

## **Options for Reconciliation of FY 2010 Averted Bad Debt Estimates to Actual**

Health Services Cost Review Commission  
4160 Patterson Avenue  
Baltimore, MD 21215  
410-764-2605

September 14, 2011

These options are for final Commission consideration at the September 14, 2011 Public Commission Meeting. No action was taken, further consideration to be made at the October 12, 2011 Commission Meeting.

## Purpose

The purpose of this paper is to illustrate how the Health Services Cost Review Commission (the Commission or HSCRC) estimates hospital averted bad debt resulting from the Medicaid expansion; to show how the Commission determines the actual amount of averted bad debt in that year; and to propose a series of options for the Commission to consider for reconciling estimates to the actual results. Commission staff is seeking guidance on how to reconcile the estimated averted to actual for state fiscal year (FY) 2010.

## Background

In 2007, the General Assembly enacted Chapter 7 of the Laws of Maryland, The Working Families and Small Business Health Coverage Act (The 2007 Act), which expands access to health care in the following ways:

- Expands Medicaid eligibility to parents and caretaker relatives with household income up to 116 percent of the federal poverty guidelines (FPG), an increase from 46 percent FPG, to be implemented beginning in FY 2009;
- Contingent on available funding, incrementally expands the Primary Adult Care (PAC) program benefits over three years to childless adults with household income up to 116 percent FPG (previously 46 percent FPG), to be phased in from FY 2010 through FY 2013; and
- Establishes a Small Employer Health Insurance Premium Subsidy Program, to be administered by the Maryland Health Care Commission.

Special funds, including savings from averted uncompensated care and federal matching funds, will cover a portion of the costs of the expansion. Chapters 244/245 were adopted in 2008 to require the Commission to implement a uniform assessment on hospital rates that reflects the aggregate reduction in hospital uncompensated care realized from the expansion of the Medicaid Program under The 2007 Act. To qualify for federal matching funds, Chapters 244/245 require the assessment to be broad-based, prospective, and uniform.<sup>1</sup> The 2008 legislation also requires the Commission to ensure that the assessment amount does not exceed the savings realized in averted uncompensated care from the health coverage expansion.

In conformance with The 2007 Act, Medicaid enrolled approximately 29,273 expansion population individuals in FY 2009. In FY 2010, expected enrollment in the Medicaid expansion grew to 50,500.

---

<sup>1</sup> The federal Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 require that in order for provider taxes to access federal matching funds, they may not exceed 25 percent of a state's share of Medicaid expenditures; they must be broad-based and uniform; and they may not hold providers harmless. A uniform tax is one that is imposed at the same rate on all providers.

As described above, The 2007 Act also expands services to childless adults, contingent on available funding. Prior implementation of this provision, the childless adult population received only primary care, pharmacy, and certain office and clinic-based mental health services through the PAC program. The Act intended to phase in specialty physician, emergency, and hospital services over a three-year period, to the extent that available funding exists. In accordance with Board of Public Works action in July of 2009, Medicaid added emergency services to the PAC benefit beginning January 1, 2010.

### Hospital Uncompensated Care

Hospital Uncompensated Care (UCC) provisions in Maryland hospital rates are specific to each hospital and based on formulas and historical data. Thus, the amount a hospital receives in its rate base varies year by year based on the Commission’s UCC policy and formula. Commission staff calculate and release the UCC policy results every year, usually in May or June. The prospective amount established for each hospital for the upcoming year is a blend of a hospital’s three year average actual UCC and a predicted amount calculated by means of a linear regression model. In a final UCC calculation step, Commission staff applies a revenue neutrality adjustment to adjust each hospital’s calculated UCC percentage to align with the last year’s statewide average UCC percentage. See Table 1 for an example of the UCC policy calculation.

**Table 1: Example of the HSCRC’s Uncompensated Care Policy with Results**

Policy Steps		Example of FY 2008 UCC for a Hospital	
Step 1	For each hospital, calculate the three year moving average of actual UCC	<i>Actual UCC</i> 2005: 6.25% 2006: 6.72% 2007: 7.15%	<i>Moving average</i> $\frac{(6.25\% + 6.72\% + 7.15\%)}{3} = 6.71\%$
Step 2	For each hospital, use a linear regression model to determine the predicted UCC	<i>Regression predicted UCC value for hospital:</i> 7.05%	
Step 3	50/50 blend the results from Step 1 and Step 2	<i>50/50 blend of past actual and regression prediction:</i> $(6.71\% + 7.05\%)/2 = 6.88\%$	
Step 4	Apply revenue neutrality adjustment to align each hospital with the most recent year’s statewide actual UCC	<i>Statewide UCC 2007: 7.30%</i> <i>Statewide Step 3 blended (all hospitals): 7.15%</i> <i>Statewide revenue neutrality adjustment percentage:</i> $7.30\% / 7.15\% = 1.02\%$ <i>Hospital UCC adjusted for revenue neutrality:</i> $6.88\% * 1.02\% = 7.02\%$	
<b>Result</b>	<b>HSCRC applies the hospital-specific FY 2008 UCC policy result of 7.02% to FY 2009 rates for that hospital.</b>		

Because Commission staff calculate the policy result (UCC provision for each hospital) prospectively based partially on historical data, there is always a slight discrepancy (by design) between actual UCC experienced by hospitals and the UCC provision in rates per HSCRC

policy. This lag, which stabilizes the UCC across time, also results in UCC being slightly underfunded when the actual number of uninsured is increasing over time, and UCC being overfunded when the actual number of uninsured is decreasing over time (e.g., during periods of economic prosperity, systematic changes to increase coverage such as small group health insurance reform or implementation of the Maryland Children's Health Insurance Program).

### **Determination of the Averted Bad Debt Assessment Amount**

As discussed in the Background section above, Chapters 244/245 from 2008 require the Commission to implement a uniform assessment on hospital rates. The assessment is required to reflect the aggregate reduction in hospital uncompensated care that will be realized from the expansion of the Medicaid Program under The Act.

Beginning in FY 2009, each year, the Commission works with the Department of Health and Mental Hygiene (the Department, or DHMH) to arrive at a total amount of bad debt that is expected to be averted during the upcoming fiscal year as a result of the Medicaid expansion. The Department provides the HSCRC with expected enrollment, per member/per month costs, and total expenditures. Commission staff then adjusts the expected total Medicaid expansion expenditure amount to reflect:

- **Out-of-State Admissions** – This represents the percentage of expenditures expected to be made at hospitals in Maryland. Using a three-year average from Medicaid claims data, the percentage applied to the estimated total Medicaid expansion expenditure is 94 percent;
- **The Hospital Portion** – This is the estimated percentage of Medicaid expansion expenditures that would accrue to hospitals (as opposed to other providers or service components). This percentage was calculated based on Medicaid HealthChoice reimbursement data which categorizes payment rates by hospital, drug, and other components;
- **Crowd out** – This estimates the share of Medicaid expansion spending that is directed to individuals who previously had private health care coverage. Based on available literature at the time, the Commission and the Department agreed to 28 percent as a reasonable crowd out estimate (see Crowd Out section below).
- **Lower Use Rate** - Literature indicates that Medicaid enrollees tend to use hospital services at a lower rate than uninsured individuals. Based on the literature, HSCRC and Department staff determined that 82 percent is a reasonable estimate for a lower use rate.

The product of this calculation results in a total amount that is differentially removed from the uncompensated care amounts across all hospitals for that year. The amount removed for each hospital is based on the proportion of Medicaid's expenditures for this type of population at each hospital. In FY 2009, HSCRC staff used Medicaid claims and encounter data for specific Medicaid populations by hospital as proxy for the expansion experience.

Since the assessment is required to be uniform and broad-based, the Commission adds back to the rates of all hospitals an equal percentage that represents the total estimated averted bad debt amount. Any portion that is not added back to rates will reduce rates over all, resulting in savings to purchasers/payers of hospital care. For FY 2010, the intended savings to purchasers/payers of care was 7.39 percent of the averted bad debt amount.

Table 2 illustrates the calculations used for establishing the expected averted bad debt and assessment amount for FY 2010.

**Table 2: Medicaid Expansion FY 2010 Expected Averted Bad Debt Calculations**

<b>Calculation of Estimated Reduction to Hospital Uncompensated Care</b>	
DHMH Estimated Expansion Expenditures	
Amount per Enrollee per Month	\$535.35
Estimated Number of Enrollees	50,500
DHMH Estimated Total Expansion Expenditures	\$324.4 million
Less: Payments Made Outside of Maryland (-6%)	-\$19.5 million
Payments Made Inside of Maryland	\$305.0 million
Percent Paid to Maryland Hospitals (54%)	\$164.7 million
Hospital Gross Charges (Medicaid pays 94% of Charges)	\$175.2 million
Crowd Out (-28%) and Lower Use Rate (-18%)	-\$71.8 million
<i>Estimated Reduction to Hospital Rates for Uncompensated Care*</i>	\$103.4 million
<b>Calculation of Payment Made to DHMH</b>	
Estimated Reduction to Hospital Rates for Uncompensated Care	\$103.4 million
Savings Provided to Payer (-7.39%)	\$95.8 million
<i>Amount Paid to Medicaid (94%)**</i>	<b>\$90.0 million</b>

Notes: *Numbers in table may not sum due to rounding*

\* A portion of this amount was allocated to each hospital based on the percentage of current Medicaid payments made to the hospital for this type of population. The allocated amount for each hospital was used to calculate a percent of revenue which was then used to reduce each hospital's approved UCC. The reduced UCC was used in each hospital's calculation of approved markup, and Approved Revenue was reduced accordingly.

\*\* A portion of this amount was uniformly allocated to each hospital based on its estimated Approved Revenue for FY 2010. Each hospital made monthly payments to DHMH throughout the year.

Additionally, the PAC expansion for emergency services required a \$8.7 million adjustment to the initial FY 2010 uniform assessment. However, HSCRC staff made no additional reduction to hospital UCC in rates for PAC for FY 2010.

### **Reconciliation of Hospital Estimated to Actual Averted Bad Debt**

The reconciliation process is designed to determine the amount that hospitals actually received in payments for the Medicaid expansion population and to calculate the resulting reduction to UCC from the Medicaid expansion. HSCRC staff compare this UCC reduction to the amount that the HSCRC prospectively removed from the UCC component of each hospital's rate, minus any

expected savings to purchasers/payers of care, to determine any discrepancies between the estimated and actual amounts.

Ideally, HSCRC staff could rapidly devise the actual payments for the Medicaid expansion population using one data source. Unfortunately, no one data source provides all information needed for this calculation. Instead, Department, HSCRC, and hospital staff work together to supply, compare, and merge data from three major sources. This merging process has proven challenging for all involved. Table 3 provides a description of the data sources.

**Table 3: Data Sources for Determining Actual Medicaid Expansion Populations**

<b>Data Source</b>	<b>Data Elements Used in Determining Actual Charges</b>	<b>Data Restrictions</b>
Medicaid MCO Encounter Data	Patient Name, Hospital Name, SSN, Dates of Service	MCO encounter data do not include charges associated with the encounter
HSCRC inpatient and outpatient discharge data	Hospital ID, Patient Account Number, Medical Record Number, Dates of Service, Charges	Data do not distinguish Medicaid expansion population from other Medicaid coverage groups; until FY 2012 did not require Medicaid ID
Hospital data sources	Patient Name, Hospital ID, SSN, Patient Account Number, Medical Record Number, Dates of Service, Charges	Data do not routinely distinguish Medicaid expansion population from other Medicaid coverage groups

Approximately one year after the end of the fiscal year for which averted bad debt had been estimated (e.g., end of FY 2011 for all FY 2010 data), the Commission receives complete reimbursement data from the hospitals and the Department.<sup>2</sup> During the reconciliation process, the Department sends encounter data with patient identifiers to the hospitals; the hospitals send claims with patient identifiers and charges to the HSCRC; and the HSCRC sends results of the matching protocol back to hospitals and the Department. The process iterates until all Medicaid encounter data are populated with the hospital charges associated with the encounter.

Table 4 shows the resulting matched and unmatched claims from this process for FY 2010.

---

<sup>2</sup> One year is required to account for the claims “run-out,” a period that includes the time providers have to submit claims after providing a service, the time MCOs have to pay the claims, and the time established for MCOs to submit encounter data to the Department.

