



Maryland
Hospital Association

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

Position: *Support as Amended in the House*

March 30, 2022

Senate Finance 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 or hardship. Maryland hospitals make every effort¹ 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, required 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 included a triggering mechanism that would expand the refund requirement to qualifying patients who received care in 2019 through 2021. While we support the sponsor's intent, the bill as introduced was unnecessarily complex and raised significant operational and analytical challenges, as well as data privacy concerns. These concerns are outlined in HSCRC's letter to the committee.

Maryland hospitals acknowledge that if a patient was billed for services when they were eligible for free care it was done unknowingly. HSCRC stated in their letter that, "Hospitals rely on patients to provide information to demonstrate that the patient is eligible for free and reduced-cost care. **If a patient does not provide this documentation, the hospital may not be able to make a determination of eligibility.**" Additionally, HSCRC stated, "Currently hospitals do not have access to income data from the Comptroller's Office." While hospitals do everything within their ability to acquire the necessary

¹ Under Maryland law, hospitals are required to post notices throughout the hospital informing patients of their right to apply for financial assistance. Hospitals must also inform patients how to apply for free and reduced-cost care (1) before the patient receives scheduled medical services;(2) before discharge; (3) with the hospital bill; (4) on request; and (5) in each written communication to the patient regarding collection of the hospital bill.

information from patients to determine eligibility for free care, the process outlined in the bill was based on a series of assumptions and estimates from the HSCRC that they contend was not meant to be used to provide individual refunds to patients.

Extensive deliberations on the bill over the past few months have exposed significant gaps in information. Various state agencies have a component of data needed to determine eligibility for free or reduced cost care, but **no state agency has complete information and hospitals only have information that patients choose to share**. A better system to support those who need financial assistance is interoperable systems that hospitals could access to determine eligibility. A retrospective review for data from five years ago, as outlined by the bill would be very challenging to implement.

MHA and other stakeholders offered a number of amendments in the House to attempt to address the privacy concerns and data sharing barriers. **Ultimately, we concluded more time is necessary to determine how information can be shared across agencies with hospitals to best help patients.**

This bill, as amended, requires the HSCRC, DHS, the State designated exchange, the Office of the Comptroller, and MHA, to develop a process that (1) identifies the patients who paid for hospital services who may have qualified for free care at the time of care in calendar 2017 through 2021; (2) provides reimbursement to the patients; (3) ensures that a patient's alternate address is used if the patient required an alternate address for safety reasons; and (4) determines how HSCRC, DHS, and the Comptroller's Office should share with or disclose relevant specified information, to the minimum extent necessary, to the hospital and in accordance with federal and State confidentiality laws.

Additionally, this bill requires HSCRC to report to the General Assembly on the development and implementation by hospitals of the process. If the process requires legislation for implementation, HSCRC must include legislative recommendations in the 2023 report; if not, hospitals must implement the process by January 1, 2023.

MHA strongly supports the broad policy goal of information sharing between state agencies and hospitals to enable identification of individuals who should receive free and reduced cost care.

For these reasons, we urge a favorable report on HB 694 as it was amended in the House.

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

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Background

The Maryland General Assembly passed comprehensive reforms in 2020 and 2021 that strengthened Maryland's already robust hospital financial assistance and medical debt collection requirements. Maryland hospitals have been hard at work implementing those provisions over the last two years, mid-pandemic.

In a report required under the 2020 reforms, the Health Services Cost Review Commission (HSCRC) modeled a series of assumptions and estimated that hospitals *may* have charged patients who were likely eligible for free care up to \$60 million in 2017 and 2018.

House Bill 694 as introduced required hospitals to work with HSCRC, the Comptroller, and the Department of Human Services to identify affected patients and reimburse them if they were incorrectly charged and paid for hospital services in 2017 and 2018.

Operational, Analytical, and Privacy Concerns

HSCRC submitted a five-page letter to the bill's sponsor and the House Health & Government Operations Committee outlining "significant operational and analytical challenges" related to the basis of the bill and process established in HB 694. HSCRC's key concerns include:

"The project envisioned in HB 694 relies on a data set that HSCRC developed to estimate the impact of future policy changes, not to provide individual refunds to patients. **Using this data set to provide refunds to patients is complex, raising issues about data assumptions, data sharing, and data privacy...**HSCRC does not know the exact amount that each patient paid for hospital visits in 2017 or 2018."

"State agencies do not have information on insurance denials or patient assets. Without this information, state agencies cannot make a conclusive determination of eligibility."

"Currently **hospitals do not have access to income data** from the Comptroller's Office."

"Hospitals rely on patients to provide information to demonstrate that the patient is eligible for free and reduced-cost care. **If a patient does not provide this documentation, the hospital may not be able to make a determination of eligibility.**"

"HSCRC does not have any evidence that the \$60 million in charges represents intentional or negligent actions by hospitals."

If any patients were charged for services when they were eligible for free care, it was done unknowingly. While we do not know what amount may have been collected, we agree refunds should be issued accordingly. Maryland law already provides for the provision of refunds within a two-year period. Deliberations on HB 694 illustrate the significant information gaps across agencies and available to hospitals that impede the retroactive review and refund process as proposed.