

HOUSE BILL 706

J1, C3

9lr2923
CF SB 744

By: ~~Delegate Pena-Melnyk~~ Delegates Pena-Melnyk, Hammen, Benson, Costa, Elliott, Hubbard, Kipke, Kullen, McDonough, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pendergrass, Reznik, Riley, Tarrant, V. Turner, and Weldon

Introduced and read first time: February 9, 2009

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: April 4, 2009

CHAPTER _____

1 AN ACT concerning

2 **Electronic Health Records – Regulation and Reimbursement**

3 FOR the purpose of requiring the Maryland Medical Assistance Program to reimburse
4 certain health care providers in accordance with certain provisions of this Act;
5 ~~requiring the Maryland Health Care Commission, in consultation with the~~
6 ~~Department of Health and Mental Hygiene and the Maryland Insurance~~
7 ~~Administration, to adopt certain regulations on or before a certain date~~
8 ~~requiring certain payors to include certain costs in a certain reimbursement~~
9 ~~structure; requiring the Commission to designate a certain health information~~
10 ~~exchange on or before a certain date; requiring the Commission to determine~~
11 ~~the appropriate level of additional reimbursement in a certain manner;~~
12 ~~providing that certain regulations shall apply to certain entities under certain~~
13 ~~circumstances; requiring the Commission, in consultation with the Department~~
14 ~~and the Administration, to adopt certain regulations that specify certain~~
15 ~~certification requirements on or before a certain date; requiring the Maryland~~
16 Health Care Commission and the Health Services Cost Review Commission to
17 designate a health information exchange for the State on or before a certain
18 date; requiring the Maryland Health Care Commission, on or before a certain
19 date, to report on progress in implementing certain provisions of this Act;
20 requiring, on or before a certain date, the Maryland Health Care Commission,
21 following consultation with certain stakeholders, to post on its website for a
22 public comment and submit to the Governor and certain legislative committees,
23 a report on certain aspects of health information technology; requiring the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 committees to have a certain period of time for review and comment; requiring,
 2 on or before a certain date, the Maryland Health Care Commission, in
 3 consultation with the Department of Health and Mental Hygiene and others, to
 4 adopt regulations that require certain payors to provide incentives to health
 5 care providers to promote the adoption and certain use of electronic health
 6 records; establishing certain requirements for the incentives; providing that the
 7 incentives may include certain items and services; specifying that the
 8 regulations need not require incentives for certain types of health care
 9 providers; requiring the regulations to apply to certain entities under certain
 10 circumstances; requiring the Health Services Cost Review Commission and the
 11 Department, in consultation with certain other entities, to take certain actions
 12 that relate to the American Recovery and Reinvestment Act of 2009 and certain
 13 rules and regulations; requiring the Maryland Health Care Commission, on or
 14 before a certain date, to report to the Governor and the General Assembly on
 15 certain progress achieved and recommendations for changes that may be
 16 necessary for certain adoption and use of electronic health records; requiring the
 17 Maryland Health Care Commission to designate a certain management service
 18 organization organizations on or before a certain date; authorizing the
 19 Maryland Health Care Commission to use certain grants and loans in a certain
 20 manner; requiring certain health care providers to use certain electronic health
 21 records on ~~or~~ and after a certain date; prohibiting certain payors from
 22 reimbursing certain health care providers on or after a certain date under
 23 certain circumstances; providing that certain provisions of this Act shall apply
 24 to certain entities under certain circumstances; providing that certain
 25 provisions of this Act apply to health maintenance organizations; requiring
 26 ~~certain carriers~~ State-regulated payors to reimburse provide incentives to
 27 certain health care providers in accordance with certain provisions of this Act;
 28 requiring the Secretary of Budget and Management to ensure that the State
 29 Employee and Retiree Health and Welfare Benefits Program complies with
 30 certain provisions of this Act; defining certain terms; and generally relating to
 31 the regulation of and reimbursement for the use of electronic health records.

