**HB 940**

# Department of Legislative Services

Maryland General Assembly
2019 Session

## FISCAL AND POLICY NOTE
**First Reader**

House Bill 940 (Delegate Hill)
Health and Government Operations

**Unregulated Space in Hospital Operating Suites Pilot Project**

This bill establishes the Unregulated Space in Hospital Operating Suites Pilot Project, to be operated by the Health Services Cost Review Commission (HSCRC). Up to five hospitals may participate in the pilot project. By December 1 each year, HSCRC must report to specified committees of the General Assembly on (1) the types of procedures that have occurred in a participating hospital's unregulated operating room space; (2) the costs associated with a hospital's participation in the pilot project; and (3) the effects of the pilot project on the Maryland All-Payer Model. **The bill takes effect July 1, 2019, and terminates June 30, 2022.**

## Fiscal Summary

**State Effect:** Special fund expenditures increase by $172,100 in FY 2020 for HSCRC to hire additional staff, as discussed below. Future years reflect annualization and costs continuing beyond the termination date. Revenues are not affected.

| (in dollars) | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
|---|---|---|---|---|---|
| Revenues | $0 | $0 | $0 | $0 | $0 |
| SF Expenditure | 172,100 | 215,900 | 223,100 | 230,800 | 238,700 |
| Net Effect | ($172,100) | ($215,900) | ($223,100) | ($230,800) | ($238,700) |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** A participating hospital may be subject to an alternate method of rate determination, including an exemption from rates that allows unregulated operating room space to be physically located within a regulated facility. In addition, a participating hospital may make available unregulated operating room space to all patients and all payers, with no duplication of services in regulated operating room space.

HSCRC must develop criteria and standards for hospitals participating in the pilot project including that (1) a participating hospital must offer charity care consistent with regulated hospital services; (2) the billed charge for a service may not be higher than the participating hospital's billed charge for a similar service; (3) the cost to Medicaid and Medicare must be lower than a similar regulated hospital service; and (4) a participating hospital must increase consumer awareness and education about regulated and nonregulated services, including the potential for additional billed charges from physicians.

**Current Law/Background:** Under the Total Cost of Care Model (TCOC), the successor to the Maryland All-Payer Model Contract, hospital population-based revenues (commonly referred to as global budgets) are regulated by HSCRC. Generally, HSCRC has the authority to test alternative methods of rate determination. Under the general goals of TCOC, which went into effect January 1, 2019, as services are shifted out of hospital facilities toward locations of care that are often lower cost, HSCRC must adjust hospital global budgets to account for the decreases in volume in regulated space.

**State Expenditures:** Special fund expenditures increase by $172,067 in fiscal 2020, which assumes a 90-day start-up delay. This estimate reflects the cost of hiring one associate director and one unit chief within HSCRC to develop the criteria and standards for hospitals participating in the pilot project and operate the pilot project. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

According to HSCRC, the duties of the associate director and unit chief may include but are not limited to:

- establishing participation and selection criteria for the pilot project;
- developing data collection and verification procedures;
- developing, writing, and updating alternative rate methodologies to provide for the exemptions under the project;
- tracking procedures and costs associated with unregulated operating room space;
- calculating financial adjustments to global budgets to account for volume shifts;
- working with hospital rate analysts to communicate and justify financial adjustments to hospital staff;

- working with hospital rate analysts to make appropriate changes to hospital rates;
- verifying appropriate patient notification measures are in place;
- determining the financial impact of the project on hospital global budgets and on TCOC and Medicare savings targets; and
- complying with the bill's reporting requirements.

HSCRC notes that, while it has the authority to test alternative methods of rate determination, it is currently operating under significant staff resource constraints given the particular focus at this time on the implementation of TCOC. Additionally, HSCRC notes that recruiting individuals with the experience and expertise necessary to perform the work required may be difficult. HSCRC would likely need to hire permanent employees to meet the bill's requirements, as it would be difficult if not impossible to recruit individuals with the subject matter expertise necessary to fill contractual positions, which lack the same benefits as permanent positions. The Department of Legislative Services generally concurs with this assessment.

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|---|---|
| Positions | 2.0 |
| Salaries and Fringe Benefits | $161,349 |
| One-time Start-up Expenses | 9,780 |
| Ongoing Operating Expenses | 938 |
| **Total FY 2020 State Expenditures** | **$172,067** |

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. Because HSCRC would likely be required to hire permanent employees in order to attract qualified employees, this analysis assumes that the employees hired under the bill continue beyond the bill's June 30, 2022 termination date and are absorbed into existing HSCRC operations. Alternatively, HSCRC could pay a *significantly* higher amount to hire contractual employees to conduct the project.

Any decrease in Medicaid expenditures depends on several factors, including the methodology developed by HSCRC, utilization by Medicaid patients, and the substitution effect. Therefore, cost savings for Medicaid cannot be reliably quantified and have not been accounted for in this estimate.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2019
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Analysis by: Nathan W. McCurdy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510