE FOR FREE CARE AND THE**" and insert "**FAMILY**"

Rationale: Clarifies that State Agencies are not making determinations on who is and is not eligible for free care because State agencies do not have that information. Also, clarifies the proposed language is referencing the patient's family income. This is a conforming change to keep the proposed language consistent with § 19-214.1 through 19-214.3.

AMENDMENT NO. 7

On page 3, in line 22, after "**YOU**" insert "**MAY HAVE**"
On page 3, in line 23, strike "**WERE**" and insert "**MAY HAVE BEEN**"
On page 3, in line 23, after "**REFUND"** insert "**IF AN OUT-OF-POCKET PAYMENT AMOUNT EXCEEDED $25"**
On page 3, in line 24, after "**TO APPLY FOR A**" insert "**POTENTIAL**"

Rationale: Clarifies the postcard language to better reflect the unknowns because actual, out-of-pocket payments cannot be determined without reviewing individual patient records. HSCRC confirmed that their methodology and data set was based on several estimates and that they cannot explicitly determine individual payments.

AMENDMENT NO. 8

On page 5, in line 5, strike "**CHARGES PAID"** and insert "**OUT-OF-POCKET PAYMENTS"**
On page 5, strike lines 5 through 7 and insert "**3. THE HOSPITAL'S BILLING OFFICE EMAIL ADDRESS AND TELEPHONE NUMBER.**"

Rationale: Clarifies that the reimbursement is only for that amount the patient paid. Simplifies the contact procedure and directs patients to a direct form of contact that is already established.

AMENDMENT NO. 9

On page 5, in line 10, after "**BILL"** insert **"OF MORE THAN $25"**
On page 5, in line 13, after "**BILL"** insert **"OF MORE THAN $25"**

Rationale : Clarifies that a patient will be reimbursed if the patient paid more than $25. This is consistent with §19-214.2 (c)(1) of the Health General Article.

AMENDMENT NO. 10

On page 5, in line 23, strike "**NUMBER OF PATIENTS IN THE DESIGNATED YEAR THAT WERE BILLED BY THE HOSPITAL"** and insert "**HOSPITAL'S PROPORTION OF THE NUMBER OF POSTCARDS ISSUED IN THE DEISGNATED YEAR**"

Rationale: This changes the reimbursement process to a more equitable calculation for hospitals.

AMENDMENT NO. 11

On page 2, in line 19, after "**COMISSION**" add "**AND**" and strike "**AND THE DEPARTMENT OF HUMAN SERVICES**"
On page 3, in line 4, after "**COMISSION**" add "**AND**" and strike "**AND THE DEPARTMENT OF HUMAN SERVICES**"
On page 3, in line 8, strike "**OR**" through "**TITLE**" on line 10.
On page 4, strike line 4 through line 24.
On page 4, in line 25, strike **"III"** and insert **"II**"
On page 5, in line 9, strike "**OR THE DEPARTMENT OF HUMAN SERVICES**"
On page 5, in line 20, after "**COMMISSION**" add "**AND**" and strike "**AND THE DEPARTMENT OF HUMAN SERVICES**"

Rationale: This amendment removes the Department of Humans Services (DHS) from the bill. The inclusion of DHS adds significant complexities to the bill. HSCRC notes in their February 5th letter, that it is not yet clear that the data produced will be usable for data matching by DHS. Given that the Comptroller data is less complex and this is a pilot program, this bill should be limited only to the Comptroller data and an inclusion of DHS should be reevaluate at a later time.

AMENDMENT NO. 12

On page 5, line 29, strike "**JULY"** and insert "**OCTOBER"**
On page 5, line 29, after "**SHALL"** insert "**COLLECT THE FOLLOWING INFORMATION:"**
On page 5, strike lines 30 through 32 and on page 6, strike lines 1 through 6 and insert:

1. **THE TOTAL NUMBER OF PATIENTS WHO RECEIVED A WRITTEN NOTIFICATION UNDER THIS SECTION,**
2. **THE TOTAL NUMBER OF PATIENTS WHO CONTACTED EACH HOSPITAL,**
3. **THE TOTAL NUMBER OF PATIENTS WHO RECEIVED A REIMBURSEMENT FROM EACH HOSPITAL, AND**

4. **THE TOTAL AMOUNT REIMBURSED BY EACH HOSPITAL.**

(2) ON OR BEFORE DECEMBER 31, 2023, THE COMMISSION SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE THE DATA COLLECTED IN (D)(1)(II) OF THIS SUBSECTION.

Rationale: This change gives the Commission more information on how successful this program was. In HSCRC's February 5th letter they state that "it might be more meaningful to track the number of patients that actually got a refund." While HSCRC does not recommend a triggering condition based on the total dollar amount of refunds made because one or two outlier payments could skew the results, we believe this information should still be captured by HSCRC. We agree with HSCRC in their February 5th letter which stated "…using five percent of returned postcards as a trigger condition may result in a negative ROI on this project." By requiring HSCRC to submit a report to the General Assembly, it allows the General Assembly the ability to consider the information and decide if years 2019 through 2021 should be subjected to the same process, or if the process should change.

AMENDMENT NO. 13

On page 6, after line 6, insert **"(E) ANY DETERMINATION MADE UNDER SUBSECTION (C)(2) OF THIS STATUTE SHALL NOT BE CONSIDERED A VIOLATION UNDER THIS SUBTITLE, NOR SHALL IT BE CONSIDERED EVIDENCE OF A VIOLATION UNDER THIS SUBTITLE."**

Rationale: This amendment clarifies that a hospital cannot be found in violation of not properly processing a patient reimbursement timely. From HSCRC's letter, "HSCRC does not have any evidence that the $60 million in charges," included in the report on which the proposed legislation is based, "represents intentional or negligent actions by hospitals."

AMENDMENT NO. 14

On page 7, in line 8, strike "for a period of 5 years and, at the end of June 30, 2027" and insert "until January 1, 2024"

Rationale: This amendment clarifies that the General Assembly will need to review HSCRC's report and revisit this issue during the 2024 General Assembly session.