STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

John M. Colmers
Chairman

Joseph R. Antos, Ph.D.

George H. Bone, M.D.

Jack C. Keane

Bernadette C. Loftus, M.D

Thomas R. Mullen

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Stephen Ports
Acting Executive Director

Gerard J. Schmith
Deputy Director
Hospital Rate Setting

Mary Beth Pohl
Deputy Director
Research and Methodology

Executive Session Minutes
Of the
Health Services Cost Review Commission

August 11, 2011

Upon motion made, Chairman Colmers called the meeting to order at 9:35 a.m.

The meeting was held under the authority of Section 10-508 of the State-Government Article.

In attendance, in addition to Chairman Colmers, were Commissioners Antos, Bone, Keane, Loftus, Mullen, and Wong.

Steve Ports and Dennis Phelps attended representing staff.

Also attending was Stan Lustman, Commission Counsel.

Item One

The Commissioners introduced themselves to each other.

Item Two

The Commissioners voted to approve Steve Ports as acting Executive Director.

Item Three

The Commission discussed the Executive Director search and the formation of a screening committee.

The Executive Session was adjourned at 9: 55 a.m.

480TH MEETING OF THE
HEALTH SERVICES COST REVIEW COMMISSION

August 11, 2011

Chairman John Colmers called the meeting to order at 9:58 a.m. Commissioners Joseph R. Antos, Ph.D., George H. Bone, M.D., Jack C. Keane, Bernadette C. Loftus, M.D., Thomas R. Mullen, and Herbert S. Wong, Ph.D. were also present.

REPORT OF THE EXECUTIVE SESSION OF AUGUST 11, 2011

Dennis Phelps, Associate Director-Audit & Compliance, summarized the minutes of the August 11, 2011 Executive Session.

ITEM I
PUBLIC SESSION OF JULY 6, 2011

The Commission voted unanimously to approve the minutes of the July 6, 2011 Public Session.

ITEM II
EXECUTIVE DIRECTOR'S REPORT

Steve Ports, Acting Executive Director, updated the Commission on the status of current major initiatives and issues. They include: 1) drafting a letter to the Secretary of Health and Human Services requesting an exemption from CMS' Value Based Purchasing (VBP) quality program; 2) meeting with industry representatives to determine the expected magnitude of scaling of the Quality-based Reimbursement and Maryland Hospital Acquired Conditions initiatives for FY 2013; 3) finalizing the ARR agreements with nineteen hospitals and meeting with four other hospitals that have expressed interest in the ARR initiative; 4) meeting with Charge-per-Visit workgroup to resolve the weighting issue related to Observation cases; and 5) working towards completing rate orders by early October.

Mr. Ports reported two actions by CMS that will improve Maryland's position on the Medicare waiver test. First, CMS has agreed to remove cases from their data in which Medicare is the secondary payer and pays nothing. This adjustment will result in a 1% to 2% improvement on the waiver test. The second is that Medicare is delaying its coding offset for 2012. This will result in an increase in PPS payments of 1.1% rather than a decrease of 0.65%.

Mr. Ports announced that Diana Dembeck, Special Assistant to the Executive Director will be leaving on September 7, 2011 after more than fifteen of service to the Commission to take a position with the Maryland Health Care Commission. Mr. Ports praised Ms. Dembeck for her long record of being precise, trustworthy, and dependable. Mr. Ports wished Ms. Dembeck good

luck in her new job and noted that she has been a good friend to all of the staff and will be missed.

Mr. Ports announced that the search for a new Executive Director is being expedited, and that the Chairman was assembling a search committee to review candidates' applications and make recommendations to the Commission.

ITEM III
DOCKET STATUS CASES CLOSED

2119R – Carroll County Hospital
2120A – Dimensions Healthcare System
2121A – Johns Hopkins Health System
2122A – Johns Hopkins Health System
2113A – Johns Hopkins Health System
2115A – Johns Hopkins Health System

ITEM IV
DOCKET STATUS CASES OPEN

Adventist Behavioral Health – 2114N

On May 18, 2011, Adventist Behavioral Health submitted a partial rate application requesting a rate for Psychiatric Intensive Care (PSI) services. The Hospital requested that the Commission approve the lower of $989.25 per patient day or the state-wide median rate to be effective June 1, 2011.