**Table 4: FY 2010 Medicaid Expansion Claims Reconciliation**

<b>Data Source Matching Process</b>	<b>Count of Claims</b>	<b>Percentage of Total</b>
Total claims submitted from hospitals in FY 2010	121,126	
Additional claims submitted in FY 2009 with FY 2010 DOS	2,020	
<i>Total initial claims in reconciliation process</i>	<b>123,146</b>	<b>100%</b>
Excluded claims:		
Reported with FY 2010 with FY 2011 DOS	508	
Reported in both FY 2009 and FY 2010	10	
PAC (not reconciled in FY 2010)	34	
Unregulated claims	1,964	
Duplicate claims	1,413	
Pregnancy-related services (not expansion population)	7,212	
<i>Total excluded claims</i>	<b>11,141</b>	<b>9.0%</b>
Total claims with charges identified	<b>110,428</b>	<b>89.7%</b>
Imputed charges:		
Claims not found by hospitals	<b>1,439</b>	<b>1.2%</b>
Claims with charges not provided by hospitals	<b>138</b>	<b>0.1%</b>
<b>Result: Total charges for Medicaid expansion population in FY 2010: \$125.5 million</b>		

Once the encounter data reconciliation process is finalized the Commission sums total charges for the Medicaid expansion population for each hospital. HSCRC staff then calculates the actual UCC by applying the crowd out and lower use rate estimates to these total charges. Note that for purposes of this options paper, we refer to this amount as the “actual” reduction to UCC resulting from the Medicaid expansion. In practice, however, there is a continued amount of estimation involved in the calculation as the crowd out and lower use rates applied to the total charges are themselves estimates (see the Crowd Out section, below).

As shown in Table 5, for FY 2010, the encounter data reconciliation process identified \$125.5 million total hospital charges associated with the Medicaid expansion. Applying the crowd out and lower use rates, HSCRC staff found the actual reduction to bad debt as \$74.1 million. After applying the desired savings that were to accrue to purchasers/payers of care, the net aggregate difference in what was paid by hospitals to the Department in the form of a uniform assessment, and the amount paid by the Department to hospitals for this population was \$25.5 million.

Since the assessment was applied as a uniform percentage of revenue, the Commission also calculates the difference in the assessment amount and the actual amount of Medicaid payments for the expansion population. The Commission then adjusts the uncompensated care provision of hospitals to reflect this difference.

**Table 5: Medicaid Expansion FY 2010 Reconciliation of Actual Averted Bad Debt**

<b>Calculation of Actual Averted Bad Debt</b>	
Actual Reduction to Hospital Rates for Uncompensated Care*	\$104.7 million
Total Hospital Charges to Medicaid Due to Expansion	\$125.5 million
Reduced for Crowd Out (-28%) and Lower Use Rate (-18%)	-\$51.4 million
<i>Actual Reduction to Uncompensated Care Due to Expansion</i>	<i>\$74.1 million</i>
<b>Calculation of Overpayment/Underpayment to DHMH - With Savings to Providers</b>	
Actual Reduction to Uncompensated Care Due to Expansion	\$74.1 million
Reduced for Savings Provided to Payers (-7.39%)	\$68.6 million
Amount Paid by Medicaid to Hospitals (94%)	\$64.5 million
Amount Paid to Medicaid by Hospitals	\$90.0 million
<b><i>Difference</i></b>	<b><i>\$25.5 million</i></b>
<b>Calculation of Overpayment/Underpayment to DHMH - With No Savings to Providers</b>	
Actual Reduction to Uncompensated Care Due to Expansion	\$74.1 million
Amount Paid by Medicaid to Hospitals (94%)	\$69.7 million
Amount Paid to Medicaid by Hospitals	\$90.0 million
<b><i>Difference</i></b>	<b><i>\$20.4 million</i></b>

Notes: *Numbers in table may not sum due to rounding*

\* The actual reduction to hospital rates for UCC (\$104.7 million), calculated retrospectively, differs from the estimated reduction to hospital rates for UCC in Table 2 (\$103.4 million), calculated prospectively.

## **Crowd Out**

Both the initial averted bad debt estimate and the reconciliation formulas are adjusted for an expected percentage of crowd out. Crowd out is the substitution of public insurance coverage for private insurance coverage, such as, the explicit dropping of an employer policy when one is made eligible for Medicaid. Crowd out cannot be determined simply by looking at an individual's coverage in a prior period. For example, if an individual loses employment and employer sponsored health coverage and then enrolls in Medicaid, this is not considered crowd out. Likewise, if an individual's employer chooses to no longer offer employer sponsored health coverage and then the individual then enrolls in Medicaid, this is not considered crowd out.

In 2009, when the Department and Commission staff were considering the averted bad debt methodology, there was significant discussion regarding the most appropriate crowd out assumption. While all agreed that the HSCRC should apply a crowd out factor, the most appropriate magnitude of the crowd out factor was not clear. The Department and the Commission reviewed available literature regarding crowd out and determined that 28 percent was reasonable and appropriate.

When applied to the total hospital charges to Medicaid due to the expansion, the crowd out estimates impact the final calculation of overpayments/underpayments to DHMH. Commission

staff conducted sensitivity testing and determined that each percent change in the crowd out estimate produces a \$896,000 increase or decrease to the overpayment/underpayment.<sup>3</sup>

Acknowledging the impact that crowd has on this calculation, and based on Commission interest in crowd out as discussed at the August 2011 Public meeting, staff conducted a new search of available literature on the topic. We also reviewed a letter prepared by the Department to the Commission Chairman (see Attachment A). Based on these data sources, Commission staff finds no compelling evidence substantial enough to alter the existing assumption for FY 2010. However, Commission staff will remain open to altering the crowd out assumption for future years, if there is convincing evidence to warrant such a change.

### Averted Bad Debt Estimates FY 2009 – FY 2012

Table 6 shows the averted bad debt assessment amounts for FY 2009 through FY 2012. The assessment amount has increased from \$24.2 million in FY 2009 to \$157.7 million in FY 2012. This increase is primarily due to the ramp-up in enrollment during that period. The FY 2011 and 2012 estimates include the PAC costs.

**Table 6: Averted Bad Debt Assessment Amounts, FY 2009 - FY 2012  
(Dollars in Millions)**

	Original Estimate FY 2009	Revised Estimate FY 2009	Estimate FY 2010	Estimate FY 2011	Estimate FY 2012
Estimated Medicaid Total Expenditures	\$95.2	\$160.1	\$324.4	\$457.6	\$535.0
In State Payment Percent	94%	94%	94%	94%	94%
In State Payments	\$89.5	\$150.5	\$305.0	\$430.2	\$502.9
Medicaid Payment Percent	94%	94%	94%	94%	94%
Charges at Payment Rate	\$95.2	\$160.1	\$324.4	\$457.6	\$535.0
Hospital Portion	61%	61%	54%	47.61%	43%
Hospital Charges Reported	\$58.1	\$97.7	\$175.2	\$217.9	\$230.1
Crowd Out (28%)	72%	72%	72%	72%	72%
Charges after Crowd Out	\$41.8	\$70.3	\$126.1	\$156.9	\$165.6
Lower Use Rate	82%	82%	82%	82%	82%
Estimated Medicaid Averted Bad Debt	\$34.3	\$57.7	\$103.4	\$128.6	\$135.8
Estimated PAC Averted Bad Debt	\$0	\$0	\$0	\$26.8	\$31.9
Hospital Charges including Medicaid Expansion and PAC	\$34.3	\$57.7	\$103.4	\$155.4	\$167.7
Medicaid Payment Percent	94%	94%	94%	94%	94%
Net Medicaid Payments	\$32.2	\$54.2	\$97.2	\$146.1	\$157.7
% Returned to Medicaid	75%	75%	92.61%	100%	100%
Hospital Payments to Medicaid	\$24.2	\$40.7	\$90.0	\$146.1	\$157.7
<b>Total Payments to Medicaid</b>		<b>\$40.7</b>	<b>\$90.0</b>	<b>\$146.1</b>	<b>\$157.7</b>

<sup>3</sup> Likewise, each percent change in the lower use rate, another estimate, produces a \$797,000 increase or decrease to the overpayment/underpayment.

HSCRC and the Department staff have refined the assumptions used to estimate the expected hospital averted bad debt in FY 2011 and FY 2012. For example, HSCRC staff have considerably reduced the assumption regarding the portion of total Medicaid expansion dollar associated with hospital charges. In FY 2009, the Department estimated and HSCRC staff applied a 61 percent hospital portion. For FY 2012, HSCRC assumes a hospital portion of 43 percent.

It is also notable that prior to the FY 2009 reconciliation, the Department argued that enrollment had grown at a greater rate than initially expected. The Department provided evidence to show that this growth in enrollment would result in a \$16.9 million underpayment in FY 2009. The Commission increased the FY 2010 assessment by that amount to address the projected underpayment (see the Revised Estimate FY 2009 column in Table 6).

### **Options for FY 2010 Reconciliation**

Based on the hospital claims reconciliations, HSCRC staff calculated a \$25.5 million difference in the FY 2010 actual and assessment amounts associated with averted bad debt. Below are a series of the options for Commission consideration to address the discrepancy.

#### ***Option 1 – Reduce Future Assessment Payments to the Department***

Under this option, the Commission would include the expected averted bad debt amount in rates for a given year (FY 2012 for example), but require hospitals to pay a reduced assessment amount to the Department. The reduced assessment amount (\$157.7 million - \$25.5 million = \$132.2 million) could be applied in one year (FY 2012), or phased in over a 2 or 3 year period.

**Implication:** This option would result in increasing Medicaid deficits in the year(s) that the assessment is reduced. As a result, the Department may choose to increase the deficit assessment amount in future years to reflect the reduction in the averted bad debt assessment. The Department could also resort to other administrative or benefit restrictions, such as the Medicaid day limits that were imposed in prior fiscal years.

#### ***Option 2 – Increase Hospital Rates in FY 2012 to Reflect the Overpayment Amount***

The Commission could increase rates above the estimated averted bad debt assessment in a given year but keep the amount of the assessment at the expected amount. This strategy would add \$183.2 million (\$157.7 million + \$25.5 million) to hospital rates, but hospitals would only pay \$157.7 million to the Department for the averted bad debt assessment in FY 2012.

**Implication:** This option would make the hospitals whole for the FY 2010 overpayment, but purchaser/payers of care would then have paid the assessment twice--once in FY 2010, and again in FY 2012.

***Option 3 – Reduce or Eliminate the Savings Designed to Accrue to Purchasers/Payers of Care***

In FY 2010, the Commission intended to reduce rates overall by 7.39 percent (or approximately \$5.5 million) to provide saving to purchasers/payers of care. During the reconciliation for FY 2009, the Commission reduced the expected savings to payers to zero percent. If the Commission were to impose the same policy for the FY 2010 reconciliation process, the overpayment would in essence decline from \$25.5 million to \$20.4 million.

**Implication:** During the legislative process that created the averted bad debt assessment, it was anticipated that the averted bad debt policy would result in overall savings to the public. However, the amount of savings was not written into the statute. This option would not provide savings to the purchasers/payers of hospital care as anticipated through the legislative process.

***Option 4 – Take No Action to Alter the Averted Bad Debt Estimated or Assessment Amounts in Future Years (FY 2012 or beyond)***

If no action is taken, hospitals would have overpaid the Department for averted bad debt in FY 2010 in the amount of \$25.5 million. This amount would have been reflected in the hospitals' operating budgets and profit margins for that year. The overall hospital operating profit margin in FY 2010 was \$329.5 million (2.61 percent). The overpayment represents 0.2 percent of the total profit margin in FY 2010. However, there would be a differential impact on individual hospital margins based on the amount of total payments that the Department made to a hospital for the expansion population in FY 2010.

**Implication:** Under this option, hospitals would not be permitted to recover any of the FY 2010 overpayment amount which negatively impacted their profit margins in that year.

***Option 5 – Adopt a Combination of Any of Options 1 through 4***

If it is the desire of the Commission to disperse the impact of the overpayment among hospitals, payers, and the Department, the Commission could share those costs using a combination of the options described above.

## Attachment 1



STATE OF MARYLAND  
**DHMH**

Maryland Department of Health and Mental Hygiene  
201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

August 19, 2011

John M. Colmers  
Chairman  
The Health Services Cost Review Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

Dear Chairman Colmers,

I am following up on my comments at last week's Commission meeting. The Commissioners asked if the 28 percent point crowd out factor was prepared prior to the economic downturn and, if so, whether it was revised to reflect the current economic climate. The answers are that: (1) the factor was prepared before the downturn; and, (2) it has not been revised, meaning changed. But the Department and the Health Services Cost Review Commission (HSCRC), with FY 2009 data supplied by the hospitals, conducted an analysis last year concerning the crowd out factor. Based on that analysis, the data suggest that the crowd out factor is overstated by perhaps 10 percentage points or higher. Additional details are included, below.

