



Thursday, July 18, 2024

MINUTES

Chairman Sergent called the meeting to order at 1:09 p.m.

Commissioners present via telephone and in person: Bhandari, Blake, Boyle, Buczynski, Gelrud, Gilmore, Jensen, Spinner, Wang and Wood.

AGENDA ITEMS 1A & 1B

ACTION: CONSENT AGENDA

- A.** Approval of Minutes: June 20, 2024
- B.** Project Change for the University of Maryland Medical Center Adolescent Inpatient Acute Psychiatric Unit (Docket # 18-24-2429)

Both items were adopted without objection.

AGENDA ITEM 2

Update of Activities

Ben Steffen, Executive Director of the Maryland Health Care Commission (MHCC or Commission), talked about the role of the AHEAD Model including: primary care implementation , 2) enhancement of the APCD and 3) augmenting APCD claims.

Mr. Steffen discussed an upcoming study on the impact of private equity acquisitions and investments in physician practices. Under HB 1388 MHCC is required to hire a consultant to study the effect of private equity firms on the healthcare market in the State.

The Commission received a request from the Health and Government Operations to analyze how market concentration at both the regional and product levels affect competition. In analyzing this issue, we would like information on how market concentration in Maryland may be affecting practitioner payment rates and how Maryland's practitioner payment rates compare nationally. In addition, how market concentration may be affecting provider networks and whether consumers have the full range of choice in services or are being directed to services that may be beneficial to an insurer.

Mr. Steffen talked about MHCC updating the nursing home regulations: COMAR 10.24.20 – to incorporate statutory changes required from SB 1000. The plan is to release the regulations for informal comments. Based on the comments, staff will consider the next steps.

Finally, Mr. Steffen talked about COMAR 10.25.20 – Commissioners will receive an update on the implementation of HB 812 changes. The staff has pivoted to working on three other regulatory changes:

1. Implementation of a consent management application
2. Sharing of non-controlled Dangerous Substance info for care management and public health needs
3. Addition of clearinghouse transactions into data that can be collected and used for care management , public health purposes, and state health improvement programs.

AGENDA ITEM 3

ACTION: CON Exemption- University of Maryland Rehabilitation and Orthopaedic Institute and University of Maryland Medical Center (Docket No. 23-24-EX017)

Rachel Bervell, CON Program Manager, briefed the Commissioners on the recommendation to approve an Exemption from Certificate of Need (CON) application filed by the University of Maryland Rehabilitation and Orthopaedic Institute (UMROI) and the University of Maryland Medical Center (UMMC). The request included the relocation of 58-beds: 25 acute inpatient rehabilitation beds for traumatic brain injury (TBI), 18 acute inpatient rehabilitation beds for spinal cord injury (SCI), 5 chronic care beds, and 10 dually licensed acute inpatient rehabilitation and chronic care beds.

The project enhances access and convenience for patients with multiple comorbidities by co-locating acute rehabilitation and chronic care beds alongside the trauma care and essential services found at UMMC. The project also aligns itself with the building of the Cancer Center Project which allows for a shorter construction schedule and will result in cost savings due to buying materials at higher volumes, and mobilization costs for subcontractors.

Dr. Bervell shared that the proposed project involves 107,246 square feet (SF) of new construction and 63,299 SF of renovations. The total project cost is \$235,855,047, financed through bonds, interest on bond proceeds, and state funding.

In conclusion, she stated that staff recommends that the Commission find that this project will be beneficial for the healthcare delivery system and will positively impact the provision of acute rehabilitation services and chronic care. She recommends that the Commission **APPROVE** the project with the following the following conditions:

1. Prior to its request for First Use approval, UMMC shall provide information that details the activities it has undertaken following approval of this Exemption request to increase the amount of charity care provided to patients and demonstrates its progress toward achieving a level of charity

care that places it in at least the third quartile among all Maryland hospitals as documented in the HSCRC Community Benefit Report. If staff concludes that UMMC's progress is not satisfactory, further action regarding this Exemption request may be considered by the Commission at a public meeting before the issuance of First Use approval.

