Legislative Update – March 12, 2014

Budget Reconciliation Act of 2014 – SB 172/HB 162

The bills reduce the MHIP assessment from 1% of hospital net patient revenue (in HSCRC regulations) to .5% starting on October 1, 2014. Current statute sets a floor on the MHIP assessment at .8182% of NPR. The bills also provide funding ($30 million in FY15 and $40 million thereafter) for a community partnership assistance program through hospital rates. Community partnership is defined as partnership with a corporate, business, provider, or citizen organization to develop methodologies to improve the health and well–being of the community. The commission shall take action on proposals that are recommended jointly by HSCRC staff and DHMH. Preference shall be given to a multihospital, statewide, or regional community partnership plan or collaboration that improves the health and well–being of the community, and supports the achievement of the goals established in the new all–payer model.

Status: The B&T Committee adopted amendments to (1) remove the Community Partnership Program but continue the reduction of the MHIP Assessment from 1% to .5%; (2) requires the Commission to "include an additional $30 million in hospital revenue" when determining rates for FY15 for costs relating to implementation of the new model; and (3) requires the Commission to calculate the savings to Medicaid resulting from the all-payer model and reduce that savings from the Medicaid deficit assessment each year.

Health Services Cost Review Commission - Powers and Duties, Regulation of Facilities, and Maryland All-Payer Model Contract – HB 298/SB 335

This Administration bill conforms the HSCRC statute to the provisions of the new All-payer waiver model. Specifically, the bill changes references to the federal law where the current waiver is codified – Section 1814(b)(3) of the federal Social Security Act and instead refers to the contract with CMMI. The bill permits the HSCRC to set rate levels and rate increases and to promote alternative methods of rate determination and payment consistent with that contract. The bill also would increase the HSCRC's user fee cap from $7 million to $12 million since managing under a new all-payer model design will require additional expenditure for data, analysis, staffing, and consulting services. Finally, the bill includes a provision to require hospitals to notify the Commission if a financial transaction, contract or agreement results in more than 50% of all corporate voting rights or governance being transferred.

Status: The Senate bill passed the Senate un-amended. The House Committee is considering Subcommittee amendments to do the following:

- Require the Commission to submit a report to the General Assembly, Governor, and Secretary every 6 months on status of meeting the waiver goals in the contract, summary of work group activities, all reports submitted to CMMI, and any adverse consequences. If a triggering event occurs the report would be required quarterly;

- Require the Commission to develop guidelines for the establishment of global budgets, receive confirmation from staff that agreements are consistent with the guidelines, and post global budget agreements on the website;

- Specifies that both hospital and payers must comply with the provisions of the new model contract.

Maryland Intrastate Hospital Assistance Compact - HB 534

The bill establishes a Maryland Intrastate Hospital Assistance Compact for the purpose of providing mutual assistance among the hospitals entering into the compact to manage a significant occurrence. The compact also shall provide for mutual cooperation in significant occurrence–related exercises, testing, or other training activities using equipment or personnel simulating performance of any aspect of the giving and receiving of aid by compact hospitals during emergencies. A significant occurrence is defined as an incident or a situation that affects a hospital's ability to operate at full capacity, or provide care to its patients in a safe manner while utilizing solely the hospital's own resources.

Status: Heard on February 27.

Maryland Health Insurance Plan - Access for Bridge Eligible Individuals – SB134/HB119

The emergency Administration bill expands the purpose of the Maryland Health Insurance Plan (MHIP) to include providing access to affordable, comprehensive health benefits for "bridge eligible individuals," as needed, on a retroactive and prospective basis and expresses the intent of the General Assembly that MHIP be used to subsidize health insurance coverage for such individuals. A "bridge eligible individual" is eligible for enrollment in the Maryland Health Benefit Exchange (MHBE) and can provide evidence that the individual has attempted to obtain insurance through MHBE but was unsuccessful in enrolling. "Bridge eligible individual" includes dependents but does not include those eligible for Medicare, Medicaid, the Maryland Children's Health Program, or an employer-sponsored group health insurance plan that includes comparable benefits.

The emergency bill passed and is currently law.

Maryland Health Benefit Exchange – State Reinsurance Program and Health Insurance Subsidy Program – HB 1509

This bill replaces the State Reinsurance Program under the Health Benefit Exchange to a Health Insurance Subsidy Program ("The Program"). The Program is partially funded through the current MHIP assessment which will be gradually transferred to The Program as MHIP members transition out to the Exchange.

Status: Hearing is 3/14

State Personnel – Authority to Set Compensation – HB765

The bill authorizes a list of state entities that currently have the authority to set compensation outside of the state structure to establish employee compensation only for positions that (1) are unique to those entities; (2) require specific skills or experience; and (3) do not require employees in those positions to perform functions that are comparable to those performed by employees of other State agencies. It specifies that the Secretary of Budget and Management, in consultation with the various entities, determines for which positions they may set compensation.

Status: The bill passed the House.

Medical Malpractice Bills

Health Care Malpractice Claims – Definition of Health Care Provider - HB 395/SB 702

The bills update the list of health care providers that are protected under the malpractice statute. They expand the existing protections to physician assistants and other providers that will be on the front lines under Health care reform. The list of providers has not been updated since the 1970's.

Status: HB 395 being heard on 2/5 Senate bill 702 was heard on 2/27

Maryland No-Fault Birth Injury Fund – SB 798/HB1337

The bills establish a Fund and adjudication system for birth- related neurological injury. The Maryland birth injury fund provides an exclusive "no-fault" remedy to claimants with an injury that falls within the statutory eligibility criteria for the birth injury program. The birth injury fund program provides notification to patients and their families through Maryland hospitals regarding participation in the program, benefits, eligibility, rights under the program, and ways in which the program provides exclusive remedy. Moneys in the fund will derive from premiums/subsidies on hospitals, obstetrical physicians and medical malpractice insurers.

Status: SB 798 was heard on 2/27 and HB1337 was heard on 3/10. HSCRC sent in a letter of information sharing certain information outlined in the Advisory Council Report.

Civil Actions – Non Economic Damages – Catastrophic Injury – SB789/HB1009

These bills would require triple damages for non-economic damages for a cause of action in which the court or the health claims arbitration panel determined negligence or other wrongful conduct resulted in catastrophic injury. The bill defines catastrophic injury as one that results in death or permanent impairment (and lists out those injuries).

Status: Senate Bill heard on 2/27, House bill heard on 3/5. HSCRC sent in a letter of information sharing certain information outlined in the Advisory Council Report.

Health Care Malpractice – Limitation on Noneconomic Damages – HB930

The current limit on non-economic damages is $650,000 (plus a $15,000 increase each year since 2009). This bill would cap economic damages at:

- $750,000 between January 1, 2014 through October, 2014; and
- $500,000 thereafter.

Status: Heard on 3/5