As you know, "crowd out" refers to the substitution of public programs for private arrangements. In the health care context, it means those abandoning private insurance to take advantage of public health care initiatives. When investigating this issue, the Maryland Hospital Association (MHA) identified a sample of Medicaid expansion claims from FY 2009. (*See attached.*) MHA's analysis suggests that the original crowd out figure of 28 percent may be understated and actually closer to 55 percent. In generating this figure, however, the hospitals examined their records to identify those who had health insurance in the prior year and, by so doing, included data of those who do not meet the crowd out definition.

Toll Free 1-877-4MD-DHMH – TTY/Maryland Relay Service 1-800-735-2258  
Web Site: [www.dhmh.state.md.us](http://www.dhmh.state.md.us)



Crowd-out takes into consideration only those who elect to drop insurance and enroll in a public benefit program. It does not include those who lose insurance coverage. Many individuals lose coverage for reasons beyond their control, *e.g.*, loss of employment. Similarly, the MHA crowd-out estimates includes those individuals whom the hospitals identify as having had Medicaid coverage in the prior year – this accounts for roughly 44 percent of their 55 percent crowd out estimate. Including all of the Medicaid individuals is an incorrect assumption that artificially inflates the ultimate crowd out number.

Individuals lose Medicaid coverage all the time. The reasons for such loss of coverage vary. For example, some may have incomes that increase beyond the income threshold guidelines. Others may have been granted coverage because of a pregnancy and lost coverage because eligibility for such person extends only up to two months post-partum. These types of churning on and off Medicaid will continue with the Medicaid expansion anticipated by the Affordable Care Act (ACA). National estimates show that within six months after the start of the expansion, more than 35 percent of all adults with family incomes below 200 percent of the federal poverty level will experience a shift in eligibility from Medicaid to an insurance exchange, or the reverse. That estimate increases to 50 percent within one year after the start of the expansion.<sup>1</sup> Whether individuals have Medicaid coverage in the prior year does not equate to crowd-out.

To ensure that the Department's system for identifying expansion enrollees is accurate, the Department sampled 61 claims provided by Maryland hospitals. In our analysis of these claims, the Department determined:

- 31 percent were parents whose income increased beyond the prior income thresholds (39 percent of the federal poverty level).
- 28 percent were pregnant and would have lost coverage two months after giving birth if the state had not raised parent income thresholds.
- Five percent of the sample included dependent children who aged out of the Maryland Children's Health Program (MCHP). Under the family coverage group, Maryland is able to cover dependent children up to age 21, which is two years beyond what is allowed under MCHP.
- Two percent were covered under the Primary Adult Care program - likely the individual had a baby and was now eligible for full Medicaid benefits.
- 34 percent were individuals who had medical expenses in the previous year and were able to spend-down their income in order to qualify. To qualify for coverage in the next year, these individuals would again need medical bills that would permit them to spend-down to a level sufficient to qualify for again for coverage.

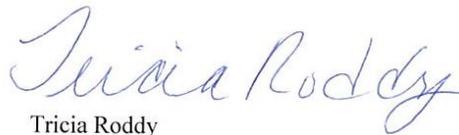
---

<sup>1</sup>“Issues in Health Reform: How Changes In Eligibility May Move Millions Back and Forth Between Medicaid and Insurance Exchanges,” Benjamin D. Sommers and Sara Rosenbaum, Health Affairs, February 2011.

The only individuals who may have been covered under Medicaid are those who qualified by spending down their income. There is no guarantee these individuals would have been covered in the following year.<sup>2</sup> Even assuming conservatively that half of the spend-down population now covered under the parent expansion would have been able to qualify under the spend-down requirements, the total crowd out factor using the MHA data would have been around 18 percent – less than the 28 percent factor used by HSCRC and the Department (and far less than the 55 percent estimate of the MHA).

As it appears that the crowd out issue is of interest to the Commission, I am providing this data to further inform your deliberations. Please let me know if you have any questions.

Sincerely,



Tricia Roddy  
Director  
Planning Administration

cc: Charles J. Milligan, Jr.

---

<sup>2</sup> The Department compared the average enrollment in FY 08 to the average enrollment in FY 09 for the medical spend-down population. The average enrollment in FY 08 was 2,172 and in FY 09 it was 2,339.

**Options for Reconciliation of FY 2010 Averted Bad Debt Estimates to Actual  
September 14, 2011**

FY 2009 Medicaid Expansion Charges

	FY 09 Expansion	FY 09 Medicaid Secondary Payor		FY 08 Medicaid FFS and MCO "crowd out"		FY 08 Commercial "crowd out"		Combined Medicaid and Commercial "crowd out"
1 Union of Cecil	1,790,925	208,816	11.66%	734,093	40.99%	419,895	23.45%	64.44%
2 Harford Memorial	335,573	58,903	17.55%	248,864	74.16%	27,806	8.29%	82.45%
3 St. Agnes	1,991,624	121,882	6.12%	688,360	34.56%	205,200	10.30%	44.87%
4 Suburban Hospital	170,909	4,075	2.38%	-	0.00%	-	0.00%	0.00%
5 Carroll Hospital Center	1,250,851	108,952	8.71%	457,266	36.56%	179,745	14.37%	50.93%
6 Western Maryland	2,073,266	-	0.00%	361,850	17.45%	233,557	11.27%	28.72%
7 Anne Arundel	880,019	64,803	7.36%	463,766	52.70%	260,772	29.63%	82.33%
8 Johns Hopkins Bayview	3,609,381	282,521	7.83%	1,551,521	42.99%	23,309	0.65%	43.63%
9 Washington County	337,303	69,340	20.56%	131,729	39.05%	69,682	20.66%	59.71%
10 Johns Hopkins Hospital	6,837,698	407,139	5.95%	4,821,968	70.52%	322,992	4.72%	75.24%
11 Howard County	1,034,051	103,734	10.03%	490,054	47.39%	30,494	2.95%	50.34%
12 Garrett County	595,128	10,320	1.73%	372,814	62.64%	89,480	15.04%	77.68%
13 St. Mary's	773,700	10,754	1.39%	-	0.00%	-	0.00%	0.00%
14 Franklin Square	3,109,294	287,131	9.23%	2,044,319	65.75%	542,723	17.45%	83.20%
15 Good Samaritan	1,504,122	97,790	6.50%	399,546	26.56%	70,371	4.68%	31.24%
16 Harbor	1,753,741	39,395	2.25%	1,132,596	64.58%	259,669	14.81%	79.39%
17 Union Memorial	2,140,995	59,357	2.77%	581,534	27.16%	151,533	7.08%	34.24%
18 Montgomery General	340,045	5,433	1.60%	76,508	22.50%	50,338	14.80%	37.30%
19 Bon Secours	181,797	9,309	5.12%	29,411	16.18%	78,182	43.01%	59.18%
20 Doctors	194,039	58,312	30.05%	25,805	13.30%	37,725	19.44%	32.74%
21 Mercy	2,203,028	209,007	9.49%	1,194,487	54.22%	281,203	12.76%	66.98%
22 Peninsula	3,092,152	792,139	25.62%	761,716	24.63%	478,414	15.47%	40.11%
23 Frederick Memorial	1,200,543	114,861	9.57%	83,795	6.98%	170,237	14.18%	21.16%
	<u>\$37,400,184</u>	<u>\$3,123,973</u>	<u>8.35%</u>	<u>\$16,652,002</u>	<u>44.52%</u>	<u>\$3,983,327</u>	<u>10.65%</u>	<u>55.17%</u>



**Maryland  
Hospital Association**

MHA  
6820 Deerpath Road  
Elkridge, Maryland 21075-6234  
Tel: 410-379-6200  
Fax: 410-379-8239

September 9, 2011

John M. Colmers  
Chairman, HSCRC  
Vice President, Health Care Transformation and Strategic Planning  
Johns Hopkins Medicine  
3910 Keswick Road, Suite N-2200  
Baltimore, MD 21211

Dear Chairman Colmers:

On behalf of our 66 member organizations, I am following up on comments made at the August public meeting on averted uncompensated care (UCC) estimates related to Medicaid expansion and to provide our recommendations on how to handle the Fiscal Year (FY) 2010 overestimate of averted UCC and resulting \$25.5 million overpayment to Medicaid.

**MHA Supports Medicaid Expansion**

In July 2008, the Maryland Hospital Association (MHA) supported the expansion of Medicaid and the mechanism by which the expansion was funded. Expanded Medicaid coverage reduces UCC and builds on a founding concept of the Maryland all-payor system--ensuring access to care. The Medicaid expansion funding mechanism as envisioned in July 2008, provided advantages for all the major stakeholders: commercial payors contributed funding and in exchange saw an equivalent reduction in hospital rates in anticipation of reduced uncompensated care; the public benefitted from a reduction in the uninsured; hospitals benefitted by having a greater share of their patients covered by insurance. However, the finely balanced movement of funds from payors through hospitals to Medicaid and back to hospitals was moved out-of-balance by overestimating the magnitude of averted UCC and resulted in overpayments to the Medicaid program, as shown in Figure 1 below.

**Figure 1: FY 2010 Net Averted UCC Funding** (in millions)

	<b>Rate Increase</b> (Assessment)	<b>Rate Reduction</b> (Prospective)	<b>Payment to Medicaid</b> (Net of mark-up)	<b>Payment for Hospital Services</b>	<b>Net Favorable</b> (Unfavorable)
<b>Payors</b>	\$(104.7)	\$104.7			\$ -
<b>Hospitals</b>	\$104.7	\$(104.7)	\$ (90)	\$64.5*	\$(25.5)
<b>Medicaid</b>			\$90	\$(64.5*)	\$25.5

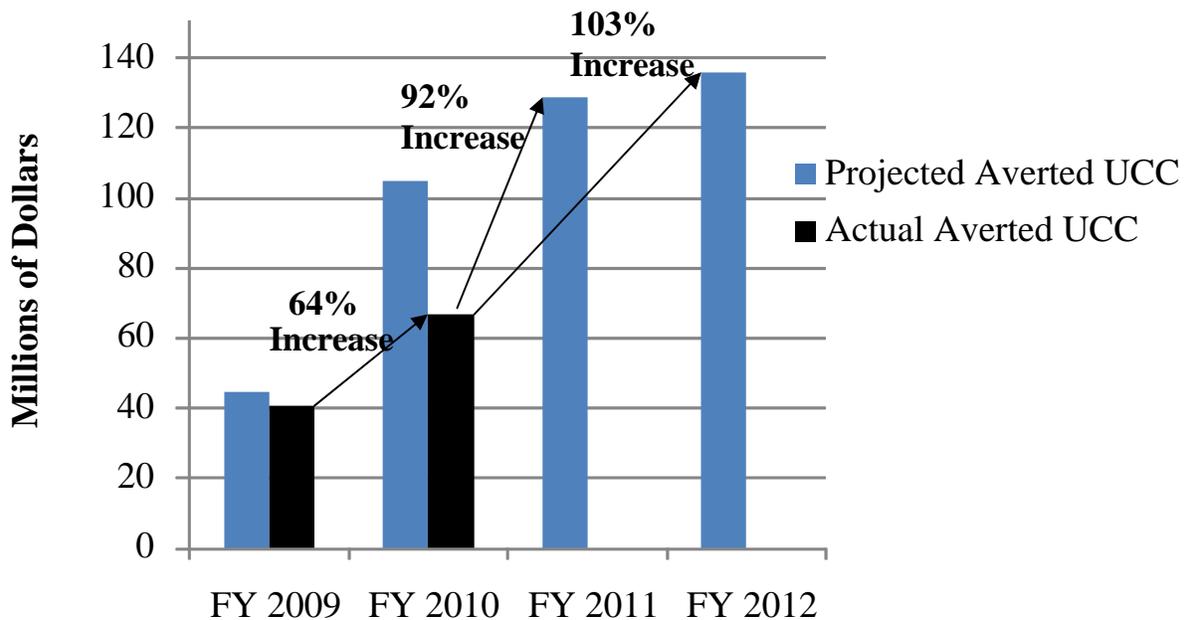
Estimated Averted UCC

\*\$64.5M does not equal the \$74.1M actual averted UCC because of the 7.39 percent savings to payors

**Averted UCC Estimate Likely Overstated in FY 2011 and FY 2012**

The FY 2010 estimate of averted UCC was \$104.7 million, but actual averted UCC is \$74.1 million. FY 2011 and FY 2012 estimates of averted UCC are also likely higher than actual averted UCC. From FY 2009 to FY 2010--the years in which newly eligible individuals were rapidly enrolling--actual averted UCC grew 64 percent. Beginning in FY 2011, the pace of new enrollment was expected to have slowed significantly. However, FY 2011 estimated averted UCC is significantly greater than FY 2010 actual averted UCC. As demonstrated in Figures 2 and 3 below, FY 2011 actual averted UCC will need to increase 92 percent beyond FY 2010 actual averted UCC to reach the level of FY 2011 estimated averted UCC. Further, FY 2012 actual averted UCC will have to grow by 103 percent compared to FY 2010 to meet the current FY 2012 estimates. Trends in expected enrollment and per member per month (PMPM) cost do not support dramatic increases in actual averted UCC.