32 BY repealing and reenacting, without amendments,
 33 Article – Health – General
 34 Section 1–101(a) and (c), 15–101(a) and (h), and 19–101
 35 Annotated Code of Maryland
 36 (2005 Replacement Volume and 2008 Supplement)

37 BY adding to
 38 Article – Health – General
 39 Section 15–105.2; 19–142 ~~through 19–145~~ and 19–143 to be under the new part
 40 “Part IV. Electronic Health Records – Regulation and Reimbursement”;
 41 and 19–706(ttt)
 42 Annotated Code of Maryland
 43 (2005 Replacement Volume and 2008 Supplement)

44 BY adding to
 45 Article – Insurance

1 Section 15-132
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article – State Personnel and Pensions
6 Section 2-501(a) and (b)
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2008 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – State Personnel and Pensions
11 Section 2-503(a)
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2008 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Health – General**

17 1-101.

18 (a) In this article the following words have the meanings indicated.

19 (c) “Department” means the Department of Health and Mental Hygiene.

20 15-101.

21 (a) In this title the following words have the meanings indicated.

22 (h) “Program” means the Maryland Medical Assistance Program.

23 **15-105.2.**

24 **THE PROGRAM SHALL REIMBURSE HEALTH CARE PROVIDERS IN**
25 **ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF**
26 **THIS ARTICLE.**

27 19-101.

28 In this subtitle, “Commission” means the Maryland Health Care Commission.

29 **PART IV. ELECTRONIC HEALTH RECORDS – REGULATION AND**
30 **REIMBURSEMENT.**

31 **19-142.**

1 (A) **IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE**
2 **THE MEANINGS INDICATED.**

3 (B) **“CARRIER” MEANS:**

4 (1) **AN INSURER;**

5 (2) **A NONPROFIT HEALTH SERVICE PLAN;**

6 (3) **A HEALTH MAINTENANCE ORGANIZATION; OR**

7 (4) ~~**A DENTAL PLAN ORGANIZATION; OR**~~

8 ~~(5)~~ **ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS**
9 **SUBJECT TO REGULATION BY THE STATE.**

10 (C) **“ELECTRONIC HEALTH RECORD” MEANS AN ELECTRONIC RECORD**
11 **OF HEALTH-RELATED INFORMATION ON AN INDIVIDUAL THAT:**

12 (1) **INCLUDES PATIENT DEMOGRAPHIC AND CLINICAL HEALTH**
13 **INFORMATION; AND**

14 (2) **HAS THE CAPACITY TO:**

15 (I) **PROVIDE CLINICAL DECISION SUPPORT;**

16 (II) **SUPPORT PHYSICIAN ORDER ENTRY;**

17 (III) **CAPTURE AND QUERY INFORMATION RELEVANT TO**
18 **HEALTH CARE QUALITY; AND**

19 (IV) **EXCHANGE ELECTRONIC HEALTH INFORMATION WITH**
20 **AND INTEGRATE THE INFORMATION FROM OTHER SOURCES.**

21 (D) (1) **“HEALTH BENEFIT PLAN” MEANS A HOSPITAL OR MEDICAL**
22 **POLICY, CONTRACT, OR CERTIFICATE ISSUED BY A CARRIER.**

23 (2) **“HEALTH BENEFIT PLAN” DOES NOT INCLUDE:**

24 (I) **COVERAGE FOR ACCIDENT OR DISABILITY INCOME**
25 **INSURANCE;**

26 (II) **COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY**
27 **INSURANCE;**

1 (III) LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY
2 INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

3 (IV) WORKERS' COMPENSATION OR SIMILAR INSURANCE;

4 (V) AUTOMOBILE OR PROPERTY MEDICAL PAYMENT
5 INSURANCE;

6 (VI) CREDIT-ONLY INSURANCE;

7 (VII) COVERAGE FOR ON-SITE MEDICAL CLINICS;

8 (VIII) DENTAL OR VISION INSURANCE;

9 (IX) LONG-TERM CARE INSURANCE OR BENEFITS FOR
10 NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY
11 COMBINATION OF THESE;

12 (X) COVERAGE ONLY FOR A SPECIFIED DISEASE OR
13 ILLNESS;

14 (XI) HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY
15 INSURANCE; OR

16 (XII) THE FOLLOWING BENEFITS IF OFFERED AS A SEPARATE
17 INSURANCE POLICY:

18 1. MEDICARE SUPPLEMENTAL HEALTH INSURANCE,
19 AS DEFINED IN § 1882(G)(1) OF THE SOCIAL SECURITY ACT;

20 2. COVERAGE SUPPLEMENTAL TO THE COVERAGE
21 PROVIDED UNDER CHAPTER 55 OF TITLE 10, U.S.C.; OR

22 3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED
23 TO COVERAGE UNDER AN EMPLOYER-SPONSORED PLAN.

