

Memorandum

To: Commissioners

From: Bridget Zombro
Director of Administration

Date: June 20, 2013

Subject: COMAR 10.25.03 *User Fee Assessment on Payers, Hospitals, and Nursing Homes* –
Proposed Amendments

Overview

Attached is COMAR 10.25.03, which is presented to the Commission for final action.

Background

Senate Bill 786 – Department of Health and Mental Hygiene – Maryland Health Care Commission – Modifications and Clarifications passed during the 2001 Session of the General Assembly requires the Commission every four years to: 1) make a recommendation on the Commission’s statutory cap; 2) use a methodology that accounts for the portion of the Commission’s workload attributable to each industry assessed and place that allocation into regulation and; 3) the user fee on health practitioners, requires the Commission to consider the hourly wages of the health care practitioners and give preference to exemption those health care practitioners with an average hourly wage substantially below that of other health care practitioners.

House Bill 800 – *Maryland Health Care Commission – Program Evaluation* uncodified language requires the Commission to study to the extent possible other health care providers not currently subject to a user-fee assessment; which utilize the Commission resources, and discuss the feasibility and desirability of extending a user fee to these additional types of providers regulated by the Commission.

Summary of Formal Public Comments

The *Notice of Proposed Action on Regulations* that appeared in the Maryland Register on March 22, 2013 is provided as Attachment A. The 30-day public comment period for the proposed changes ended on April 22, 2013. There were no comments received during the comment period for COMAR 10.25.03.

Staff Recommendations

Staff recommends that the Commission adopt the proposed published regulation, COMAR 10.25.03 as final.

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 25 MARYLAND HEALTH CARE COMMISSION

**10.25.03 User Fee Assessment on Payers, Hospitals,
and Nursing Homes**

Authority:Health-General Article, §19-111,
Annotated Code of Maryland

Notice of Final Action

On June 20, 2013, the Maryland Health Care Commission adopted amendments **Regulation .02**, under **COMAR 10.25.03 User Fee Assessment on Payers, Hospitals, and Nursing Homes**. This action was considered by the Commission at an open meeting, notice of which was given through publication in the *Maryland Register* pursuant to State Government Article, §10-506, Annotated Code of Maryland. This action, which was proposed for adoption in *40:6 Md. R. 484-485 (March 22, 2013)*, has been adopted as proposed.

Effective Date: July 22, 2013

Craig P. Tanio, M.D.
Chairman
Maryland Health Care Commission

**Subtitle 25 MARYLAND HEALTH
CARE COMMISSION**

**10.25.03 User Fee Assessment on Payers,
Hospitals, and Nursing Homes**

Authority: Health-General Article, §19-111, Annotated Code of Maryland

**Notice of Proposed Action
[13-087-P]**

The Maryland Health Care Commission proposes to amend Regulation .02 under COMAR 10.25.03 User Fee Assessment of Payers, Hospitals and Nursing Homes. This action was considered by the Commission at an open meeting on December 20, 2012 notice of which was given through publication in the Maryland Register, pursuant to State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to implement Health-General Article, §19-111, Annotated Code of Maryland, as it relates to the assessment and collection of Maryland Health Care Commission user fees from payers, hospitals, and nursing homes.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This user fee assessment applies to payers, hospitals, and nursing homes and represents, at a maximum, 78 percent of the total user fees assessed by the Maryland Health Care Commission, as mandated by Health-General Article, §19-111, Annotated Code of Maryland.

II. Types of Economic Impact.

Revenue (R+/R-)	Magnitude
Expenditure (E+/E-)	

A. On issuing agency:	(R+)	\$10,920,000 (Maximum)
B. On other State agencies:	NONE	
C. On local governments:	NONE	

Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups: (-)	\$10,920,000 (Maximum)
E. On other industries or trade groups:	NONE
F. Direct and indirect effects on public:	NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. and D. Health-General Article, §111, Annotated Code of Maryland, caps the total number of user fees assessed by the Maryland Health Care Commission at 12,000,000 per fiscal year. The Commission will propose to raise the user fee statutory cap in the 2014 Session of the General Assembly to 14 million. Under the law, the maximum percentage of this amount that may be assessed payers

Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups: (-)	\$3,080,000 (Maximum)
E. On other industries or trade groups:	NONE
F. Direct and indirect effects on public:	NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. and D. Health-General Article, §111, Annotated Code of Maryland, caps the total number of user fees assessed by the Maryland Health Care Commission at 12,000,000 per fiscal year. The Commission will propose to raise the user fee statutory cap in the 2014 Session of the General Assembly to 14 million. Under the law, the maximum percentage of this amount that may be assessed payers is 28 percent. The maximum percentage that may be assessed hospitals is 33 percent. The maximum percentage that may be assessed nursing homes is 17 percent. Because the Commission budget is less than the cap on total assessments, the total user fees collected in practice will be less than the maximum amount, depending on the Commission's budget in any fiscal year.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Bridget Zombro, Director of Administration, Maryland Health Care Commission, 4160 Patterson Avenue Baltimore, Maryland 21215, or call (410) 764-3460, or email to , or fax to (410) 358-8811. Comments will be accepted through 4:30 p.m. on April 22, 2013. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Commission during a public meeting to be held on May 16, 2013 @ 1:00 P.M., at 4160 Patterson Ave, Conference Rm. 100 Baltimore, Maryland 21215.

.02 Method of User Fee Assessment.

A. — B. (text unchanged)

C. The formula the Commission shall use to calculate the fee set forth in the fee schedule is [18] 22 percent of the total assessed fees per fiscal year divided by the number of health care practitioners identified pursuant to §A of this regulation.

D. (text unchanged)

CRAIG P. TANIO, M.D.
Chairman

is 28 percent. The maximum percentage that may be assessed hospitals is 33 percent. The maximum percentage that may assessed nursing homes is 17 percent. Because the Commission budget is less than the cap on total assessments, the total user fees collected in practice will be less than the maximum amount, depending on the Commission's budget in any fiscal year.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

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Comments may be sent to Bridget Zombro, Director of Administration, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, MD 21215, or call 410-764-3460, or email to , or fax to 410-358-8811. Comments will be accepted through 4:30 pm on April 22, 2013. A public hearing has not been scheduled.

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.02 Method of User Fee Assessment.

A.—B. (text unchanged)

C. For [July 1, 2009—June 30, 2013] *July 1, 2013—June 30, 2017*, the amount assessed on payers may not exceed [29] *28* percent of the total amount assessed by the Commission. The amount assessed on hospitals may not exceed [31] *33* percent of the total amount assessed. The amount assessed on nursing homes may not exceed [22] *17* percent of the total amount assessed.

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Subtitle 54 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

10.54.01 Eligibility, Participation, and Benefits

Authority: Health-General Article, §18-107(a), Annotated Code of Maryland

Notice of Proposed Action

[13-090-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .19 under COMAR 10.54.01 Eligibility, Participation, and Benefits.

Statement of Purpose

The purpose of this action is to revise sanctions that can be imposed against a participant for violating WIC program rules.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through April 22, 2013. A public hearing has not been scheduled.

.19 Sanctions.

A. (text unchanged)

B. If a participant or a child or infant participant's parent, guardian, or caretaker, has deliberately misrepresented the participant's income, residence, family size, health status, medical data, or date of birth, the:

(1) Program shall [disqualify]:

(a) *Disqualify* the participant from the Program for 3 months; or [terminate]

(b) *Disqualify the participant for 1 year if the State agency assesses a monetary claim of \$100 or more; or*

(c) *Terminate* the participant from the Program if Program eligibility standards are not met; and

(2) (text unchanged)

C. If a participant or a child or infant participant's parent, guardian, caretaker, or proxy obtains or attempts to obtain food instruments to which the participant is not entitled, sanctions shall be applied according to the following:

(1) If the offending party is a participant or a child or infant participant's parent, guardian, or caretaker:

(a) (text unchanged)

(b) For a subsequent offense, the Program shall disqualify the participant from the Program for:

(i) 3 months; [and] or

(ii) *1 year if the State agency assesses a monetary claim of \$100 or more; and*

(c) (text unchanged)

(2) (text unchanged)

D. If a participant engages in dual participation as defined in Regulation .04B of this chapter:

(1) For the first offense, the Program shall counsel the participant or a child or infant participant's parent, guardian, or caretaker, and disqualify the participant [from]:

(a) *From* the appropriate WIC Programs; [and] or

(b) *For 1 year if the State agency assesses a monetary claim of \$100 or more; and*

(2) For a subsequent offense, the:

(a) Program shall disqualify the participant from the Program enrollment for [3 months] *1 year*; and [the offending]

(b) *Offending* party shall pay to the State agency, in cash, the monetary value of the items received.

E. If a participant or a child or infant participant's parent, guardian, or caretaker, or a proxy steals or attempts to steal a food instrument, the:

(1) Program shall:

(a)—(b) (text unchanged)

(c) *Disqualify the offending party for 1 year if the State agency assesses a monetary claim of \$100 or more;*