After review, staff recommended:

1. That COMAR 10.37.10.07 requiring that rate applications be filed 60 days prior to the opening of a new service be waived;
2. That a PSI rate of $989.25 per RVU be approved effective July 1, 2011; and
3. That the PSI rate not be rate realigned until a full year's experience data have been reported to the Commission.

The Commission voted unanimously to approve staff's recommendation.

Germantown Emergency Center – 2116N

On May 13, 2011, Shady Grove Adventist Hospital submitted a rate application on behalf of Germantown Emergency Center (GEC) requesting rates for emergency and related ancillary services to be provided at GEC. The Hospital requested that the rates be approved effective July 1, 2011.

Chapters 505 and 506 of the 2010 Laws of Maryland require the Commission to set rates for

emergency services provided at two freestanding medical facilities, one of which is GEC.

After review of the application, staff recommended that the following rates be approved for GEC effective July 1, 2011:

	Approved Rate	Units of Service	Approved Revenue
Free Standing Emergency	$40.80	153,094	$6,245,579
CT Scanner	$ 6.24	97,097	$ 605, 513
Laboratory	$ 1.55	643,170	$ 997,042
Radiology Diagnostic	$29.44	74,029	$2,179,563
Electrocardiography	$ 3.04	32,724	$ 99,414

Medical Supplies – Overhead of $32,918 plus cost of medical supplies times a markup of 1.2154
Cost of Drugs - Overhead of $94,362 plus cost of drugs times a markup of 1.2154

Staff further recommended that GEC's uncompensated care (UCC) provision be based on its actual UCC for FY's 2011 and 2012, and that its UCC provision in future years be based on its most current three year average actual UCC. In addition, staff recommended that the facility report to the Commission all applicable data and information required of hospitals regulated under the all-payer system in the time frames dictated by the Commission.

The Commission voted unanimously to approve staff's recommendation.

Bowie Emergency Center – 2118N

On May 23, 2011, Dimensions Healthcare System submitted a rate application on behalf of Bowie Emergency Center (BEC) requesting rates for emergency and related ancillary services to be provided at BEC. The System requested that the rates be approved effective July 1, 2011.

Chapters 505 and 506 of the 2010 Laws of Maryland require the Commission to set rates for emergency services provided at two freestanding medical facilities. The legislation also requires the Commission to set rates for all payers for emergency services at BEC.

After review of the application, staff recommended that the following rates be approved for BEC effective July 1, 2011:

	Approved Rate	Units of Service	Approved Revenue
Free Standing Emergency	$36.91	188,706	$6,966,076
Laboratory	$ 2.29	729,977	$1,673,331
Radiology Diagnostic	$31.40	36,487	$1,145,759
Electrocardiography	$ 1.60	20,232	$ 32,383

Medical Supplies – Overhead of $14,056 plus cost of medical supplies times a markup of 1.3277
Cost of Drugs - Overhead of $62,905 plus cost of drugs times a markup of 1.3277

Staff further recommended that BEC's uncompensated care (UCC) provision be based on its actual UCC for FY's 2011 and 2012, and that its UCC provision in future years be based on its most current three year average actual UCC. In addition, staff recommended that the facility report to the Commission all applicable data and information required of hospitals regulated under the all-payer system in the time frames dictated by the Commission.

The Commission voted unanimously to approve staff's recommendation.

Johns Hopkins Health System – 2124A

On June 10, 2011, the Johns Hopkins Health System filed an alternative method of rate determination application on behalf of Johns Hopkins Hospital and Johns Hopkins Bayview Medical Center, requesting approval to continue to participate in a global rate arrangement for bone marrow transplant services with the Cigna Health Corporation. The Hospitals requested that the arrangement be approved for a period of three years beginning July 1, 2011.

Staff found that the experience under the arrangement for last year was unfavorable; however, the Hospitals renegotiated the global prices based on more current hospital historical data plus an inflation factor. After review of the data and the new global prices, staff believes that the Hospitals can achieve favorable performance under this arrangement.

Therefore, staff recommended that the Commission: 1) waive the requirement that alternative rate applications be filed 30 days before the proposed effective date; 2) approve the Hospitals' request for a period of one year effective July 1, 2011, and 3) that the approval be contingent upon the execution of the standard Memorandum of Understanding.

The Commission voted unanimously to approve staff's recommendation. Chairman Colmers recused himself from consideration of this application.

