Maryland
Hospital Association

Comments to MHCC's Provider-Payer Work Group

BACKGROUND

The Maryland Hospital Association (MHA), representing the state's 64 hospital and health system members and the patients and communities they serve, appreciates the opportunity to participate in the Maryland Health Care Commission's (MHCC) Provider-Payer Work Group, which was charged with exploring changes to Maryland's self-referral law to align with emerging payment models and health care reform. **While MHA is willing to evaluate perceived legal barriers to integrated care delivery, we cannot support any change that diminishes patient protections or jeopardizes Maryland's all-payer hospital rate setting agreement with the federal government.**

Under that agreement, which was implemented in January 2014, Maryland's hospitals are transforming care delivery through innovations aimed at getting Marylanders the right care, at the right time, in the right setting – often outside the hospital. The agreement holds Maryland's hospitals accountable for the total cost of care provided in the state and hospitals operate under fixed budgets.

WHAT WE ARE FOR:

1. **Protect patients:** Numerous federal government and peer-reviewed studies have concluded that self-referral leads to over-utilization of services. This not only raises costs artificially, it means that medical decisions are made based not solely on what is best for the patient, but also what is profitable for the provider. Maryland legislators enacted the strongest statute in the country precisely to protect patients from such financial self-interest, and this goal remains valid, due in part to the volume-based payment model physicians continue to operate under.
    - ***MHA supports maintaining these important patient protections.*** *State regulators should bolster the current oversight process and actively evaluate and enforce adherence to these provisions.*
2. **Ensure access to care**: As not-for-profit organizations with a shared mission of care, hospitals have a long history of supporting efforts to improve patients' access to care. **Maryland's statute already provides a needs-based exemption from the self-referral law to enhance this access to services**.[1] This exemption has only been requested twice since 2011.
    - ***MHA supports ensuring access to services where there is a demonstrated geographic need.*** *The exemption process should be revisited to provide for a longer term of duration while still ensuring appropriate access for the community. Requests for exemption should be transparent and provide an opportunity for engagement of impacted stakeholders.*
3. **Promote Collaboration and Innovation:** High quality, well-coordinated, integrated care is provided daily by clinicians across the state who do not hold ownership of or financial interest in a service. Aligning their payment incentives with the incentives of the rest of the state's providers is critical to success under Maryland's agreement with the federal government in order to encourage redesigned and improved care processes. Such arrangements can be achieved without altering existing protections against physician ownership or financial interest in a service or facility.
    - ***MHA supports clarifying Maryland's self-referral law to ensure compensation arrangements under bona-fide financial and risk-sharing alignment models are permissible.***

CONCLUSION

With appropriate oversight from state regulators, Maryland's existing self-referral statute remains the proper framework for protecting patients while also encouraging the innovation and collaboration that can lead to better care delivery. The well-being of our patients and the success of our state's unique agreement with the federal government, which promises lower costs and better care, are our priorities. MHA stands ready to work with all stakeholders who share those goals.

[1] Health Occupations §§1-301 – 305 and COMAR 10.01.15.05 and 0.6