



Maryland Health Care Commission

Thursday, November 17, 2016

1:00 p.m.



1. **APPROVAL OF MINUTES**
2. UPDATE OF ACTIVITIES
3. [ACTION: COMAR 10.24.19 – State Health Plan for Facilities and Services: Freestanding Medical Facilities Chapter – Proposed Regulations](#)
4. [ACTION: Certificate of Need – Calvert Memorial Hospital Renovation and Expansion \(Docket No. 15-04-2370\)](#)
5. [ACTION: Certificate of Need Modification – Kaiser Permanente South Baltimore County \(Docket No. 16-03-2372\)](#)
6. [ACTION: MCDB Data Submission Manual, MCDB](#)
7. [ACTION: Approval for Release - Maryland Physician Services Trauma Fund Report](#)
8. [PRESENTATION: COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information to release for informal public comment](#)
9. [Overview of Upcoming Initiatives](#)
10. [ADJOURNMENT](#)



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ACTION:

COMAR 10.24.19 – State Health Plan for Facilities and Services: Freestanding Medical Facilities Chapter – Proposed Regulations

(Agenda Item #3)



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ACTION:

Certificate of Need – Calvert Memorial Hospital Renovation and Expansion
(Docket No. 15-04-2370)

(Agenda Item #4)



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ACTION:

Certificate of Need Modification – Kaiser Permanente South Baltimore County
(Docket No. 16-03-2372)

(Agenda Item #5)



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ACTION:

MCDB Data Submission Manual, MCDB

(Agenda Item #6)



MCDB Submission Manual

COMMISSION MEETING

NOVEMBER 17, 2016

Overview

- Refresher on MCDB Reporting Requirements
- Review changes of the 2017 Submission Manual
- Impact of SCOTUS *Gobeille v. Liberty Mutual* Ruling on the MCDB
- Seek approval of the 2017 Submission Manual

What's included in the MCDB

- Commercial Reporting Entities:
 - Life and Health Insurance Carriers and HMO's
 - TPA's, PBM's, Behavioral Health Administrators
 - Qualified Health Plans and Qualified Dental Plans

- Data reported:
 - Membership / Eligibility
 - Claims files: Professional, Institutional, Pharmacy, and Dental
 - Provider Directory
 - Non-Fee-for-Service Spending (Future)

- Medicaid MCO Data:
 - Provided by Medicaid via the Hilltop Institute

- Medicare Data:
 - Acquired through data request from ResDAC

What's changing?

- ❑ No changes in Maryland's reporting requirements except for the reporting of privately insured ERISA Self-Funded Health Plans
 - ❑ Maryland will not be enforcing data collections from privately insured ERISA Self-Funded Health Plans (Large Employer Groups) due to the *Gobeille v. Liberty Mutual* Supreme Court's (SCOTUS) ruling on March 1, 2016
- ❑ MCDB v. MIA Data Reconciliation:
 - ❑ Payor reconcile membership and allowed claims with Actuarial Memorandum data sent to MIA via rate filings before submitting to MCDB
 - ❑ Data reconciliation only applies to ACA compliant health insurance plans sold on and off the Maryland Health Benefit Exchange
- ❑ Added Fields:
 - ❑ "Allowed Amount" field added to Pharmacy Services file
 - ❑ "Amount Paid by Other Insurance" field added to Professional, Pharmacy and Dental Services files
- ❑ Promoting timeliness through:
 - ❑ Clarifying reporting requirements and validation checks
 - ❑ Shortening submission and review timelines
 - ❑ Enforcing fining authority

SCOTUS Ruling Impact on MCDB

☐ Privately Insured Data Collection (Members as of 12/31/2014) – Pre-SCOTUS Ruling

Payor Type	Fully-Insured	Self-Insured	Total*
Life and Health / HMO, TPAs	1,463,238	2,271,160	3,734,398
Life and Health / HMO, TPAs	39%	61%	100%

* All covered lives (Maryland and Non-Maryland Residents)