**Figure 2: Actual UCC Increases Necessary to Meet Projections**



**Figure 3: Medicaid Enrollment and Cost Trends**

	FY 2009	FY 2010	FY 2011	FY 2012
<b>Number of Enrollees</b>	29,273	55,000	69,773	82,000
<b>PMPM Cost Estimate</b>	\$511	\$539	\$546	\$570

**Recommendation:** To reconcile the FY 2010 overpayment to Medicaid, MHA recommends the Health Services Cost Review Commission (HSCRC) reduce hospitals' FY 2012 planned payments to the Maryland Medicaid program by the amount of the overpayment, calculated at \$25.5 million. Withholding the \$25.5 million FY 2010 overpayment from payments hospitals are scheduled to make to Medicaid in FY 2012 resolves the funding imbalance between hospitals and Medicaid, holds payors harmless, and is consistent with HSCRC policy to reconcile

estimates of averted UCC once actual experience is known.<sup>1,2</sup> In addition, due to higher than anticipated state revenues of \$344 million at the end of FY 2011, the state would be in a position to fund the repayment of hospitals' overpayments to the Medicaid program.<sup>3</sup>

### **Estimating the Amount of Averted Uncompensated Care is a Challenge**

Estimating the amount of averted UCC is inexact and relies on assumptions. Medicaid and HSCRC must estimate averted UCC because actual data is not available until at least 15 months after the end of each fiscal year.<sup>4</sup> The estimate of averted UCC is calculated by adjusting expected Medicaid costs for "crowd-out" (28 percent) and the lower use rate of health services by the uninsured (82 percent). **In the process of truing up the original estimates to actual experience it is important to use the same assumptions as those on which the original estimates were made.** The purpose of the reconciliation process is to settle any over or under-estimates of original adjustments. It is not appropriate to retroactively change assumptions during the reconciliation process to meet a fiscal target.

### **Defining Crowd-Out**

In the Maryland Medicaid expansion and averted UCC context, crowd-out is one adjustment used to derive an estimate of averted UCC from the cost Medicaid expects to pay for expansion coverage. The purpose of the crowd-out adjustment is to estimate averted UCC, and should therefore include everyone who had prior coverage--including Medicaid--and would have lost that coverage had the expansion not occurred. HSCRC and Medicaid consider crowd-out to include only those whose private coverage was displaced by the expansion of public coverage. While this more limited definition is an important public policy question to consider when policy makers are deciding whether to expand coverage, excluding individuals who would have retained eligibility for Medicaid under existing requirements substantially understates the amount of UCC averted by Medicaid expansion.

### **Literature Review on Crowd-Out Estimates Hugely Variable**

The Robert Wood Johnson Foundation (RWJF) in its Synthesis Report on Crowd-Out<sup>5</sup> concludes, *there will always be some level of crowd-out with any public program expansion and measuring it with precision will always be difficult. A general midpoint of the studies reviewed indicated an overall substitution effect of 25 to 50 percent with lower rates of substitution for*

---

<sup>1</sup> Legislative Report: Health General Article Section 19-214 (e) to Governor O'Malley, President Miller, and Speaker Busch on aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage. January, 2010

<sup>2</sup> Legislative Report: Health General Article Section 19-214 (e) to Governor O'Malley, President Miller, and Speaker Busch on aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage. December, 2010

<sup>3</sup> As reported in the *Baltimore Sun*, September 1, 2011, Maryland FY 2011 revenues exceeded estimated revenues by nearly \$1 billion, although the state plans to use \$590 million to balance the current budget.

<sup>4</sup> Managed Care Organizations have 18 months after the date of service to report encounter data to Medicaid. Medicaid uses this encounter data to identify expansion patients that have received hospital services.

<sup>5</sup> *Revisiting Crowd Out*, The Synthesis Project: New Insights from Research Results. The Robert Wood Johnson Foundation. September, 2007.

*low-income children (0-15 percent) and higher rates for higher-income children and longer-term enrollees (35 to 50 percent).* Appendix 1 represents a literature review from the RWJF report as well as published studies gathered by MHA staff. The literature review shows a crowd-out range between 0 and 68 percent. A number of limitations are cited by the published studies, most notably the difficulty in establishing a counterfactual or comparison group. A study by Long et al (2006) uses multiple control groups and gets different outcomes depending on the control group.<sup>6</sup>

### **Verifying the Magnitude of Crowd-Out**

It is not feasible to unequivocally verify the amount of crowd-out--individuals who had and would have retained coverage had the expansion not occurred. However, data collected by MHA cast doubt on the 28 percent crowd-out assumption used to estimate averted UCC and may indicate a substantial overstatement of averted UCC. MHA believes that a large percentage of patients who had Medicaid coverage in the prior year are being counted in the expansion population even though they would have retained coverage in the absence of the expansion.

MHA collected data from a representative sample of hospitals, including about half of Maryland's acute care hospitals. Each hospital matched FY 2009 expansion patients, as identified by the Medicaid program, with the hospital's prior year patient list. In the aggregate, *more than 50 percent of the expansion patients were provided services and covered by insurance at that hospital in the prior year.* In the prior year, approximately 11 percent were covered by commercial insurance and 44 percent by Medicaid fee-for-service or a Medicaid Managed Care Organization (MCO). (See Appendix 2 for detailed results.) One would not expect patients already covered by Medicaid or an MCO to be included in the expansion category. Patients covered by insurance in the prior year cannot be considered averted UCC in the current year unless we are certain they would have lost that coverage in the current year.

MHA collected a second sample of FY 2009 expansion patients to understand why more than 50 percent of the expansion population included patients covered by Medicaid fee-for-service and Medicaid MCOs in the prior year. MHA provided Medicaid with a sample of 100 expansion patients from a representative group of hospitals and asked for documentation demonstrating that the person would have lost Medicaid coverage had the expansion not occurred. The sample was provided on July 7, 2010. On October 2, 2010, Medicaid provided information on 61 of the 100 patients. Medicaid representatives reported the prior year's eligibility category, but no information on individuals' income levels that would have confirmed that all patients in the sample would have lost coverage had the expansion not occurred. The following table demonstrates the results returned by Medicaid.

---

<sup>6</sup> Are Adults Benefiting from State Coverage Expansions?, *Health Affairs* vol 25., no 2, 2006, Long S., Zuckerman S., Graves JA

<b>Eligibility Category</b>	<b>Number</b>	<b>Cumulative Percent</b>
*Families	19	19%
Pregnant/Family Planning	17	36%
Aged out of MCHP	3	39%
In PAC Program	1	40%
In Spenddown Program	21	61%
Undetermined	39	100%

\*The individual's income in 2009 would have had to be between 40-116 percent of Federal Poverty Level to have lost coverage without the expansion.

*The Maryland Children's Health Program (MCHP)*  
*Primary Adult Care (PAC) Program*

**Recommendation:** HSCRC and Medicaid should continue to assume crowd-out at 28 percent, and not retroactively change the assumption to meet a fiscal target. The amount of crowd-out is an assumption that cannot be precisely verified. Twenty-eight percent is within the mid-range of studies that show wide variation in crowd-out depending on the population studied and other external factors.

### **MHA Recommendations**

- 1. To reconcile the FY 2010 overpayment to Medicaid, MHA recommends the HSCRC reduce hospitals' FY 2012 planned payments to the Maryland Medicaid program by the amount of the overpayment, currently calculated at \$25.5 million.** Withholding the \$25.5 million FY 2010 overpayment from payments hospitals are scheduled to make to Medicaid in FY 2012 resolves the funding imbalance between hospitals and Medicaid, holds payors harmless, and is consistent with the HSCRC policy. Higher than anticipated state revenues of \$344 million put the state in a position to refund hospitals' overpayments to the Medicaid program.
- 2. HSCRC and Medicaid should continue to assume crowd-out at 28 percent, and not retroactively change the assumption to meet a fiscal target.** The amount of crowd-out is an assumption that cannot be precisely verified. Twenty-eight percent is within the mid-range of studies that show wide variation in crowd-out depending on the population studied and other external factors. In the process of truing up the original estimates to actual experience it is important to use the same assumptions as those on which the original estimates were made.

John M. Colmers  
September 9, 2011

Page 6

MHA appreciates the opportunity to participate in the discussion of this issue. If you have any questions, concerns or would like additional information, please contact me at 410-540-5087.

Sincerely,



Traci La Valle  
Vice President, Financial Policy

cc: Stephen Ports, Acting Executive Director, HSCRC

Attachments

Murray's 2009 and 2010 Legislative Reports

Appendix 1 Crowd-out literature summary

Appendix 2 MHA data on prior coverage of expansion patients

Crowd Out Literature Review

Study	Findings	Population studied/Data source	Comments
<p>"Crowd-out Ten Years Later: Have Recent Public Insurance Expansions Crowded Out Private Health Insurance?" by Jonathan Gruber and Kosali Simon (2007)</p>	<p>Estimates <b>crowd-out between 61 and 68 percent</b> when an entire family is eligible for public programs; about twice that estimated for individuals.</p>	<p>Adults and children</p>	<p>This study focuses on the impact of families enrolling in coverage. The authors estimate that the <b>crowd out rate for families is about twice that of individuals.</b></p>
<p>"Substitution of SCHIP for Private Coverage: Results from a 2002 Evaluation in Ten States" by Anna Sommers, Stephen Zuckerman, Lisa Dubay, and Genevieve Kenney (2007)</p>	<p><b>Crowd out rate for newly enrolled children in CHIP</b> in 2002 was between <b>7- 14%</b> depending on whether affordability is included as a reason to voluntarily substitute public coverage for private.</p>	<p>Ten states were selected to include a large proportion of all low-income uninsured children, geographic diversity, and a variety of SCHIP structures. Data was taken from a survey of 16,700 CHIP enrollees in 2002 and state administrative data reporting enrollment history.</p>	<p>The authors found that 28% of new enrollees had private coverage at some point in the six months prior to enrollment. However, half of those lost private coverage involuntarily. Voluntary substitution accounted for only 14% of newly enrolled children in the ten states. Of those that voluntarily substituted, half of parents reported that prior coverage was unaffordable.</p>
<p>"Insuring Low-Income Adults: Does Private Coverage Crowd Out Private?" by Richard Kronick and Todd Gilmer</p>	<p>The study found that <b>crowd out rate was between 0 and 45 percent</b>, depending on income level of enrollee.</p>	<p>Current Population Survey (CPS) data from 1998 to 1999 for adults in MN, WA, OR, and TN. Also state administrative data reporting total enrollment among adults each year.</p>	<p>The authors found that among enrollees below 100% of FPL, there was no evidence of crowd out due to expansion. Among enrollees between 100 and 200% of FPL, crowd out accounted for as much as 45%.</p>

Crowd Out Literature Review

Study	Findings	Population studied/Data source	Comments
<p>"Are Adults Benefiting from State Coverage Expansions" by Sharon Long, Stephen Zuckerman, and John Graves (2006)</p>	<p>Lack of uniformity across states makes it <b>difficult to generalize crowd out estimates</b> from one state to another. Authors conclude that crowd-out may be small or non-existent in some states.</p>	<p>Used data from the National Survey of American Families (NASF) between 1997 and 2002 for adults in CA, MA, NJ, and WI.</p>	<p>The authors found significant variation in estimates of crowd out both within and across the states that expanded coverage to parents and childless adults. Parents in Wisconsin and parents and childless adults in Massachusetts experienced the largest increase in public coverage, with little offsetting reduction to private coverage. In contrast, expansion to parents in California and New Jersey led to increased enrollment but at the expense of private coverage.</p>
<p>"SCHIP's Impact on Dependent Coverage in the Small Group Market" by Eric Seiber and Curtis Florence (2010)</p>	<p>The study found <b>crowd out of 8.7 percent</b> for children with parents employed by a small business with less than 25 employees and <b>41.6 percent</b> for children with parents employed at businesses up to 500 employees.</p>	<p>1996-2007 Annual Demographic Survey of the Current Population Survey (CPS) for children in households with at least one worker.</p>	<p>The authors found that crowd out rate increased with business size.</p>
<p>"Family Coverage Expansions: Impact on Insurance Coverage and Health Care Utilization of Parents" by Susan Busch and Noelia Duchovny (2005)</p>	<p>The study found <b>crowd out rate for eligible parents was 23.6%</b>.</p>	<p>Used data from the Current Population Survey (CPS) from 1996 to 2002 for non-disabled parents.</p>	
<p>"The Effects of State Policy Design Features on Take-up and Crowd-out Rates for the State Children's Health Insurance Program" by Bansak and Raphael (2006)</p>	<p>The study estimated <b>crowd out of 25 to 33 percent for SCHIP-eligible children</b>.</p>	<p>Used data from 1998 and 2002 CPS nationally for low-income children</p>	<p><b>Crowd out for low-income children tends to be lowest of all categories.</b></p>

