



## **House Bill 909 – Maryland No-Fault Birth Injury Fund**

### **Position: *Support***

#### **Bill Summary**

HB 909 would establish a system for adjudication of a claim involving a birth-related neurological injury; provide equitable compensation, on a no-fault basis, for a narrow class of medical injuries that result in unusually high costs for custodial care and rehabilitation; establish the Maryland No-Fault Birth Injury Fund to provide compensation and benefits to eligible claimants; provide for specified premiums and insurance surcharges to be used to finance and administer the Fund; applying the Act prospectively; etc.

#### **MHA Position**

Maryland's hospitals support efforts to provide rapid, comprehensive relief to families who have suffered an injury during childbirth. Actuaries estimate that approximately seven families would qualify and benefit from the Maryland No-Fault Birth Injury Fund each year. These families deserve hassle-free compensation to address their needs rather than a time-consuming, uncertain legal process that can take several years and whose outcome is uncertain.

Similar to funds already operating in Florida and Virginia, the No-Fault Birth Injury Fund would provide compensation via a timely, efficient mechanism paid for by hospitals – without asking injured parties to play the “litigation lottery.” The fund would provide up to \$500,000 in immediate compensation for expenses, as well as unlimited lifetime medical, therapeutic, rehabilitation and other care, lifetime earnings reimbursement, and compensation for legal expenses. Families that are suffering need rapid resolution and assurance that all funds associated with birth injury go to them, rather than a prolonged process that cuts trial attorneys in for a substantial portion.

Given that Maryland's highly litigious environment is among the most costly in the nation, hospitals have come together to support reform that helps people get the compensation they deserve in a timely manner. The fund is paid for by hospitals based on an annual actuarial projection, ensuring that it will be adequately resourced to administer and pay claims. In 2016, Maryland ranked 12th in the nation in per capita medical malpractice payouts with a total payout amount of \$92 million. Further, defensive medicine – the overuse of tests and procedures as doctors and other providers seek to protect themselves from potential lawsuits – accounts for 13 percent of all hospital costs, which translates into an additional \$2.1 billion in unnecessary health care spending in Maryland.

Already, a work group established in 2014 by the Maryland Department of Health and another in 2015 – the Workgroup to Study Access to Obstetric Services – have recommended a No-Fault Birth Injury Fund be a component of an effective, efficient compensation system. This system would balance accountability with the needs of injured parties and help ensure access to maternity health care across the state.

For these reasons, we urge you to give HB 909 a *favorable* report.