University of Maryland Medical Center – 2126A

On July 8, 2011, the University of Maryland Medical Center filed an alternative method of rate determination application requesting approval to continue to participate in a global rate arrangement for the collection of peripheral blood stem cells from donors with the National Marrow Donor Program for a period of one year beginning July 1, 2011.

Staff reviewed the experience under this arrangement for the last year and found it to be slightly unfavorable. However, based on utilization reduction initiatives undertaken by the Hospital, staff believes that the Hospital can achieve a favorable outcome under this arrangement.

Therefore, staff recommended that the Commission: 1) waive the requirement that alternative rate applications be filed 30 days before the proposed effective date; 2) approve the Hospital's request for a period of one year effective July 1, 2011, and 3) that the approval be contingent upon the execution of the standard Memorandum of Understanding.

The Commission voted unanimously to approve staff's recommendation.

University of Maryland Medical Center – 2127A

On July 8, 2011, the University of Maryland Medical Center filed an alternative method of rate determination application requesting approval to continue to participate in a global rate arrangement for solid organ, gamma knife, and bone marrow transplant services with Aetna Health, Inc. for a period of three years beginning August 1, 2011.

Staff found that the experience under this arrangement for the past year was favorable. Therefore, staff recommended that the Commission: 1) waive the requirement that alternative rate applications be filed 30 days before the proposed effective date; 2) approve the Hospital's request for a period of one year effective August 1, 2011, and 3) that the approval be contingent upon the execution of the standard Memorandum of Understanding.

The Commission voted unanimously to approve staff's recommendation.

ITEM V
DRAFT RECOMMENDATION ON RESIDUAL OUTLIER POLICY FOR UPDATE FACTOR SCALING BASED ON REASONABLENESS OF CHARGES (ROC) REPORT BEGINNING IN FY 2013

Andy Udom, Associate Director-Research and Methodology, presented the technical findings regarding the Reasonableness of Charges (ROC) regression analysis for FY 2012 and staff's draft recommendations on outliers. Mr. Udom stated that based on its analysis, staff concluded that McCready Memorial Hospital was an outlier in the ROC regressions. Consequently, staff recommended, and the Commission approved, the exclusion of McCready from the FY 2012 regression analysis and the application of the resulting regression coefficient to all acute hospitals, including McCready.

Staff's draft recommendations are to adopt as policy the method used to handle outliers in the FY 2012 ROC regression. They are: 1) to routinely conduct regression diagnostics on preliminary ROC regression results; 2) when warranted, remove the significant outliers, and 3) apply the coefficients to all hospitals including the hospitals removed as outliers.
As these are draft recommendations, no action was required by the Commission.

ITEM VI
OVERVIEW OF THE AVERTED BAD DEBT POLICY

Mr. Ports presented an overview and history of Medicaid expansion and the Averted Bad Debt (ABD) Policy (see staff Overview of the HSCRC Averted Bad Debt Policy on the HSCRC website). Mr. Ports recounted that 2007 legislation expanded access to Medicaid health care coverage which was expected to reduce the number of uninsured by 100,000. To fund the health care coverage expansion, 2008 legislation required the HSCRC to implement a uniform assessment to reflect the reduction in hospital uncompensated care that results from Medicaid expansion.

Jerry Schmith, Deputy Director-Hospital Rate Setting, explained that Medicaid and the HSCRC calculated the amount of expected ABD using the expected number of new enrollees each year and the per-member-per-month (PMPM) cost to Medicaid. This total was then adjusted for out-of-state admissions, the portion of the costs that were payments to hospitals, crowd out (people who had health insurance but opted to be covered by Medicaid), and the lower use rate for the previously uninsured. Individual hospitals' Uncompensated Care (UCC) provision in rates was reduced by the expected ABD. The amount of the expected ABD then added to hospital rates as a uniform assessment. The uniform assessment amount, less any savings allocated to the payers, was then remitted to Medicaid. Medicaid would then pay hospitals for the additional Medicaid recipients, and if the actual ABD equaled the expected ABD, hospitals would be made whole.

Claudine Williams, Associate Director-Policy Analysis and Research, summarized the reconciliation process between expected ABD and actual Medicaid payments to hospitals. The reconciliation involves matching payments made by Medicaid for services provided to Medicaid expansion patients with hospital billing data. To ensure that the payments represent ABD, the data are then cross-matched with regulated hospital payment data reported to the HSCRC.

