



Maryland
Hospital Association

January 22, 2018

Paul Parker
Director, Center for Health Care Facilities Planning & Development
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Mr. Parker:

On behalf of its 64 member hospitals and health systems, the Maryland Hospital Association appreciates the opportunity to respond to the Maryland Health Care Commission's (MHCC) request for comments on Maryland's Certificate of Need (CON) program. Our response includes several key overarching principles related to Maryland's current All-Payer Model and future Enhanced Total Cost of Care Model (collectively, the model), as well as direct answers to the questions posed in the MHCC's Comment Guidance questionnaire.

Background and All-Payer Model Performance

Since the beginning of Maryland's All-Payer Model in January 2014, Maryland's hospitals have outperformed the model's per capita spending targets. Statewide, hospital spending per capita is growing more slowly than the nation, while Maryland's hospitals continue to maintain a robust range of services that all Marylanders can access. Across the country, hundreds of rural hospitals are at risk of closing, while other hospitals require greater state and local subsidies to ensure access to health care for local communities.

Because hospitals are responsible for the total cost of health care statewide, the commission should recognize the unique position of Maryland's hospitals when revising CON statutes and regulations. As we provide feedback on Certificate of Need, Maryland's unique rate setting system and our All-Payer Model performance remain at the forefront of our positions.

Key Principles

There are key expectations that guide hospital positions on CON, the State Health Plan for Facilities and Services (State Health Plan) and related MHCC regulations. These include:

- Maryland will continue to operate under its unique waiver from Medicare's payment systems, transitioning from the current All-Payer Model to the Enhanced Total Cost of Care Model beginning in January 2019
- By 2023, Maryland must guarantee \$300 million in annual savings, for both hospital and non-hospital services, through slower growth in total Medicare spending *per beneficiary* than the nation

- The Maryland Health Services Cost Review Commission (HSCRC) will continue to set hospital rates
- Other than normal Medicaid payment schedules, Maryland will not set rates for non-hospital health care providers; should the Centers for Medicare & Medicaid Services (CMS) grant Maryland the authority to apply a Medicare Performance Adjustment (MPA) to differentiate non-hospital payments, implementation for non-hospital providers would be voluntary
- Though delivery system incentives may influence provider behavior, only hospitals, through the HSCRC's authority, are being held responsible and accountable to deliver annual Medicare savings

Maryland's All-Payer Model and Enhanced Total Cost of Care Model

Maryland's hospitals strongly support Certificate of Need under both models. Securing the Enhanced Total Cost of Care Model is a priority for Maryland's regulators and elected officials, and is fully supported by Maryland's hospitals. The models provide unparalleled access to health care services and prevent the cost shifting among payers that occurs in other states.

Both Medicare spending growth per beneficiary and all-payer spending growth per capita, for all services, are bound by the models. The historical waiver (prior to January 2014) only required that Maryland's inpatient Medicare prices grow slower than the nation. The enhanced model that will begin in January 2019 limits *total Medicare* spending growth *per beneficiary*, including price and volume, for all health care services.

Hospital global budgets provide powerful incentives to reduce unnecessary and avoidable use, but this incentive only applies directly to hospitals. Hospitals can indirectly affect non-hospital service use through partnerships and alignment incentives. However, non-hospital service providers are not subject to rate setting or global budgets. **Unlike with Maryland's hospitals, non-hospital revenues grow when service use and volume increase.** Therefore, any unchecked volume growth increases Medicare spending, directly driving up the total spending per Maryland Medicare beneficiary.

The HSCRC can adjust hospital rates to make up for this increase in order to comply with the overall spending limit. Certificate of Need is one of the few tools to regulate the supply of health care services. Under Maryland's current All-Payer Model, significantly eroding or removing Certificate of Need barriers would not be appropriate. Maryland's hospitals, like all stakeholders, are willing to modernize CON and the State Health Plan, but the core principles of CON should remain in place.

MHCC plays an important role, issuing policies through the State Health Plan for Facilities and Services (State Health Plan). This policy role ensures Marylanders have access to quality, efficient health care. Determining the complement of available services throughout the state is the foundation of health care delivery, aligning with model incentives to provide the right care, at the right time, in the right setting, for every patient.

Comment Guidance Responses

Responses from the hospital field are attached to this letter. In several instances, the responses are based on our understanding of the question, but additional clarification may be needed. In those cases, we explicitly noted how we read the question.

In addition to this feedback, MHA's Certificate of Need and State Health Plan hospital work group is concurrently addressing these important issues. Further responses to the commission's questions are expected to be an outcome of the work group's review of these issues. For example, question 8 asks about the strengths and weaknesses of State Health Plan regulations. MHA's work group will first assess the overall purpose of the State Health Plan, and then review each chapter to suggest specific modifications.

Our initial responses are focused on hospitals and hospital services. However, through MHA's work group review process, we will provide feedback to the commission on State Health Plan chapters and other policies that affect non-hospital services. In some responses, we have provided general recommendations. MHA's work group will likely respond with specific, detailed recommendations as we complete our issue review.

We appreciate the commission's detailed and thorough approach to Certificate of Need review and Maryland's hospitals look forward to continuing to provide the commission with feedback on current considerations, potential changes and future impacts.

Thank you for your consideration.

Should you have any questions, please call me at 410-540-5060.

Sincerely,



Brett McCone
Vice President

cc: Robert Emmet Moffit, PhD., Chairman, MHCC
Ben Steffen, Executive Director, MHCC
Kevin McDonald, Chief, Certificate of Need, MHCC
Donna Kinzer, Executive Director, MHCC

Enclosure