24 ~~(D)~~ (E) (1) "HEALTH CARE PROVIDER" MEANS:

25 (I) A PERSON WHO IS LICENSED, CERTIFIED, OR
26 OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO
27 PROVIDE HEALTH CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE
28 OF A PROFESSION OR IN AN APPROVED EDUCATION OR TRAINING PROGRAM; OR

1 (II) A FACILITY WHERE HEALTH CARE IS PROVIDED TO
2 PATIENTS OR RECIPIENTS, INCLUDING:

3 1. A FACILITY, AS DEFINED IN § 10-101(E) OF THIS
4 ARTICLE;

5 2. A HOSPITAL, AS DEFINED IN § 19-301 OF THIS
6 TITLE;

7 3. A RELATED INSTITUTION, AS DEFINED IN
8 § 19-301 OF THIS TITLE;

9 4. AN OUTPATIENT CLINIC;

10 5. A FREESTANDING MEDICAL FACILITY, AS
11 DEFINED IN § 19-3A-01 OF THIS TITLE;

12 6. AN AMBULATORY SURGICAL FACILITY, AS
13 DEFINED IN § 19-3B-01 OF THIS TITLE; AND

14 7. A NURSING HOME, AS DEFINED IN § 19-1401 OF
15 THIS TITLE.

16 (2) "HEALTH CARE PROVIDER" DOES NOT INCLUDE A HEALTH
17 MAINTENANCE ORGANIZATION AS DEFINED IN § 19-701 OF THIS TITLE.

18 ~~(E)~~ (F) "HEALTH INFORMATION EXCHANGE" MEANS A STATEWIDE
19 INFRASTRUCTURE THAT PROVIDES ORGANIZATIONAL AND TECHNICAL
20 CAPABILITIES TO ENABLE THE ELECTRONIC EXCHANGE OF HEALTH
21 INFORMATION BETWEEN HEALTH CARE PROVIDERS AND OTHER HEALTH
22 SERVICES ORGANIZATIONS AUTHORIZED BY THE COMMISSION.

23 ~~(F)~~ (G) "MANAGEMENT SERVICE ORGANIZATION" MEANS AN
24 ORGANIZATION THAT OFFERS ~~MULTIPLE~~ ONE OR MORE HOSTED ELECTRONIC
25 HEALTH RECORD SOLUTIONS AND OTHER MANAGEMENT SERVICES TO
26 MULTIPLE HEALTH CARE PROVIDERS.

27 ~~(G) "MEDICARE" MEANS THE HEALTH INSURANCE FOR THE AGED ACT,~~
28 ~~TITLE XVIII OF THE SOCIAL SECURITY AMENDMENTS OF 1965, AS AMENDED.~~

29 (H) (1) "STATE-REGULATED PAYOR" MEANS:

30 ~~(1) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;~~

1 ~~(2)~~ (I) THE STATE EMPLOYEE AND RETIREE HEALTH AND
2 WELFARE BENEFITS PROGRAM; AND

3 ~~(3)~~ (II) A CARRIER ISSUING OR DELIVERING HEALTH BENEFIT
4 PLANS IN THE STATE.

5 (2) "STATE-REGULATED PAYOR" DOES NOT INCLUDE A MANAGED
6 CARE ORGANIZATION AS DEFINED IN TITLE 15, SUBTITLE 1 OF THIS ARTICLE.

7 ~~19-143.~~

8 ~~(A) ON OR BEFORE OCTOBER 1, 2010, THE COMMISSION, IN~~
9 ~~CONSULTATION WITH THE DEPARTMENT AND THE MARYLAND INSURANCE~~
10 ~~ADMINISTRATION, SHALL:~~

11 ~~(1) ADOPT REGULATIONS THAT REQUIRE STATE-REGULATED~~
12 ~~PAYORS TO INCLUDE IN THEIR REIMBURSEMENT STRUCTURE FOR HEALTH~~
13 ~~CARE PROVIDERS THE COST OF THE ADOPTION OF ELECTRONIC HEALTH~~
14 ~~RECORDS BY HEALTH CARE PROVIDERS; AND~~