Crowd Out Literature Review

Study	Findings	Population studied/Data source	Comments
"Congressionally-Mandated Evaluation of the State Children's Health Insurance Program: Final Report to Congress" by Woolridge et al (2005)	The study estimated <b>crowd out of 7 to 14% for newly enrolled children.</b>	Used case studies and surveys of SCHIP enrollees and disenrollees in 10 states- CA, CO, FL, IL, LA, MO, NC, NJ, NY, and TX	This study finds a <b>low crowd out rate for children.</b> Specific rate varies based on affordability and how long a child has been enrolled in SCHIP.
"The Impact of SCHIP on Insurance Coverage of Children" by Hudson JL, Selden TM, Banthin JS (2005)	Estimates of <b>crowd out for children under 18 was between 42 and 49 percent</b>	Used Medical Expenditure Survey	The authors suggested that the findings were not conclusive, as some model specifications resulted in no significant crowd-out effects while others showed a significant impact on private coverage
"Does Public Insurance Crowd Out Private Insurance?" by Gruber and Cutler (1996)	Study found <b>crowd out rate to be between 15 and 50 percent depending on the definition</b> used for crowd out.	Used CPS data from 1988 to 1993; multi-state.	Results depended on the definition used for crowd out: 1) the decrease in private coverage as a share of newly eligible Medicaid enrollees (50 percent); 2) the decrease in private coverage as a share of all Medicaid enrollment increases (22 percent); and 3) the percentage decline of private coverage over a period of time attributed to Medicaid enrollment (15 percent).

FY 2009 Medicaid Expansion Charges

	FY 09 Expansion	FY 09 Medicaid Secondary Payor		FY 08 Medicaid FFS and MCO "crowd out"		FY 08 Commercial "crowd out"		Combined Medicaid and Commercial "crowd out"
1 Union of Cecil	1,790,925	208,816	11.66%	734,093	40.99%	419,895	23.45%	64.44%
2 Harford Memorial	335,573	58,903	17.55%	248,864	74.16%	27,806	8.29%	82.45%
3 St. Agnes	1,991,624	121,882	6.12%	688,360	34.56%	205,200	10.30%	44.87%
4 Suburban Hospital	170,909	4,075	2.38%	-	0.00%	-	0.00%	0.00%
5 Carroll Hospital Center	1,250,851	108,952	8.71%	457,266	36.56%	179,745	14.37%	50.93%
6 Western Maryland	2,073,266	-	0.00%	361,850	17.45%	233,557	11.27%	28.72%
7 Anne Arundel	880,019	64,803	7.36%	463,766	52.70%	260,772	29.63%	82.33%
8 Johns Hopkins Bayview	3,609,381	282,521	7.83%	1,551,521	42.99%	23,309	0.65%	43.63%
9 Washington County	337,303	69,340	20.56%	131,729	39.05%	69,682	20.66%	59.71%
10 Johns Hopkins Hospital	6,837,698	407,139	5.95%	4,821,968	70.52%	322,992	4.72%	75.24%
11 Howard County	1,034,051	103,734	10.03%	490,054	47.39%	30,494	2.95%	50.34%
12 Garrett County	595,128	10,320	1.73%	372,814	62.64%	89,480	15.04%	77.68%
13 St. Mary's	773,700	10,754	1.39%		0.00%		0.00%	0.00%
14 Franklin Square	3,109,294	287,131	9.23%	2,044,319	65.75%	542,723	17.45%	83.20%
15 Good Samaritan	1,504,122	97,790	6.50%	399,546	26.56%	70,371	4.68%	31.24%
16 Harbor	1,753,741	39,395	2.25%	1,132,596	64.58%	259,669	14.81%	79.39%
17 Union Memorial	2,140,995	59,357	2.77%	581,534	27.16%	151,533	7.08%	34.24%
18 Montgomery General	340,045	5,433	1.60%	76,508	22.50%	50,338	14.80%	37.30%
19 Bon Secours	181,797	9,309	5.12%	29,411	16.18%	78,182	43.01%	59.18%
20 Doctors	194,039	58,312	30.05%	25,805	13.30%	37,725	19.44%	32.74%
21 Peninsula	3,092,152	792,139	25.62%	761,716	24.63%	478,414	15.47%	40.11%
22 Frederick Memorial	1,200,543	114,861	9.57%	83,795	6.98%	170,237	14.18%	21.16%
	<u>\$35,197,156</u>	<u>\$2,914,966</u>	<u>8.28%</u>	<u>\$15,457,515</u>	<u>43.92%</u>	<u>\$3,702,124</u>	<u>10.52%</u>	<u>54.44%</u>

STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Frederick W. Puddester  
Chairman

Kevin J. Sexton  
Vice Chairman

Joseph R. Antos, Ph.D.

George H. Bone, M.D.

C. James Lowthers

Herbert S. Wong, Ph.D.



Robert Murray  
Executive Director

Stephen Ports  
Principal Deputy Director  
Policy & Operations

Gerard J. Schmith  
Deputy Director  
Hospital Rate Setting

**HEALTH SERVICES COST REVIEW COMMISSION**  
4160 PATTERSON AVENUE, BALTIMORE, MARYLAND 21215  
Phone: 410-764-2605 · Fax: 410-358-6217  
Toll Free: 1-888-287-3229  
[www.hscrc.state.md.us](http://www.hscrc.state.md.us)

December 29, 2010

The Honorable Martin O'Malley  
State House, 100 State Circle  
Annapolis, MD 21401

The Honorable Thomas V. Mike Miller, Jr.  
H-107, State House  
Annapolis, MD 21401-1991

The Honorable Michael E. Busch  
H-101, State House  
Annapolis, MD 21401-1991

RE: Legislative Report:  
Health General Article  
Section 19-214(e)

Dear Governor O'Malley, President Miller, and Speaker Busch;

I am writing in response to the provisions set forth in Section 19-214(e) of the Health General Article (as enacted in Chapter 245 of the 2008 Laws of Maryland, House Bill 1587), which requires the Health Services Cost Review Commission ("HSCRC," or "Commission") to report to the Governor and, in accordance with Section 2-1246 of the State Government Article, the General Assembly, the following information:

- The aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage under Chapter 7, Acts of the General Assembly, 2007 Special Session; and
- The number of individuals who enrolled in Medicaid as a result of the change in

eligibility standards under Section 15-103(A)(2)(ix) and (x) of the Health General Article, and the expenses associated with the utilization of hospital inpatient care by these individuals.

## **Introduction**

Over the past several years, the General Assembly has considered various ways to reduce the number of uninsured individuals in the State, which has been estimated roughly to be 800,000. For example, legislation has been introduced to create a health care exchange, increase the eligibility age of dependents for health care coverage purposes, require citizens to obtain coverage or pay a tax penalty, require businesses to provide coverage to employees or pay a subsidy, provide a subsidy for small businesses that have not provided health care coverage to their employees, and expand eligibility for the Medicaid Program.

Senate Bill 6 (Chapter 7) was enacted during the 2007 Special Session, and SB974/HB 1587 (Chapter 244/245) was enacted in 2008 to address several of these issues.

## **Background**

Chapter 7 of the 2007 Special Session enacted the “Working Families and Small Business Health Coverage Act,” which expands access to health care in the following ways:

- Expands Medicaid eligibility to parents and caretaker relatives with household income up to 116 percent (currently 46%) of federal poverty guidelines (FPG), to be implemented in fiscal 2009 (116% for family of 4 = \$24,000);
- Contingent on available funding, incrementally expands the Primary Adult Care program benefits over three years to childless adults with household income up to 116 percent FPG (currently 46%), to be phased in from fiscal 2010 through 2013; and
- Establishes a Small Employer Health Insurance Premium Subsidy Program, to be administered by the Maryland Health Care Commission (MHCC) and funded with \$15 million in fiscal 2009.

Special funds, including savings from averted uncompensated care and matching federal funds, will cover a portion of the costs of the expansion. Chapters 244/245 from 2008 requires the Commission to implement a uniform assessment on hospital rates to reflect the aggregate reduction in hospital uncompensated care from the expansion of health care coverage under Chapter 7. The assessment is to be broad-based, prospective, and uniform and will reflect averted uncompensated care realized from the expansion of the Medicaid Program under Chapter 7. The legislation authorizes the Commission to implement the assessment, provided that it does not exceed the actual averted uncompensated care.

The federal Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991

require that in order for provider taxes to access federal matching funds, they may not exceed 25% of a state's share of Medicaid expenditures; they must be broad-based and uniform; and they may not hold providers harmless. A uniform tax is one that is imposed at the same rate on all providers.

In addition to altering the funding of health care expansion efforts, Senate Bill 974/House Bill 1587 made the Maryland Health Insurance Plan ("MHIP") assessment more responsive to the current needs of the program. Under this provision, regulations were adopted by the HSCRC to increase the assessment from the previous requirement of 0.81% to 1.0% of net patient revenue. The combined assessment (averted uncompensated care and MHIP) may not exceed 3% of total net patient revenue at Maryland hospitals.

### **FY 2009 Uniform Assessment Associated with Averted Bad Debt from Medicaid Expansion**

Eligible individuals do not become enrolled in the Medicaid program until many months after care has been provided. Once enrolled, coverage is provided retroactively to the date of the service. In addition, it takes at least 3-6 months after care is provided for all relevant data to be accessed by Medicaid and the HSCRC on the associated costs. Therefore, the amount of averted bad debt is not fully known until many months after the conclusion of the applicable fiscal year.

As a result, Medicaid and the HSCRC estimate the aggregate reduction in hospital uncompensated care based on Medicaid's expected enrollment and per member/per month costs. During FY 2008, the Medicaid Program and HSCRC calculated the estimated total Medicaid expenditures for FY 2009 by multiplying the total number of expected member months by the expected monthly Medicaid costs (\$462.58). The result, \$95.2 million, was adjusted to account for the following:

- The percentage of expenditures that will be spent in-state, 94%, calculated using a three year average of Medicaid claims data;
- Medicaid pays 94% of charges;
- The percentage of expenditures that would go to hospitals (61%) calculated based on the Medicaid HealthChoice reimbursement process that breaks out payment rates into hospital, drug, and other components;
- The estimated share of the spending that was directed to individuals who had coverage previously (known as "crowd out") was 28% based on available literature and confirmed by surveys issued through Medicaid; and
- The lower use rate of the uninsured, approximately 82%, based on the available literature.

Using these adjustments, the original estimated hospital averted bad debt from Medicaid expansion in FY 2009 was calculated to be \$34.3 million (See Row 11, Column A of Appendix I for calculations).

The legislation states that a portion of averted bad debt shall be utilized to reduce costs to

purchasers of hospital care, through a reduction in hospital rates. For FY 2009, the Commission determined that 75% of the averted bad debt is to be passed on as reductions in hospital payments related to uncompensated care. Therefore, \$24.2 million of the expected averted bad debt was remitted from hospitals to support the Medicaid expansion program (See Row 17, Column A of Appendix I for calculations). Once remitted and utilized for health care purposes by Medicaid, the State is able to access the federal match on this amount – more than doubling this amount (the federal match in FYs 2009 and 2010 is 61.59%).

As reported by the Department of Health and Mental Hygiene (“DHMH”), the average enrollment in Medicaid as a result of Medicaid expansion in FY 2009 was actually 29,273 – an amount higher than expected when the uniform assessment was originally calculated for FY 2009. Moreover, Medicaid found that the per member/per month cost was also higher than originally expected, since a higher proportion of the new enrollees was older than age 44. Typically, an older population requires more health care services, which means higher costs to the program. As a result, the original FY 2009 per member/per month cost estimate was increased from \$462.58 to \$510.61 – a 10.3% increase.

Factoring in these increases and making adjustments based on experience (such as the hospital portion from 61% to 54%) to date, it has been estimated preliminarily that the amount of averted bad debt in FY 2009 was \$16.5 million greater than originally expected (See Row 18, Column B of Appendix I for calculations). This amount has been included in the uniform assessment calculation for FY 2010.