2. The applicant shall submit documentation of CARF accreditation to the Commission within a year of opening.
3. Any future change to the financing of this project involving adjustments in rates set by the HSCRC must exclude \$8,318,812, which includes the estimated new construction costs that exceed the Marshall Valuation Service guideline cost and portions of the contingency allowance, inflation allowance, and capitalized construction interest expenditure that is based on the excess construction cost.
4. The applicants shall document transfer and referral agreements, prior to First Use approval by the Commission.

Commissioner Boyle moved to APPROVE the CON Exemption- University of Maryland Rehabilitation and Orthopaedic Institute and University of Maryland Medical Center, which was seconded by Commissioner Spinner and, after discussion, unanimously approved.

ACTION: CON Exemption- University of Maryland Rehabilitation and Orthopaedic Institute and University of Maryland Medical Center are hereby APPROVED.

AGENDA ITEM 4

ACTION: CON Second Project Change-University of Maryland Medical Center - Cancer Center (Docket No. 19-24-2438)

Dr. Moira Lawson, Program Manager, stated that the University of Maryland Medical Center requested a Second Project Change after Certificate of Need Approval to increase the costs associated with the construction of a nine-story addition to the existing hospital and to make changes in the physical plant design. Dr. Lawson stated that the total project cost has increased to \$288,092,970, a change of \$18,902,790. The project cost increase is due to unanticipated relocation and renovation costs and will be paid for with \$10 million in cash, \$8.7 million in authorized bonds, and \$133,315 in interest income from authorized bonds. The design change is needed to accommodate four additional hospital floors being built on top of the nine-story building through an Exemption Request (Docket Number 23-24-EX017). The mechanical penthouse which was to be located on the 9th and 10th floors of the building will now be located on the 14th and 15th floors.

A motion to approve the Second Project Change was made with the following conditions:

1. Prior to its request for first-use approval, UMMC will submit an assessment of the need for surge bed capacity at UMMC and its plan to maintain and deploy adequate surge bed capacity when needed.
2. Any future change to the financing of this project involving adjustments in revenue must exclude \$10,470,000 in shell space-related costs, which includes the estimated new construction costs of the proposed shell space and portions of the contingency allowance, inflation allowance, and capitalized construction interest expenditure related to the estimated cost of the shell space.
3. UMMC will not finish the shell space on either the second or third floor without giving notice to the Maryland Health Care Commission and obtaining all required Commission approvals. UMMC will not request any adjustment in budgeted revenue by the Health Services Cost Review Commission (HSCRC) that includes depreciation or interest costs associated with the construction of the proposed shell space unless UMMC has obtained either CON approval for finishing the shell space or a determination of coverage from the Maryland Health Care Commission that CON approval is not required.
4. In calculating any future adjustment to budgeted revenues related to the costs of this project, HSCRC shall exclude the capital costs associated with the shell space until the space is finished and put to use in a regulated activity. In calculating any revenue adjustment that includes accounting for capital costs associated with the shell space, the rate shall only account for depreciation and interest expenses going forward through the remaining useful life of the space.
5. Any future change to the financing of this project involving adjustments in rates set by the Health Services Cost Review Commission must exclude \$18,035,730, which includes the estimated new construction costs that exceed the Marshall Valuation Service guideline cost and portions of the contingency allowance and inflation allowance that are based on the excess construction cost.

Commissioner Buczynski moved to APPROVE the CON Second Project Change-University of Maryland Medical Center - Cancer Center, which was seconded by Commissioner Bhandari and, after discussion, unanimously approved.

ACTION: CON Project Change-University of Maryland Medical Center - Cancer Center is hereby APPROVED.

AGENDA ITEM 5

ACTION: Certificate of Ongoing Performance for Ascension St. Agnes Hospital's PCI program (Docket No. 24-24-CP046)

Eileen Fleck, Chief for Acute Care Policy and Planning, presented the staff report and recommendation for the Certificate of Ongoing Performance application submitted by Ascension St. Agnes Hospital for primary and elective percutaneous coronary intervention (PCI) services. She provided an overview of the standards used to evaluate Certificates of Ongoing Performance and SAH's compliance with standards for a Certificate of Ongoing Performance. Staff recommended that the Commission approve SAH's application to allow the hospital to continue providing primary and elective PCI services for four years, and the Commission approved this recommendation.