Mr. Schmith presented the results of the reconciliation calculation of overpayment or underpayment to Medicaid for FY 2010. The calculation started with total hospital charges due to Medicaid expansion and adjusted for crowd out and lower use rate, reduced by the Medicaid differential, compared to the amount paid by hospitals to Medicaid through the uniform assessment. The result was a net overpayment to Medicaid, without providing any savings to the payers, of $27.2 million.

Commissioner Bone asked how old was the literature supporting the crowd out rate used in the reconciliation calculation.

Ms. Williams stated that the literature review for the crowd out rate was done in 2008. Since then, staff has sought unsuccessfully to find a definitive data source for a more current crowd out rate.

Commissioner Bone asked whether the hospitals with ABD shortfalls would have any recourse.

Mr. Schmith stated that in FY 2009 there was an ABD shortfall of $4 million, which was settled by adding a one-time $4 million adjustment to FY 2011 hospital rates.

Mr. Ports noted that the issue before the Commission is how to address this apparent overpayment to Medicaid for FY 2010, as well as how to address future underpayments or overpayments associated with the ABD policy. Staff will present the final FY 2010 ABD reconciliation and seek guidance from the Commission on how to handle this issue at the September public meeting.

Tricia Roddy, Director of Planning for the Medicaid Program, disclosed that there was an analysis performed by the hospitals for crowd out, which will be provided to staff. Ms. Roddy stated that Medicaid is committed to working with the hospitals and staff to resolve the outstanding issues associated with reconciling the claims data.

Traci LaValle, Assistant Vice President-Financial Policy of the Maryland Hospital Association, stated that expanding Medicaid coverage using the payment system reduces UCC and benefits everyone. However, estimating the amount of funding needed and the amount of UCC is a challenge. In FY 2010, ABD was overestimated, and MHA calculated that Medicaid was overpaid by $25.8 million. According to Ms. LaValle, this imbalance will grow in FY 2011 and 2012.

Commissioner Keane asked whether hospitals were looking to recover the underpayment for FY 2010 in FY 2012 rates, and what about the projected underpayments.

Ms. LaValle stated that the hospitals would like to be made whole for the FY 2010 shortfall in FY 2012. Going forward, hospitals would like the estimates of ABD in FY 2012 rates to be reduced; however, the hospital industry does not have a position on a long term solution at this time.

Commissioner Keane stated that hospitals want to be held harmless, but not necessarily to be held harmless through rate increases.

Ms. LaValle stated that hospitals would like the FY 2010 ABD shortfall to be put into rates as was the FY 2009 shortfall; however, the hospital industry hopes there may be another long term solution.

Commissioner Bone asked Ms. LaValle what MHA's position was on supporting Medicaid's mission.

Ms. LaValle indicated that MHA supported Medicaid's decision to expand coverage. Ms. LaValle suggested that perhaps the issue of the $25.8 million overpayment to Medicaid for FY 2010 and future overpayments associated with ABD could be considered by the Medicaid Advisory Committee in their exploration of alternative options for funding future Medicaid budget deficits.

ITEM VII
LEGAL REPORT

Regulations

Final Adoption

Health Information Exchange Data – COMAR 10.37.07

The purpose of this action is to enable the Commission to fully measure and compare hospital-specific performance on readmissions and to use the data to further enhance and strengthen the financial incentives linked with performance.

The Commission voted unanimously to approve the final adoption of this proposed regulation.

CONDOLENCES ON THE PASSING OF PAM BARKLEY

Mr. Colmers expressed sadness at the news of the passing away of Pam Barkley of the Maryland Health Care Commission (MHCC) following a long illness. In her capacity as Director of the Center for Hospital Services of the MHCC, Ms Barkley worked collaboratively with the HSCRC for many years. She served the public with much devotion and with great distinction.

Mr. Colmers asked the Commission to entertain a motion to offer the appropriate condolences on behalf of the Commission to Ms. Barkley's family in recognition of her exceptional service to the citizens of Maryland. The motion was made, seconded, and approved.

ITEM VIII
HEARING AND MEETING SCHEDULE

September 14, 2011	Time to be determined, 4160 Patterson Avenue, HSCRC Conference Room
October 12, 2011	Time to be determined, 4160 Patterson Avenue, HSCRC Conference Room

There being no further business, the meeting was adjourned at 11:39 a.m.