#### **FY 2010 Uniform Assessment Associated with Averted Bad Debt from Medicaid Expansion**

The FY 2010 assessment was based on an anticipated average enrollment of 55,000 and a per member/per month cost of \$539. The total expected Medicaid expenditures for this population is \$324.4 million. After making the same adjustments made for FY 2009, the total expected hospital averted bad debt in FY 2010 is \$103.4 million, and the uniform assessment for FY 2010 is \$90 million – providing a savings to purchasers of hospital care of about 7.4% or \$13 million (See Column C of Appendix I for calculations).

The aforementioned \$16.5 million from the underestimation in FY 2009 has been added to this amount so that the total assessment amount for the parents/caretakers expansion in FY 2010 is \$106.5 million (See line 19 in Column C in Appendix I).

#### **Expansion to Emergency Care under the Primary Adult Care Program**

As described above, Chapter 7 of the 2007 legislation expands services to childless adults with incomes up to 116 percent of the federal poverty level. Currently, the childless adult population receives primary care, pharmacy, and certain office and clinic-based mental health services (the Primary Adult Care Program, or PAC). The Working Families and Small Business Health Coverage Act phases in specialty physician, emergency, and hospital services over a three-year period, if available funding exists. In accordance with Board of Public Works action in July of 2009, emergency services have been added to the PAC program beginning January 1, 2010. This expansion will also require an adjustment to the FY 2010 uniform assessment. This program

required an additional \$8.7 million in resources between January 1, 2010 and June 30, 2010. Therefore, this amount has been added to the uniform assessment for a total FY 2010 uniform assessment of \$115.2 million.

### **FY 2011 Uniform Assessment Associated with Averted Bad Debt from Medicaid Expansion**

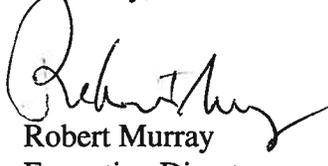
The FY 2011 assessment was based on an anticipated average enrollment of 69,773 and a per member/per month cost of \$546. The total expected Medicaid expenditures for this population is \$457.6 million. After making the same adjustments made in FY 2009 and 2010, the total expected hospital averted bad debt in FY 2011 is \$155.4 million, which includes \$128.6 million for the Medicaid Expansion, plus \$26.8 million for the PAC program. The uniform assessment for FY 2011 is \$146.1 million (adjusted for the conversion of hospital charges to Medicaid payments). There will be no savings to purchasers of hospital care in FY 2011 (See Column D of Appendix I for calculations).

### **Conclusion**

Thank you for this opportunity to share data on the impact that the provisions of Chapter 7 from 2007 and Chapter 244/245 from 2008 have had to date on hospital uncompensated care. In a short period of time, these provisions have begun to demonstrate the desired effect of increasing access to health care and reducing hospital uncompensated care. HSCRC policy dictates that since the uniform assessment represents an estimate of bad debt experience, once actual experience is known, the Commission will make "settle-up" adjustments in rates to correct for any error in forecasting.

Future reports will allow for a more comprehensive analysis by utilizing a full year of actual data. The HSCRC will continue to coordinate with DHMH to establish a more efficient and effective means of estimating averted bad debt resulting from the Medicaid expansion legislation, as well as determining the actual amount to be reconciled in hospital rates.

Sincerely,



Robert Murray  
Executive Director

cc: Department of Legislative Services Library and Information Services (5 copies)  
Senator Thomas Mac Middleton  
Delegate Peter Hammen  
Secretary John Colmers  
Mr. Joseph Bryce (Governor's Legislative Office)  
Ms. Marie Grant (DLS)  
Ms. Linda Stahr (DLS)  
Ms. Wynnee Hawk (DHMH)

# Appendix I

## Estimate vs Actual Averted Bad Debt

Estimated for FY 2009, FY 2010, and FY 2011

	A	B	C	D
	Original Estimate FY 2009	Revised Estimate FY 2009	Revised Estimate FY 2010	Revised Estimate FY 2011
1 Medicaid Total Expenditures	\$95,170,624	\$160,119,126	\$324,422,100	\$457,646,689
2 In State Payment Percent	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>
3 In State Payments	\$89,460,386	\$150,511,978	\$304,956,774	\$430,187,888
4 Medicaid Payment Percent	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>
5 Charges @ Hosp Payment Rate	\$95,170,624	\$160,119,126	\$324,422,100	\$457,646,689
6 Hospital Portion	<u>61.00%</u>	<u>61.00%</u>	<u>54.00%</u>	<u>47.61%</u>
7 Hospital Charges Reported	\$58,054,080	\$97,672,667	\$175,187,934	\$217,879,100
8 Crowd Out (28%)	<u>72.00%</u>	<u>72.00%</u>	<u>72.00%</u>	<u>72.00%</u>
9 Hospital Charges after Crowd	\$41,798,938	\$70,324,320	\$126,135,312	\$156,872,952
10 Lower Use Rate	<u>82.00%</u>	<u>82.00%</u>	<u>82.00%</u>	<u>82.00%</u>
11 <b>Averted Bad Debt</b>	<b>\$34,275,129</b>	<b>\$57,665,943</b>	<b>\$103,430,956</b>	<b>\$128,635,821</b>
12 Medicaid Expenditures for PAC	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	\$26,787,574
13 Hospital Charges after PAC				\$155,423,395
14 Medicaid Payment Percent	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>
15 Net Medicaid Payments	\$32,218,621	\$54,205,986	\$97,225,099	\$146,097,991
16 Percent Returned to Medicaid	<u>75.00%</u>	<u>75.00%</u>	<u>92.61%</u>	<u>100.00%</u>
17 Hospital Payments to Medicaid	\$24,163,966	\$40,654,489	\$90,039,771	\$146,097,991
18 <b>Difference</b>		<b>\$16,490,523</b>		
19 Settle up Payment			<b>\$16,490,523</b>	
20 Total Payments to Medicaid			\$106,530,295	

Estimated Enrollees

29,273

55,000

69,773

Cost per Enrollee per member month

\$511

\$539

\$546

STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE



Donald A. Young, M.D.  
Chairman

Kevin J. Sexton  
Vice Chairman

Joseph R. Antos, Ph.D.

Trudy R. Hall, M.D.

Steven B. Larsen, J.D.

C. James Lowthers

Herbert S. Wong, Ph.D.

Robert Murray  
Executive Director

Stephen Ports  
Principal Deputy Director  
Policy & Operations

Gerard J. Schmith  
Deputy Director  
Hospital Rate Setting

Charlotte Thompson  
Deputy Director  
Research and Methodology

**HEALTH SERVICES COST REVIEW COMMISSION**  
4160 PATTERSON AVENUE · BALTIMORE, MARYLAND 21215  
Phone: 410-764-2605 Fax: 410-358-6217  
Toll Free: 1-888-287-3229  
[www.hsrcr.state.md.us](http://www.hsrcr.state.md.us)

January 1, 2010

The Honorable Martin O'Malley  
State House, 100 State Circle  
Annapolis, MD 21401

The Honorable Thomas V. Mike Miller, Jr.  
H-107, State House  
Annapolis, MD 21401-1991

The Honorable Michael E. Busch  
H-101, State House  
Annapolis, MD 21401-1991

RE: Legislative Report:  
Health General Article  
Section 19-214(e)

Dear Governor O'Malley, President Miller, and Speaker Busch;

I am writing in response to the provisions set forth in Section 19-214(e) of the Health General Article (as enacted in Chapter 245 of the 2008 Laws of Maryland, House Bill 1587), which requires the Health Services Cost Review Commission ("HSCRC," or "Commission") to report to the Governor and, in accordance with Section 2-1246 of the State Government Article, the General Assembly, the following information:

- The aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session; and

- The number of individuals who enrolled in Medicaid as a result of the change in eligibility standards under Section 15-103(A)(2)(ix) and (x) of the Health General Article and the expenses associated with the utilization of hospital inpatient care by these individuals.

## **Introduction**

Over the past several years, the General Assembly has considered various ways to reduce the number of uninsured individuals in the State, which has been estimated roughly to be 800,000. For example, legislation has been introduced to create a health care exchange, increase the eligible age of dependents for health care coverage purposes, require citizens to obtain coverage or pay a tax penalty, require businesses to provide coverage to employees or pay a subsidy, provide a subsidy for small businesses that have not provided health care coverage to their employees, and expand eligibility for the Medicaid Program.

Senate Bill 6 (Chapter 7) was enacted during the 2007 Special Session, and SB974/HB 1587 (Chapter 244/245) was enacted in 2008 to address several of these issues.

## **Background**

Chapter 7 of the 2007 Special Session enacted the "Working Families and Small Business Health Coverage Act," which expands access to health care in the following ways:

- Expands Medicaid eligibility to parents and caretaker relatives with household income up to 116 percent (currently 46%) of federal poverty guidelines (FPG), which will be implemented in fiscal 2009 (116% for family of 4 = \$24,000);
- Contingent on available funding, incrementally expands the Primary Adult Care program benefits over three years to childless adults with household income up to 116 percent FPG (currently 46%), which will phase in from fiscal 2010 through 2013; and
- Establishes a Small Employer Health Insurance Premium Subsidy Program, which will be administered by the Maryland Health Care Commission (MHCC) and funded with \$15 million in fiscal 2009.

Special funds, including savings from averted uncompensated care and matching federal funds, will cover a portion of the costs of the expansion. Chapters 244/245 from 2008 requires the Commission to implement a uniform assessment on hospital rates to reflect the aggregate reduction in hospital uncompensated care from the expansion of health care coverage under Chapter 7. The assessment is to be broad-based, prospective, and uniform and will reflect averted uncompensated care realized from the expansion of the Medicaid Program under Chapter

7. The legislation authorizes the Commission to implement the assessment provided that it does not exceed the actual averted uncompensated care.

The federal Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 require that in order for provider taxes to access federal matching funds, they may not exceed 25% of a state's share of Medicaid expenditures; they must be broad-based and uniform; and they may not hold providers harmless. A uniform tax is one that is imposed at the same rate on all providers.

In addition to altering the funding of health care expansion efforts, Senate Bill 974/House Bill 1587 made the Maryland Health Insurance Plan ("MHIP") assessment more responsive to the current needs of the program. Under this provision, regulations were adopted to increase the assessment from the previous requirement of 0.81% to 1.0% of net patient revenue. The combined assessment (averted uncompensated care and MHIP) may not exceed 3% of total net patient revenue at Maryland hospitals.

#### **FY 2009 Uniform Assessment and Estimate of Averted Bad Debt**

Frequently, eligible individuals do not become enrolled in the Medicaid program until many months after care had been provided. Once enrolled, coverage is provided retroactively to the date of the service. In addition, it takes at least 3-6 months after care is provided for all relevant data to be accessed by Medicaid and the HSCRC on the associated costs. Therefore, the amount of averted bad debt is not fully known until many months after the conclusion of the applicable fiscal year. As a result, Medicaid and the HSCRC estimate the aggregate reduction in hospital uncompensated care based on Medicaid's expected enrollment and per member/per month costs. During FY 2008, the Medicaid Program and HSCRC calculated the estimated total Medicaid expenditures for FY 2009 by multiplying the total number of expected member months by the expected monthly Medicaid costs (\$462.58). The result, \$95.2 million, was adjusted to account for the following:

- The percentage of expenditures that will be spent in-state, 94%, calculated using a three year average of Medicaid claims data;
- Medicaid pays 94% of charges;
- The percentage of expenditures that would go to hospitals (61%) calculated based on the Medicaid HealthChoice reimbursement process that breaks out payment rates into hospital, drug, and other components;
- The estimated share of the spending that went to individuals who had coverage previously (known as "crowd out") was 28% based on available literature and confirmed by surveys issued through Medicaid; and

- The lower use rate of the uninsured, approximately 82%, based on the available literature.

Using these adjustments, the original estimated hospital averted bad debt from Medicaid expansion in FY 2009 was calculated to be \$34.3 million (See Row 11, Column A of Appendix I for calculations).

The legislation states that a portion of averted bad debt shall be utilized to reduce costs to purchasers of hospital care, through a reduction in hospital rates. For FY 2009, the Commission determined that 75% of the averted bad debt is to be passed on as reductions in hospital payments related to uncompensated care. Therefore, \$24.2 million of the expected averted bad debt was remitted from hospitals to support the Medicaid expansion program (See Row 15, Column A of Appendix I for calculations). Once remitted and utilized for health care purposes by Medicaid, the State is able to access the federal match on this amount – more than doubling this amount (the federal match in FYs 2009 and 2010 is 61.59%).