☐ Estimated Impact of *Gobeille v. Liberty Mutual* – based on 2014

Payor Type	Fully-Insured	Self-Insured ERISA	Self-Insured Non-ERISA	Total
Life and Health / HMO, TPAs	1,463,238	1,268,942	1,002,218	3,734,398
Life and Health / HMO, TPAs	39%	34%	27%	100%



34% of Privately Insured Medical Members (12/31/2014) are in Self-Insured ERISA Plans

Impact on Use Cases

Use Case Domain	Examples	Impact
Public Reporting / Transparency Initiatives	Industry Portal	Low
	Consumer Portal	Low/Medium
Performance Reporting	NRHI TCOC	Medium/High
Health Care Reform	HSCRC / Hospital Payment Model	Medium
	MIA / Rate Review	None
Policy Reports	Annual Reports	Low
	Legislative Studies	Low

Update on Gobeille v. Liberty Mutual SCOTUS Ruling

- ❑ Vermont APCD and *Gobeille v. Liberty Mutual* Case
 - ❑ Liberty Mutual, acting as an employer, contested Vermont’s requirement that their TPA (local Blue plan) must submit data to the APCD
 - ❑ Supreme Court ruled that Vermont’s requirement was a pre-emption of the Employee Retirement Income Security Act (ERISA) for privately insured Self-Funded Health Plans. Decision affects 17 states with APCDs

- ❑ What was done since SCOTUS ruling:
 - ❑ Department of Labor (DOL) has the statutory authority to require self-funded plans to submit health care claims and related data under the Public Health Service Act which is incorporated into ERISA and applied to group health plans by ERISA.
 - ❑ Goal of APCD states is to encourage DOL to revise ERISA self-funded group health plans reporting requirements to include membership and claim-level data consistent with APCD reporting.
 - ❑ Staff is collaborating with APCD Council, National Academy for State Health Policy (NASHP), National Association of Health Data Organizations (NAHDO) and other APCD states to develop a comprehensive plan in the form of a Common Data Layout (CDL) that DOL would implement through a federal rule making process
 - ❑ NASHP et al. have submitted comments to the DOL on behalf of APCD states including Maryland on proposed changes to Form 5500 annual report for employee benefit plans including the new Schedule J that will be tied to the CDL.
 - ❑ Staff has submitted comments to DOL endorsing what NASHP et al. have suggested.

Next Steps

- Commission questions and vote on posting submission manual to Commission website
- Disseminate Manual and follow up with Payor Meetings
- Implement changes for submission starting in May 2017 for Q1 2017 Data Reports



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ACTION:

Approval for Release - Maryland Physician Services Trauma Fund Report

(Agenda Item #7)

MARYLAND HEALTH CARE COMMISSION

Maryland Trauma Physician Services Fund

Bridget Zombro, Director of Administration

Karen Rezabek, Program Manager

November 17, 2016



PURPOSE

The Maryland Trauma Physician Services Fund:

- **Reimburses trauma physicians for care rendered to patients that are uninsured;**
- **Offsets trauma centers' costs for physicians on-call at the centers; and**
- **Provides grants to trauma centers for trauma-related equipment**

BUDGET

- The Fund received \$12.3 million from the \$5 registration fees collected by the Maryland Motor Vehicle Administration in FY 2016
- The Fund expended:
 - \$1.6 million in uncompensated care
 - \$7.5 million in on call and stand-by stipends
 - \$57,000 to Medicaid
 - \$161,000 in Administrative Expenses

- **The 8% reduction in payments effective July 1, 2009 ended on July 1, 2015 (the first day of FY 2016) when funding was restored to 100% of the Medicare rate.**
- **Both uncompensated care and refunds to the fund were substantially reduced in FY 2016.**
- **Commission staff expects similar results for FY 2017.**
- **Uncompensated care payments and on-call stipends were increased by 5% above the Medicare rate, for FY 2017.**

Commission staff proposes that no statutory changes be made for FY 2017.

