



Maryland  
Hospital Association

February 7, 2024

Megan Renfrew  
Associate Director of External Affairs  
Health Services Cost Review Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215

**Re: Comments on Memorandum of Understanding, Data Sharing and Nondisclosure Agreement, and Other Documents (MOU/DSNA) Related to Implementation Health – General, § 19-214.4**

Dear Ms. Renfrew:

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment on the Memorandum of Understanding, Data Sharing and Nondisclosure Agreement, and Other Documents (MOU/DSNA) related to the implementation of Health – General § 19-214.4. The law requires the Health Services Cost Review Commission (HSCRC), in coordination with the Comptroller's Office, Department of Human Services (DHS), and MHA, to develop a process to identify and reimburse patients who paid out-of-pocket for hospital services when they may have been eligible for free care.

Maryland hospitals have one core mission: to provide the best patient care possible. They deliver this care 24/7/365 to every person who comes through their doors, regardless of their ability to pay. Every person should receive the care they need without financial worry or hardship, and hospitals make every effort to inform patients through multiple channels about available financial assistance, including free and reduced-cost care. At the same time, hospitals are committed to protecting the privacy of patients and their data—upholding ethical and legal standards and fostering trust between health care providers and their patients. As such, we look forward to working with HSCRC, the legislature, and the Comptroller to continue to better identify patients who may have been eligible for assistance.

However, the draft MOU/DSNA could have the unintended consequence of placing sensitive patient information at risk. The stringent regulations regarding financial and tax data sharing for patients underscore its critical importance. Even with safeguards in place, exchanging data among multiple state agencies and hospitals increases the risk of a breach.

We appreciate HSCRC's consideration of our concerns about patient privacy associated with this process and for working together to find solutions. Additionally, we look forward to engaging with our partners, agencies, payers, and other stakeholders to identify future opportunities to reduce patient cost exposure and ease barriers to access.

### **Data Security**

We recognize the importance of safeguarding tax information, but MHA's foremost concerns with the MOU/DSNA are the unfamiliar—and rigorous—information technology and data security requirements associated with handling tax documents received from the Comptroller. While members are well-versed in safeguarding protected health information, official federal and state tax documents are subject to significantly higher security standards. Hospitals would have to expend significant resources to comply with requirements such as IRS Publication 1075 and additional requirements in the MOU/DSNA, including new types of staff training, changes to technological infrastructure, revisions to existing vendor contracts (e.g., electronic medical records, billing, financial assistance, etc.), and workflows in the event of a data breach. Additionally, some hospitals and health systems have switched financial systems since 2017, meaning any information from that period would be difficult to access in retired, legacy systems. We ask HSCRC to continue working with hospitals and other stakeholders—including the Comptroller—to identify solutions to tax information sharing that does not go beyond the scope of hospitals' existing data security requirements.

Of secondary concern is the matching process dependent on social security numbers and the multiple data transfer steps required to identify the pool of patients eligible for a refund. Rightfully, patients are often reluctant to disclose their social security numbers unnecessarily. Therefore, hospitals may not have it on file. Without a common identifier, it would be even more difficult for hospitals to validate the patients matched by state agencies' tax documents. We recommend HSCRC work with the field and the Comptroller to seek a common identifier other than social security numbers that can be used to validate patients across data sources and lessen hospitals' administrative burden when the final match data is returned to the hospital.

### **Patient Notification of Refund**

Maryland hospitals do not have the means to confirm a patient's address beyond what is listed in their medical records. Patient information from medical records for hospital visits in 2017 may be outdated. The Comptroller's Office is most likely to have the most current address for a patient in their tax filing. MHA recommends that the file sent from the Comptroller's Office verifying patient eligibility for a refund include the patient's address from the most recent tax filing. As always, practicable steps should be taken to protect addresses for victims of domestic abuse.

Under the draft MOU/DSNA, hospitals are concerned about having sufficient time to verify patient eligibility, contact patients, and issue refunds. These processes are complex, resource intensive, and require significant staff time to ensure patients' health and tax data is protected. Therefore, we request hospitals be given more time to verify a patient's eligibility and to issue a potential refund.

The hospital field looks forward to working with HSCRC, the Comptroller's Office, and other state agencies to ensure the process is safely, effectively, and efficiently implemented. Please feel free to contact me or my colleague, Diana Hsu ([dhsu@mhaonline.org](mailto:dhsu@mhaonline.org)) if you need any additional information.

Sincerely,



Jake Whitaker ([jwhitaker@mhaonline.org](mailto:jwhitaker@mhaonline.org))  
Director, Government Affairs

CC: Deb Rivkin  
Krista Sermon  
Paul Katz