As reported by the Department of Health and Mental Hygiene (“DHMH”), the average enrollment in Medicaid as a result of Medicaid expansion in FY 2009 was actually 29,273 – an amount higher than expected when the uniform assessment was originally calculated for FY 2009. Moreover, Medicaid found that the per member/per month cost was also higher than originally expected, since a higher proportion of the new enrollees was older than age 44. Typically, an older population requires more health care services, which means higher costs to the program. As a result, the original FY 2009 per member/per month cost estimate was increased from \$462.58 to \$510.61 – a 10.3% increase.

Factoring in these increases and making adjustments based on experience (such as the hospital portion from 61% to 54%) to date, it has been estimated preliminarily that the amount of averted bad debt in FY 2009 was \$16.5 million greater than originally expected (See Row 16, Column B of Appendix I for calculations). This amount has been included in the uniform assessment calculation for FY 2010.

#### **FY 2010 Uniform Assessment and Estimated Averted Bad Debt**

The FY 2010 assessment was based on an anticipated average enrollment of 55,000 and a per member/per month cost of \$539. The total expected Medicaid expenditures for this population is \$324.4 million. After making the same adjustments made for FY 2009, the total expected hospital averted bad debt in FY 2010 is \$103.4 million, and the uniform assessment for FY 2010 is \$90 million – providing a savings to purchasers of hospital care of about 7.4% or \$13 million (See Column C of Appendix I for calculations).

The Honorable Martin O'Malley  
The Honorable Thomas V. Mike Miller, Jr.  
The Honorable Michael E. Busch  
January 1, 2010  
Page 5

The aforementioned \$16.5 million from the underestimation in FY 2009 has been added to this amount so that the total assessment amount for the parents/caretakers expansion in FY 2010 is \$106.5 million (See line 18 in Column C in Appendix I).

### **Expansion to Emergency Care under the Primary Adult Care Program**

As described above, Chapter 7 of the 2007 legislation expands services to childless adults with incomes up to 116 percent of the federal poverty level. Currently, the childless adult population receives primary care, pharmacy, and certain office and clinic-based mental health services (the Primary Adult Care Program or PAC). The Act phases-in specialty physician, emergency services, and hospital services over a three-year period, if available funding exists. Pursuant to Board of Public Works action in July of 2009, emergency services will be added to the PAC program beginning January 1, 2010. This expansion will also require an adjustment to the FY 2010 uniform assessment. This program is expected to require an additional \$8.7 million in resources between January 1, 2010 and June 30, 2010. Therefore, this amount has been added to the uniform assessment for a total FY 2010 uniform assessment of \$115.2 million.

### **Administrative Difficulties**

Estimating averted bad debt has been more tedious than expected due to data lags, the inability of Medicaid to identify distinctly the individuals enrolled under the expansion legislation, the inadequacy of the enrollment and data systems at DHMH, the fact that uncompensated care is increasing overall due to other economic factors, and the time burden on staff at Medicaid and HSCRC.

Hospitals have claimed that they are not seeing the same level of averted bad debt that is being estimated. Medicaid, on the other hand, has been finding enrollment higher and more costly than initially estimated. Adding to the dichotomy is inability to provide- patient level information to hospitals in a timely manner to confirm such levels. As we note that uncompensated care continues to increase due to various economic factors, it will be difficult to determine averted bad debt accurately until all relevant data on Medicaid expansion enrollment and costs become available.

Over the past 18 months, HSCRC staff has invested approximately 800 hours in attempting to arrive at the most accurate estimates possible. Since this has not been an efficient use of staff time, the HSCRC, Medicaid, and the hospital industry representatives have been working to find a more efficient and accurate means of identifying the Medicaid expansion population within the HSCRC data.

### **Conclusion**

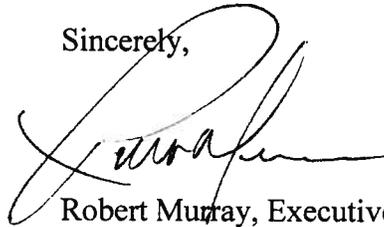
Thank you for this opportunity to share preliminary data and an estimate of the impact that the provisions of Chapter 7 from 2007 and Chapter 244/245 from 2008 have had to date on hospital

The Honorable Martin O'Malley  
The Honorable Thomas V. Mike Miller, Jr.  
The Honorable Michael E. Busch  
January 1, 2010  
Page 6

uncompensated care. In a short period of time, these provisions have begun to demonstrate the desired effect of increasing access to health care and reducing hospital uncompensated care. HSCRC policy dictates that since the uniform assessment represents an estimate of bad debt experience, once actual experience is known, the Commission will make "settle-up" adjustments in rates to correct for any error in forecasting.

Future reports will allow for a more comprehensive analysis by utilizing a full year of actual data. The HSCRC will continue to coordinate with DHMH to establish a more efficient and effective means of estimating averted bad debt resulting from the Medicaid expansion legislation, as well as determining the actual amount to be reconciled in hospital rates.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Murray", written over a large, stylized flourish that loops back to the left.

Robert Murray, Executive Director  
HSCRC

cc: Department of Legislative Services Library and Information Services (5 copies)  
Senator Thomas Mac Middleton  
Delegate Peter Hammen  
Secretary John Colmers  
Mr. Joseph Bryce (Governor's Legislative Office)  
Ms. Marie Grant (DLS)  
Ms. Linda Stahr (DLS)  
Ms. Wynee Hawk (DHMH)

# Appendix I

## Estimate vs Actual Averted Bad Debt

Estimated for FY 2009 and FY 2010

	A	B	C
	Original Estimate FY 2009	Revised Estimate FY 2009	Revised Estimate FY 2010
1 Medicaid Total Expenditures	\$95,170,624	\$160,119,126	\$324,422,100
2 In State Payment Percent	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>
3 In State Payments	\$89,460,386	\$150,511,978	\$304,956,774
4 Medicaid Payment Percent	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>
5 Charges @ Hosp Payment Rate	\$95,170,624	\$160,119,126	\$324,422,100
6 Hospital Portion	<u>61.00%</u>	<u>61.00%</u>	<u>54.00%</u>
7 Hospital Charges Reported	\$58,054,080	\$97,672,667	\$175,187,934
8 Crowd Out (28%)	<u>72.00%</u>	<u>72.00%</u>	<u>72.00%</u>
9 Hospital Charges after Crowd	\$41,798,938	\$70,324,320	\$126,135,312
10 Lower Use Rate	<u>82.00%</u>	<u>82.00%</u>	<u>82.00%</u>
11 <b>Averted Bad Debt</b>	<b>\$34,275,129</b>	<b>\$57,665,943</b>	<b>\$103,430,956</b>
12 Medicaid Payment Percent	<u>94.00%</u>	<u>94.00%</u>	<u>94.00%</u>
13 Net Medicaid Payments	\$32,218,621	\$54,205,986	\$97,225,099
14 Percent Returned to Medicaid	<u>75.00%</u>	<u>75.00%</u>	<u>92.61%</u>
15 Hospital Payments to Medicaid	\$24,163,966	\$40,654,489	\$90,039,771
16 <b>Difference</b>		<b>\$16,490,523</b>	
17 Settle up Payment			<b>\$16,490,523</b>
18 Total Payments to Medicaid			\$106,530,295

Estimated Enrollees  
Cost per Enrollee per member month

29,273  
\$511

55,000  
\$539

Testimony Documents  
submitted by  
Barry Rosen, Esq.,  
Attorney for United Healthcare



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

SEP 18 2009

The Honorable Ulysses Currie  
Chairman  
Senate Budget and Taxation Committee  
3 West Miller Senate Office Bldg.  
Annapolis, MD 21401-1991

The Honorable Norman H. Conway  
Chairman  
House Appropriations Committee  
121 House Office Bldg.  
Annapolis, MD 21401-1991

**RE: 2008 Joint Chairmen's Report (P. 124) – Final Report on Implementation of Medicaid Expansion to Parents and Their Children**

Dear Chairmen Currie and Conway:

In keeping with the requirements of the 2008 Joint Chairmen's Report (p. 124), the Department is submitting the attached final report on the progress of the implementation of the Medicaid program expansion to parents and their children. The expansion was required by SB 6 (Chapter 7 of the Acts of the 2007 Special Session). An interim report was submitted to the legislature on January 13, 2009.

If you have questions or need more information on the topics covered in this report, please contact Anne Hubbard, Director of Government Affairs, at (410) 767-6481.

Sincerely,



John M. Colmers  
Secretary

Enclosure

cc: The Honorable Thomas M. Middleton  
The Honorable Peter A. Hammen  
John Folkemer  
Anne Hubbard  
Tricia Roddy  
Susan Tucker



## **Introduction**

This Joint Chairmen's Report provides additional information on the Medicaid Expansion to supplement the preliminary report submitted to the General Assembly in January 2009.

The April 2008 Joint Chairmen's Operating Budget Report requires that the Department of Health and Mental Hygiene ("the Department") submit a final report to the Budget Committees reviewing the Medicaid expansion to parents and their children through the first year of implementation. The report includes content on the following:

- the method used to collect funds from the Maryland Health Insurance Plan, the hospital uncompensated care fund, and the federal government;
- the current status of funds transferred from the Maryland Health Insurance Plan;
- an explanation of the eligibility determination and tracking process for new parents and children; and,
- the utilization rates and costs associated with inpatient hospital care and specialty mental health services of the new enrollees.

SB 6, the *Working Families and Small Business Health Coverage Act* (the Act), passed during the 2007 special legislative session (Chapter 7 of the Acts of the 2007 Special Session). The legislation expands Medicaid coverage for parents/caretakers and childless adults. The Medicaid expansion for parents/caretakers took effect July 2008. Maryland now provides coverage to parents/caretakers with incomes up to 116 percent of the federal poverty level.<sup>1</sup> (Attachment A provides the new income threshold amounts that were adjusted in March 2009 to reflect the updated federal poverty level.)

The Act also expands services to childless adults with incomes up to 116 percent of poverty over a three-year period, if available funding exists. Currently, the childless adult population receives primary care, pharmacy, and certain office and clinic-based mental health services (the Primary Adult Care Program (PAC)). The Department will be adding substance abuse treatment and emergency services to the PAC program starting January 1, 2010. The specialty physician benefit expansion, however, has been delayed due to lower-than-expected State revenues.

---

<sup>1</sup> Previously Maryland covered parents/caretakers with incomes up to 30-40 percent of the FPL.

In addition, the Act creates the Health Insurance Partnership, which encourages employers with a small number of moderate-wage employees to offer health insurance benefits to those employees.

### **Medicaid Eligibility and Tracking**

The Department made several improvements to the Medicaid enrollment process when implementing the expansion. They included:

- Eliminating the face-to-face interview;
- Removing the asset test requirement;
- Allowing families to submit applications through the mail, fax, or even on-line;
- Allowing local health departments to accept applications for families; prior to July 1, local health departments only accepted applications for pregnant women and children.

These processes were previously in place for pregnant women and children. Studies have shown that imposing an asset test for families has a very low yield in finding persons ineligible, but is expensive to administer.<sup>2</sup>

Once local health departments (LHD) or local departments of social services (LDSS) receive an application, it is entered into Maryland's automated Client Automated Resource and Eligibility System (CARES). The CARES system contains all the information necessary to make an eligibility determination. CARES was changed to account for the expanded household income criteria for parents/caretakers. CARES was also modified to place a special code on parents/caretakers who are eligible under the new criteria.

Following implementation, barriers were identified in processing on-line applications and ensuring that families were enrolling at the appropriate site. While families can apply for Medical Assistance at either the LHD or LDSS, additional assistance such as Food Stamps is handled at the LDSS only. Additional training was done to ensure that workers could properly handle and transfer cases that originated at either office.

---

<sup>2</sup>Vernon K. Smith, et. al, "Eliminating the Medicaid Assets Test for Families," Kaiser Commission on Medicaid and the Uninsured, April 2001, page 8.

## Medicaid Expansion Enrollment Numbers

Over 44,000 newly eligible parents/caretakers have enrolled between July 1, 2008 and June 30, 2009. The table below shows the new parent/caretaker enrollment by county. These enrollment numbers are original count and do not reflect individuals whose eligibility is made retroactive from the month they applied. A member's enrollment may be backdated up to three months to allow retroactive coverage for medical bills prior to the date of application. The Department estimates that the final June 2009 enrollment number will be over 48,000.