15 ~~(2) DESIGNATE A HEALTH INFORMATION EXCHANGE FOR THE~~
16 ~~STATE THAT:~~

17 ~~(I) INCORPORATES PRIVACY RULES THAT ARE CONSISTENT~~
18 ~~WITH EXISTING FEDERAL AND STATE LAWS AND REGULATIONS; AND~~

19 ~~(II) MAKES ITS SERVICES AVAILABLE TO HEALTH CARE~~
20 ~~PROVIDERS, STATE-REGULATED PAYORS AND OTHER HEALTH CARE SERVICES~~
21 ~~ORGANIZATIONS AS AUTHORIZED BY THE COMMISSION.~~

22 ~~(B) (1) THE COMMISSION SHALL DETERMINE THE APPROPRIATE~~
23 ~~LEVEL OF ADDITIONAL REIMBURSEMENT TO BE REQUIRED UNDER THIS~~
24 ~~SECTION, TAKING INTO ACCOUNT ANY GRANTS OR LOANS THAT ARE AVAILABLE~~
25 ~~TO HEALTH CARE PROVIDERS FROM THE FEDERAL GOVERNMENT.~~

26 ~~(2) THE COMMISSION MAY NOT REQUIRE ADDITIONAL~~
27 ~~REIMBURSEMENT UNDER THIS SECTION FOR A HOSPITAL THAT IS REGULATED~~
28 ~~BY THE HEALTH SERVICES COST REVIEW COMMISSION.~~

29 ~~(C) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO REGULATE~~
30 ~~SELF-INSURED ENTITIES AND MEDICARE, REGULATIONS ADOPTED UNDER THIS~~
31 ~~SECTION SHALL APPLY TO REIMBURSEMENT BY SELF-INSURED ENTITIES AND~~
32 ~~MEDICARE.~~

33 ~~19-144.~~

1 ~~(A) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION, IN~~
2 ~~CONSULTATION WITH THE DEPARTMENT AND THE MARYLAND INSURANCE~~
3 ~~ADMINISTRATION, SHALL ADOPT REGULATIONS THAT SPECIFY CERTIFICATION~~
4 ~~REQUIREMENTS FOR ELECTRONIC HEALTH RECORDS.~~

5 ~~(2) THE COMMISSION SHALL INCLUDE IN REGULATIONS~~
6 ~~ADOPTED UNDER THIS SUBSECTION A REQUIREMENT THAT ELECTRONIC~~
7 ~~HEALTH RECORDS MUST MEET ANY STANDARDS FOR ELECTRONIC HEALTH~~
8 ~~RECORDS THAT ARE PROVIDED FOR IN FEDERAL LAW.~~

9 ~~(B) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL~~
10 ~~DESIGNATE A MANAGEMENT SERVICE ORGANIZATION TO OFFER HOSTED~~
11 ~~ELECTRONIC HEALTH RECORDS AND OTHER MANAGEMENT SERVICES~~
12 ~~THROUGHOUT THE STATE.~~

13 ~~(2) THE COMMISSION MAY USE AVAILABLE GRANTS AND LOANS~~
14 ~~FROM THE FEDERAL GOVERNMENT TO HELP SUBSIDIZE THE USE OF THE~~
15 ~~MANAGEMENT SERVICE ORGANIZATION BY HEALTH CARE PROVIDERS.~~

16 ~~19-145.~~

17 ~~(A) ON OR AFTER OCTOBER 1, 2014, EVERY HEALTH CARE PROVIDER IN~~
18 ~~THE STATE SHALL USE ELECTRONIC HEALTH RECORDS THAT ARE:~~

19 ~~(1) CERTIFIED IN ACCORDANCE WITH STANDARDS ADOPTED BY~~
20 ~~THE COMMISSION; AND~~

21 ~~(2) HAVE INTEROPERABILITY WITH, ARE CONNECTED TO, AND~~
22 ~~EXCHANGING DATA WITH THE HEALTH INFORMATION EXCHANGE DESIGNATED~~
23 ~~BY THE COMMISSION UNDER § 19-143 OF THIS SUBTITLE.~~

24 ~~(B) (1) ON OR AFTER OCTOBER 1, 2014, A STATE REGULATED PAYOR~~
25 ~~MAY NOT REIMBURSE A HEALTH CARE PROVIDER THAT DOES NOT MEET THE~~
26 ~~REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION FOR HEALTH CARE~~
27 ~~SERVICES.~~