▶ **Questions?**

▶ **Contact us:**

▶ **Bridget Zombro, Director of Administration, Bridget.Zombro@maryland.gov**

▶ **Karen Rezabek, Program Manager, Karen.Rezabek@maryland.gov**



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PRESENTATION:

COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information to release for informal public comment

(Agenda Item #8)

Health Information Exchange Privacy and Security

Draft Amendments

COMAR 10.25.18

November 17, 2016



The MARYLAND
HEALTH CARE COMMISSION

Summary

- Legislative Authority - A 2011 law requires MHCC to adopt regulations for the privacy and security of protected health information exchanged through a health information exchange (HIE)
- Staff seeks Commissioner approval to release draft amendments to COMAR 10.25.18 *Health Information Exchanges: Privacy and Security of Protected Health Information* for informal public comment
- Consumer Access Draft Amendments Overview
 - Applies to HIEs that choose to provide consumers with electronic access to their information
 - Ensures that HIEs that offer access do so in a way that ensures private and secure exchange of information is of value to the consumer
 - Addresses electronic consumer access, including: view, download, transfer, control, and submit
 - Requires HIEs to provide consumers with access to an electronic disclosure report

Background

- The need for HIE Regulations - National concerns exist about the sufficiency of HIPAA/HITECH as the floor for privacy and security
 - Staff worked with the HIE Policy Board, a staff advisory group, to develop policies used as a framework for the amendments
- Regulations went into effect on March 17, 2014 and were amended on June 20, 2016
- HIEs currently operating in Maryland:
 - Calvert Memorial Hospital
 - Chesapeake Regional Information System for our Patients (CRISP)
 - Children's IQ Network
 - Frederick Memorial Hospital
 - Peninsula Regional Medical Center
 - Prince George's County Public Health Information Network
 - Western Maryland Health Systems

Access

- HIEs must appropriately verify the identity of the health care consumer requesting electronic access
- HIEs must allow the consumer to authorize another person to have access to their health information, such as a family member or caregiver
- An HIE may charge a reasonable published fee for providing electronic access

View Access

- Patient's information available for view, must be equivalent to what is made available to health care providers using the HIE
 - Certain attributes about their health information must be made available, such as date of treatment and source of the information
- An HIE must provide information to consumers that will assist them if they have any questions about their electronic health information
- Patient's electronic information must be presented in a way that is easy to navigate and can be easily printed

Download, Transfer, or Control Access

- HIEs that offer consumers the ability to control how their information is released must implement technology processes that meet generally accepted industry processes and practices
- HIEs that offer consumers the ability to download or transmit their health information shall provide the patient's information in a readily available industry standard format, standards which are typically used in other online applications

The Ability to Submit

- An HIE that offers health care consumers the ability to submit information to the HIE, shall:
 - Identify the source of the information, such as, patient, payor, health care provider, etc., when presented to the provider using the HIE
 - Not use patient submitted health information to override or replace health information submitted from other sources, such as providers or payors

Consumer Education

- An HIE must provide information to consumers regarding electronic access, including:
 - What information the consumer must provide as part of patient identity proofing
 - The right to authorize a person in interest to also have access to their electronic health information
 - The right to request review of a denial of access
 - What level of consumer control they may have over their health information
 - Advice concerning safeguarding their health information obtained from the HIE

Disclosure Report

- Within six months of the regulation effective date, an HIE must establish and maintain an online process that allows consumers to obtain an electronic report detailing any disclosures of their information through the HIE
- An HIE must comply with certain security provisions such as, identity proofing, authentication, audits, etc.

Exemption

- An HIE may request an exemption from a requirement in the regulations
- An exemption request must specify the reason for the exemption and the time period requested for the exemption if applicable
- The MHCC may choose to issue a temporary exemption, request additional information, or deny the request

Next Steps

- With Commission approval, release draft amendments for a 30-day informal comment period
- Revise the draft amendments as appropriate based on informal comments received
- Propose draft amendments to the Commission in early 2017

Thank You!



**The MARYLAND
HEALTH CARE COMMISSION**



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Overview of Upcoming Initiatives

(Agenda Item #9)



ENJOY THE REST OF
YOUR DAY