There were a few questions about the evaluation of standards, primarily focused on the evaluation of the appropriateness of primary PCI services. For elective PCI services, there is a mandatory external review of cases. There is no requirement for mandatory external review of primary PCI services. There has not been a concern historically about primary PCI patients receiving emergency PCI services inappropriately. The concern for primary PCI patients is making sure that complicated, high-risk patients, who are appropriate for hospitals with cardiac surgery on-site are not treated at hospitals without cardiac surgery on-site, except for certain critically ill PCI patients described in COMAR 10.24.17, when it is deemed to be in the patient's best interest to be treated immediately instead of transported to a hospital with cardiac surgery on-site. The regulations align with the different concerns for primary and elective PCI patients. Staff were asked to include certain information on PCI appropriateness included in the American College of Cardiology's reports given to hospitals participating in its National Cardiovascular Registry for CathPCI, regarding appropriateness of PCI services in future staff reports, as part of the evaluation of primary PCI services.

Commissioner Buczynski moved to APPROVE the Certificate of Ongoing Performance for Ascension St. Agnes Hospital's PCI program, which was seconded by Commissioner Spinner and, after discussion, unanimously approved.

ACTION: Certificate of Ongoing Performance for Ascension St. Agnes Hospital's PCI program is hereby APPROVED.

AGENDA ITEM 6

PRESENTATION: Update on HIE Validation and Exemption Requests

David Sharp, Director of the Center for Health Information Technology and Innovative Care Delivery, and Anna Gribble, Assistant Chief of Health Information Technology, discussed challenges and progress made in implementing Chapter 249 (HB 812), Health – Reproductive Health Services – Protected Information and Insurance Requirements (2023). Ms. Gribble

highlighted the status of electronic health networks and health information exchanges' compliance with the law, MHCC's stakeholder engagement activities, and ongoing plans to track and support the implementation of the regulations.

ACTION REQUESTED: NONE

AGENDA ITEM 7

PRESENTATION: Professional Services Report - 2022 Update

Shu Zhu, Program Manager of the Cost and Quality Center for Analysis and Information Systems, presented the results of the professional services annual report on payments for in-network professional services for Maryland's privately insured from 2020 through 2022 using data from the Maryland Medical Care Data Base (MCDB).

Ms. Zhu noted that this report was limited to in-network professional services, comprising about 99.97% of the total RVUs. Large payors, CareFirst and United Healthcare were above 80% of total RVUs in the analysis. She also mentioned that this report study included the age population under 65. The analysis used RVUs from 2022, 2021, and 2020 CMS physician fee schedules (PFS).

Ms. Zhu discussed the impact of payment rates for professional services in Maryland by market share, geographical region, and compared these rates to Medicare and Medicaid. Ms. Zhu noted that payments per RVU for all payers increased by about 3.1% in 2022 compared to 2021 (\$38.14 and \$39.32, respectively), which was driven by increases in rates from other payers. The payment per RVU (Relative Value Unit) was consistently lower among larger payers across all three years. Larger payors could negotiate better prices. Providers located in the "DC Metro" area received highest average payment rates than other providers located in Maryland regardless of payer market share, from 2020 to 2022. This pattern was consistent with payment levels in the Medicare Physician Fee Schedule – highest in the DC Metro, lower in the Baltimore Metro, and lowest in the rest of Maryland. The payment rates for services reimbursed by all private payers tended to be somewhat higher than what Medicare paid, with ratios of 1.08 in 2022, 1.01 in 2021, and 1.03 in 2020. Additionally, we observed a significant increase in payment rates among other payers. This trend might suggest that smaller payers faced difficulties sustaining their physician networks, leading them to raise their rates as a response.

ACTION REQUESTED: NONE

AGENDA ITEM 8

OVERVIEW OF UPCOMING ACTIVITIES

Mr. Steffen announced his retirement planned for the end of December. He also talked about the September Commission meeting. He stated that there would be Certificate of Ongoing Performances, a presentation from the Maryland Patient Safety Center, and a few healthcare updates.

ACTION REQUESTED: NONE

AGENDA ITEM 9

ADJOURNMENT

Chairman Sergent asked for a motion to adjourn the meeting. There being no further business, the meeting was adjourned at 3:28 p.m. upon the motion of Commissioner Buczynski and second by Commissioner Spinner.