28 ~~(2) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO~~
29 ~~REGULATE SELF-INSURED ENTITIES AND MEDICARE, THIS SUBSECTION SHALL~~
30 ~~APPLY TO REIMBURSEMENT BY SELF-INSURED ENTITIES AND MEDICARE.~~

31 ~~(C) ON OR AFTER OCTOBER 1, 2014, A HOSPITAL THAT IS REGULATED~~
32 ~~BY THE HEALTH SERVICES COST REVIEW COMMISSION THAT DOES NOT MEET~~
33 ~~THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION MAY NOT BE~~
34 ~~REIMBURSED BY ANY PAYOR FOR HEALTH CARE SERVICES.~~

1 (A) ON OR BEFORE OCTOBER 1, 2009, THE COMMISSION AND THE
2 HEALTH SERVICES COST REVIEW COMMISSION SHALL DESIGNATE A HEALTH
3 INFORMATION EXCHANGE FOR THE STATE.

4 (B) ON OR BEFORE JANUARY 1, 2010, THE COMMISSION SHALL:

5 (1) REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE
6 GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE
7 HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON PROGRESS
8 IN IMPLEMENTING THE REQUIREMENTS OF SUBSECTIONS (A) AND (D) OF THIS
9 SECTION; AND

10 (2) INCLUDE IN THE REPORT RECOMMENDATIONS FOR
11 LEGISLATION SPECIFYING HOW INCENTIVES REQUIRED FOR
12 STATE-REGULATED PAYORS THAT ARE NATIONAL CARRIERS SHALL TAKE INTO
13 ACCOUNT EXISTING CARRIER ACTIVITIES THAT PROMOTE THE ADOPTION AND
14 MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS.

15 (C) (1) ON OR BEFORE JANUARY 1, 2011, FOLLOWING
16 CONSULTATIONS WITH APPROPRIATE STAKEHOLDERS, THE COMMISSION SHALL
17 POST ON ITS WEBSITE FOR PUBLIC COMMENT AND SUBMIT TO THE GOVERNOR
18 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
19 THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND
20 GOVERNMENT OPERATIONS COMMITTEE A REPORT ON:

21 (I) THE DEVELOPMENT OF A COORDINATED
22 PUBLIC-PRIVATE APPROACH TO IMPROVE THE STATE'S HEALTH INFORMATION
23 INFRASTRUCTURE;

24 (II) ANY CHANGES IN STATE LAWS THAT ARE NECESSARY TO
25 PROTECT THE PRIVACY AND SECURITY OF HEALTH INFORMATION STORED IN
26 ELECTRONIC HEALTH RECORDS OR EXCHANGED THROUGH A HEALTH
27 INFORMATION EXCHANGE IN THE STATE;

28 (III) ANY CHANGES IN STATE LAWS THAT ARE NECESSARY TO
29 PROVIDE FOR THE EFFECTIVE OPERATION OF A HEALTH INFORMATION
30 EXCHANGE;

31 (IV) ANY ACTIONS THAT ARE NECESSARY TO ALIGN FUNDING
32 OPPORTUNITIES UNDER THE FEDERAL AMERICAN RECOVERY AND
33 REINVESTMENT ACT OF 2009 WITH OTHER STATE AND PRIVATE SECTOR
34 INITIATIVES RELATED TO HEALTH INFORMATION TECHNOLOGY, INCLUDING:

35 1. THE PATIENT-CENTERED MEDICAL HOME;

1 **2. THE ELECTRONIC HEALTH RECORD**
2 **DEMONSTRATION PROJECT SUPPORTED BY THE FEDERAL CENTERS FOR**
3 **MEDICARE AND MEDICAID SERVICES;**

4 **3. THE HEALTH INFORMATION EXCHANGE; AND**

5 **4. THE MEDICAID INFORMATION TECHNOLOGY**
6 **ARCHITECTURE INITIATIVE; AND**

7 **(V) RECOMMENDED LANGUAGE FOR THE REGULATIONS**
8 **REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.**

9 **(2) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH**
10 **AND GOVERNMENT OPERATIONS COMMITTEE SHALL HAVE 60 DAYS FROM**
11 **RECEIPT OF THE REPORT FOR REVIEW AND COMMENT.**

12 **(D) (1) ON OR BEFORE SEPTEMBER 1, 2011, THE COMMISSION, IN**
13 **CONSULTATION WITH THE DEPARTMENT, PAYORS, AND HEALTH CARE**
14 **PROVIDERS, SHALL ADOPT REGULATIONS THAT REQUIRE STATE-REGULATED**
15 **PAYORS TO PROVIDE INCENTIVES TO HEALTH CARE PROVIDERS TO PROMOTE**
16 **THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS.**

17 **(2) INCENTIVES REQUIRED UNDER THE REGULATIONS:**

18 **(I) SHALL HAVE MONETARY VALUE;**

19 **(II) SHALL FACILITATE THE USE OF ELECTRONIC HEALTH**
20 **RECORDS BY HEALTH CARE PROVIDERS IN THE STATE;**

21 **(III) TO THE EXTENT FEASIBLE, SHALL RECOGNIZE AND BE**
22 **CONSISTENT WITH EXISTING PAYOR INCENTIVES THAT PROMOTE THE**
23 **ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS;**

24 **(IV) SHALL TAKE INTO ACCOUNT:**

25 **1. INCENTIVES PROVIDED TO HEALTH CARE**
26 **PROVIDERS UNDER MEDICARE AND MEDICAID; AND**

27 **2. ANY GRANTS OR LOANS THAT ARE AVAILABLE TO**
28 **HEALTH CARE PROVIDERS FROM THE FEDERAL GOVERNMENT; AND**

29 **(V) MAY INCLUDE:**

- 1 **1. INCREASED REIMBURSEMENT FOR SPECIFIC**
2 **SERVICES;**
- 3 **2. LUMP SUM PAYMENTS;**
- 4 **3. GAIN-SHARING ARRANGEMENTS;**
- 5 **4. REWARDS FOR QUALITY AND EFFICIENCY;**
- 6 **5. IN-KIND PAYMENTS; AND**
- 7 **6. OTHER ITEMS OR SERVICES TO WHICH A SPECIFIC**
8 **MONETARY VALUE CAN BE ASSIGNED.**

9 **(3) THE REGULATIONS NEED NOT REQUIRE INCENTIVES FOR THE**
10 **ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS, FOR**
11 **EACH TYPE OF HEALTH CARE PROVIDER LISTED IN § 19-142(E) OF THIS**
12 **SUBTITLE.**

13 **(4) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO**
14 **REGULATE PAYMENTS MADE BY ENTITIES THAT SELF-INSURE THEIR HEALTH**
15 **BENEFIT PLANS, REGULATIONS ADOPTED UNDER THIS SECTION SHALL APPLY**
16 **TO THOSE ENTITIES TO THE SAME EXTENT TO WHICH THEY APPLY TO**
17 **STATE-REGULATED PAYORS.**

18 **(E) THE HEALTH SERVICES COST REVIEW COMMISSION, IN**
19 **CONSULTATION WITH HOSPITALS, PAYORS, AND THE FEDERAL CENTERS FOR**
20 **MEDICARE AND MEDICAID SERVICES, SHALL TAKE THE ACTIONS NECESSARY**
21 **TO:**

22 **(1) ASSURE THAT HOSPITALS IN THE STATE RECEIVE THE**
23 **PAYMENTS PROVIDED UNDER § 4102 OF THE FEDERAL AMERICAN RECOVERY**
24 **AND REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND**
25 **REGULATIONS; AND**

26 **(2) IMPLEMENT ANY CHANGES IN HOSPITAL RATES REQUIRED BY**
27 **THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES TO ENSURE**
28 **COMPLIANCE WITH § 4102 OF THE FEDERAL AMERICAN RECOVERY AND**
29 **REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND**
30 **REGULATIONS.**

31 **(F) THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION,**
32 **SHALL DEVELOP A MECHANISM TO ASSURE THAT HEALTH CARE PROVIDERS**
33 **THAT PARTICIPATE IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM**
34 **RECEIVE THE PAYMENTS PROVIDED FOR ADOPTION AND USE OF ELECTRONIC**

1 HEALTH RECORDS TECHNOLOGY UNDER § 4201 OF THE FEDERAL AMERICAN
2 RECOVERY AND REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL
3 RULES AND REGULATIONS.

4 (G) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL
5 REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE
6 STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON PROGRESS
7 ACHIEVED TOWARD ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH
8 RECORDS BY HEALTH CARE PROVIDERS IN THE STATE AND RECOMMENDATIONS
9 FOR ANY CHANGES IN STATE LAWS THAT MAY BE NECESSARY TO ACHIEVE
10 OPTIMAL ADOPTION AND USE.

11 (H) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL
12 DESIGNATE ONE OR MORE MANAGEMENT SERVICE ORGANIZATIONS TO OFFER
13 SERVICES THROUGHOUT THE STATE.

14 (2) THE COMMISSION MAY USE FEDERAL GRANTS AND LOANS TO
15 HELP SUBSIDIZE THE USE OF THE DESIGNATED MANAGEMENT SERVICE
16 ORGANIZATIONS BY HEALTH CARE PROVIDERS.

17 (I) ON AND AFTER THE LATER OF JANUARY 1, 2015, OR THE DATE
18 ESTABLISHED FOR THE IMPOSITION OF PENALTIES UNDER § 4102 OF THE
19 FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009:

20 (1) EACH HEALTH CARE PROVIDER USING AN ELECTRONIC
21 HEALTH RECORD THAT SEEKS PAYMENT FROM A ~~STATE-DESIGNATED~~
22 STATE-REGULATED PAYOR SHALL USE ELECTRONIC HEALTH RECORDS THAT
23 ARE:

24 (I) CERTIFIED BY A NATIONAL CERTIFICATION
25 ORGANIZATION DESIGNATED BY THE COMMISSION; AND

26 (II) CAPABLE OF CONNECTING TO AND EXCHANGING DATA
27 WITH THE HEALTH INFORMATION EXCHANGE DESIGNATED BY THE COMMISSION
28 UNDER SUBSECTION (A) OF THIS SECTION; AND

29 (2) THE INCENTIVES REQUIRED UNDER SUBSECTION ~~(C)~~ (D) OF
30 THIS SECTION MAY INCLUDE REDUCTIONS IN PAYMENTS TO A HEALTH CARE
31 PROVIDER THAT DOES NOT USE ELECTRONIC HEALTH RECORDS THAT MEET
32 THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION.

33 19-706.

34 (TTT) THE PROVISIONS OF § 15-132 OF THE INSURANCE ARTICLE APPLY
35 TO HEALTH MAINTENANCE ORGANIZATIONS.

1 **Article – Insurance**

2 **15-132.**

3 ~~(A) IN THIS SECTION, “CARRIER” MEANS:~~

4 ~~(1) AN INSURER;~~

5 ~~(2) A NONPROFIT HEALTH SERVICE PLAN;~~

6 ~~(3) A HEALTH MAINTENANCE ORGANIZATION;~~

7 ~~(4) A DENTAL PLAN ORGANIZATION; OR~~

8 ~~(5) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS~~
 9 ~~SUBJECT TO REGULATION BY THE STATE.~~

10 ~~(B) A CARRIER SHALL REIMBURSE HEALTH CARE PROVIDERS IN~~
 11 ~~ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF~~
 12 ~~THE HEALTH – GENERAL ARTICLE.~~

13 (A) IN THIS SECTION, “CARRIER” HAS THE MEANING STATED IN §
 14 19-142 OF THE HEALTH – GENERAL ARTICLE.

15 (B) A CARRIER SHALL PROVIDE INCENTIVES TO HEALTH CARE
 16 PROVIDERS IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE
 17 1, PART IV OF THE HEALTH – GENERAL ARTICLE.

18 **Article – State Personnel and Pensions**

19 **2-501.**

20 (a) In this subtitle the following terms have the meanings indicated.

21 (b) “Program” means the State Employee and Retiree Health and Welfare
 22 Benefits Program.

23 **2-503.**

24 (a) The Secretary shall:

25 (1) adopt regulations for the administration of the Program;

26 (2) ensure that the Program complies with all federal and State laws
 27 governing employee benefit plans; [and]

1 (3) each year, recommend to the Governor the State share of the costs
2 of the Program; AND

3 (4) ENSURE THAT THE PROGRAM COMPLIES WITH TITLE 19,
4 SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 ~~October~~ July 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.