Parent and Caretaker Relative Enrollment by County as of July 2008 and June 2009

County	July 2008	Percent of Population	June 2009	Percent of Population
Allegany	318	4%	1638	4%
Anne Arundel	353	5%	2695	6%
Baltimore City	1883	26%	9074	21%
Baltimore County	817	11%	5736	13%
Calvert	119	2%	744	2%
Caroline	88	1%	642	1%
Carroll	164	2%	845	2%
Cecil	224	3%	1253	3%
Charles	170	2%	940	2%
Dorchester	99	1%	516	1%
Frederick	178	2%	1157	3%
Garrett	136	2%	779	2%
Harford	272	4%	1539	3%
Howard	129	2%	936	2%
Kent	61	1%	300	1%
Montgomery	596	8%	3999	9%
Prince Georges	726	10%	5237	12%
Queen Anne's	77	1%	572	1%
St. Mary's	97	1%	914	2%
Somerset	91	1%	496	1%
Talbot	64	1%	369	1%
Washington	242	3%	1622	4%
Wicomico	196	3%	1464	3%
Worcester	104	1%	760	2%
Out of State	6	0%	28	0%
<b>Total</b>	<b>7210</b>	<b>100%</b>	<b>44255</b>	<b>100%</b>

Note: Enrollment numbers are original count. These numbers will be higher once retroactive enrollment is considered. The Department estimates that the June 2009 number will be over 48,000.

Throughout the year, there was a steady increase in enrollment. This is likely due to the current economic climate as well as the various outreach and enrollment initiatives the Department is engaged in. Throughout the year, the Department has worked statewide to enroll eligible families by working with Health Care for All, Head Start, school nurses, local health departments, the Maryland Hospital Association and other advocacy and stakeholder groups.

A small percentage of the enrollment growth is due to populations shifting from existing covered populations. Specifically, the Department has noticed the number of women covered under pregnant women categories (with an income limit of 250 percent of poverty) has decreased by approximately 4,500 over the year. In prior years, this number has remained steady or slightly increased. The decrease is likely due to the fact that pregnant women with incomes between the old parent/caretaker limits and 116 percent of poverty are now eligible under the increased parent/caretaker category. These 4,500 women no longer automatically lose coverage two months after giving birth.

It is impossible for the Department to determine the indirect effect of the Medicaid expansion on children's enrollment. Other factors that may affect the Medicaid expansion include the changing economic state of Maryland residents, increased outreach efforts through the Kids First Act, and other community initiatives that might contribute to children's enrollment in health coverage. Between January and June 2008, approximately 12,000 additional children joined the Medicaid program. During this same period a year later, January to June 2009, this number grew two-fold with over 25,000 children joining the Medicaid program.

### **Medicaid Expansion Costs**

Data also show that the population served is more expensive. Approximately 16 percent of the parents/caretakers are older than age 44, which is more than the Department's original estimates. The older population tends to have more health care needs, resulting in higher costs. Initially, per member per month costs were estimated at \$462.58. The actual per member per month costs are \$510.61, including wrap-around services such as specialty mental health care. Combined

with the increase in enrollment, the parent/caretaker expansion is expected to cost the state approximately \$160 million in FY 2009.<sup>3</sup>

### **Revenue Collection and Expenditures**

The first year of the Medicaid expansion is funded with a mix of special and federal funds. The special fund portion is comprised of three main sources: hospital assessment funds, and one-time transfers of unspent funds from the Maryland Health Insurance Plan (MHIP) and Rate Stabilization Accounts.

Expanding health coverage to uninsured individuals results in less uncompensated care at hospitals. The Health Services Cost Review Commission (HSCRC) assesses hospitals each year based on the expected averted uncompensated care savings from the expansion.<sup>4</sup> Monies received from the hospital assessment are eligible for a federal-matching rate when applied to Medicaid expenditures.<sup>5</sup>

During FY 2009, 25 percent of the assessment was used to lower the hospital rates paid by payers, and the remaining portion was transferred to the Department to fund expansion activities.<sup>6</sup> (See Attachment B for HSCRC's Assessment Methodology.) The Department received \$24.2 million from the assessment to support the Medicaid expansion during FY 2009. This estimate was based on the Department's original enrollment and cost projections.

When the Working Families and Small Business Health Coverage Act passed, no one anticipated the drastic economic decline of the past year. Medicaid enrollment levels are significantly higher than initially projected, and the FY 2009 hospital assessment did not accurately reflect the averted uncompensated care resulting from the Medicaid expansion. The additional savings from the higher averted uncompensated care is estimated at \$16.5 million. (See Attachment C

---

<sup>3</sup> The number has been adjusted to not account for the pregnant women who would have been eligible prior to the parent/caretaker expansion.

<sup>4</sup> HB1587/SB 974 passed during the 2008 Legislative Session. The legislation gives HSCRC the authority to assess the hospitals based on averted uncompensated care, which is to be used to fund the health care expansion.

<sup>5</sup> With the passing of the American Recovery and Reinvestment Act of 2009, the State will receive enhanced funding for Medicaid-eligible populations. The percent of federal matching dollars is based on unemployment and varies quarterly. Maryland is expected to receive 61.59 percent federal funds for services for this population.

<sup>6</sup> During FY 2010, 10 percent of the assessment will be used to lower hospital rates paid by payers.

for the Department's updated calculations.) The Department has requested that HSCRC reallocate these funds to the Department as soon as possible.

The Department has established a mechanism to share information with the HSCRC and hospitals within Maryland to track inpatient and outpatient service utilization. Since the utilization and cost data are incomplete, the Department has provided information to each hospital on the individuals accessing their hospitals based on claims and encounter information. Hospitals will use the data to determine the actual impact of the expansion on their hospital uninsured rates. This process allows hospitals to monitor the impact of the expansion on uncompensated care, and for the HSCRC to ensure the assessment reflects hospitals' actual experience.

### **Summary**

This first year of the Medicaid expansion has gone extremely well. The pace of current enrollment exceeds the initial estimates. The declining economy and increase in unemployment continue to have an impact on Medicaid and other public programs. The Department estimates that the expansion may provide health care coverage to over 50,000 parents/caretakers in FY 2010.

**ATTACHMENT A**

<b>2009 Federal Poverty Guidelines</b>									
based on Federal Income Guidelines Printed in the Federal Register, 2009 (bottom number reflects monthly income)									
Family Size	Income								
	100%	116%	133%	150%	185%	200%	250%	275%	300%
1	\$ 10,830	\$ 12,563	\$ 14,404	\$ 16,245	\$ 20,036	\$ 21,660	\$ 27,075	\$ 29,783	\$ 32,490
	902.50	1,046.90	1,200.33	1,353.75	1,669.63	1,805.00	2,256.25	2,481.88	2,707.50
2	\$ 14,570	\$ 16,901	\$ 19,378	\$ 21,855	\$ 26,955	\$ 29,140	\$ 36,425	\$ 40,068	\$ 43,710
	\$ 1,214.17	\$ 1,408.43	\$ 1,614.84	\$ 1,821.25	\$ 2,246.21	\$ 2,428.33	\$ 3,035.42	\$ 3,338.96	\$ 3,642.50
3	\$ 18,310	\$ 21,240	\$ 24,352	\$ 27,465	\$ 33,874	\$ 36,620	\$ 45,775	\$ 50,353	\$ 54,930
	\$ 1,525.83	\$ 1,769.97	\$ 2,029.36	\$ 2,288.75	\$ 2,822.79	\$ 3,051.67	\$ 3,814.58	\$ 4,196.04	\$ 4,577.50
4	\$ 22,050	\$ 25,578	\$ 29,327	\$ 33,075	\$ 40,793	\$ 44,100	\$ 55,125	\$ 60,638	\$ 66,150
	\$ 1,837.50	\$ 2,131.50	\$ 2,443.88	\$ 2,756.25	\$ 3,399.38	\$ 3,675.00	\$ 4,593.75	\$ 5,053.13	\$ 5,512.50
5	\$ 25,790	\$ 29,916	\$ 34,301	\$ 38,685	\$ 47,712	\$ 51,580	\$ 64,475	\$ 70,923	\$ 77,370
	\$ 2,149.17	\$ 2,493.03	\$ 2,858.39	\$ 3,223.75	\$ 3,975.96	\$ 4,298.33	\$ 5,372.92	\$ 5,910.21	\$ 6,447.50
6	\$ 29,530	\$ 34,255	\$ 39,275	\$ 44,295	\$ 54,631	\$ 59,060	\$ 73,825	\$ 81,208	\$ 88,590
	\$ 2,460.83	\$ 2,854.57	\$ 3,272.91	\$ 3,691.25	\$ 4,552.54	\$ 4,921.67	\$ 6,152.08	\$ 6,767.29	\$ 7,382.50
7	\$ 33,270	\$ 38,593	\$ 44,249	\$ 49,905	\$ 61,550	\$ 66,540	\$ 83,175	\$ 91,493	\$ 99,810
	\$ 2,772.50	\$ 3,216.10	\$ 3,687.43	\$ 4,158.75	\$ 5,129.13	\$ 5,545.00	\$ 6,931.25	\$ 7,624.38	\$ 8,317.50
8	\$ 37,010	\$ 42,932	\$ 49,223	\$ 55,515	\$ 68,469	\$ 74,020	\$ 92,525	\$ 101,778	\$ 111,030
	\$ 3,084.17	\$ 3,577.63	\$ 4,101.94	\$ 4,626.25	\$ 5,705.71	\$ 6,168.33	\$ 7,710.42	\$ 8,481.46	\$ 9,252.50
	for each additional person add				\$3,740				

## **ATTACHMENT B (Provided by the Health Services Cost Review Commission)**

SB 974/HB 1587 (Chapters 244 and 245 of the Acts of 2008) repealed the assessment of hospital uncompensated care savings established under Chapter 7 of the 2007 Special Session and replaced it with a new assessment. The original assessment was hospital specific, retrospective, and non-uniform, thereby restricting the State's access to federal funds, disproportionately affecting high uncompensated care hospitals, and incurring additional administrative burden for implementation.

The 2008 bill requires the Commission to implement a uniform assessment on hospital rates to reflect the aggregate reduction in hospital uncompensated care from the expansion of health care coverage under Chapter 7. The new assessment is broad-based, prospective, and uniform and will reflect averted uncompensated care realized from the expansion of the Medicaid program under Chapter 7. The legislation authorizes the Commission to establish the assessment provided that it does not exceed the actual averted uncompensated care.

The federal Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 require that in order for provider taxes to access federal matching funds, they may not exceed 25% of a state's share of Medicaid expenditures; they must be broad-based and uniform; and they may not hold providers harmless. A uniform tax is one that is imposed at the same rate on all providers. This approach also positively impacts the Medicare waiver test, more equitably shares the burden of providing uncompensated care, and reduces expenditures for Medicaid since its patients tend to utilize hospitals that, under the Chapter 7 assessment, would likely have higher rates.

In addition to altering funding of health care expansion efforts, SB 974/HB 1587 made the Maryland Health Insurance Plan ("MHIP") assessment more responsive to the current needs of the program. Pursuant to this provision, regulations were adopted to increase the assessment from the previous requirement of 0.81% to 1.0% of net patient revenue. The combined assessment (averted uncompensated care and MHIP) may not exceed 3% of total net patient revenue at Maryland hospitals.

### **Estimates of averted bad debt**

Lower hospital uncompensated care resulted from two features of the 2007 and 2008 legislation - the Medicaid Expansion and subsidies to small business. The averted uncompensated care from the Medicaid expansion is calculated based on the following assumptions:

- Estimated share of the spending that went to individuals who had coverage previously, known as crowd out, approximately 28%, based on available literature;
- The percentage of expenditures that would go to hospitals (61%), calculated based on the Medicaid HealthChoice rate-setting process that breaks out payment rates into hospital, drug, and other components;

- The percentage of expenditures that will be spent in-state, 94%, calculated using a three year average of Medicaid claims data;
- The lower use rate of the uninsured, approximately 82%, based on the available literature.

**ATTACHMENT C – UPDATED EXPANSION COSTS AND AVERTED  
UNCOMPENSATED CARE NUMBERS**

**HSCRC Assessment Calculation Based On Initial Enrollment and Cost Estimates**

Total Estimated Cost of Medicaid Expansion	\$94,550,722
Total Cost Adjusted for Crowd-Out	\$68,522,850
Amount Spent on Hospital Services (61%)	\$41,798,939
Adjusted To Account for Lower-Hospital Use Rate Of Uninsured (82%)	\$34,275,130
Reduce to Account for Out-Of-State Hospital Expenditures (6%)	\$32,218,622
Reduced to Account For Savings to Payers (25%)	\$24,163,967
<b>TOTAL AMOUNT DUE TO MEDICAID</b>	<b>\$24,163,967</b>

**DHMH Assessment Calculation Based On Actual Enrollment and Costs**

Total Estimated Cost of Medicaid Expansion <i>Note: This includes pregnant women who would have been eligible prior to expansion.</i>	\$176,227,851
Adjusted For Pregnant Women Who Would Have Been Eligible Prior To Exp. (Average Annual Enrollment of 2,629)	\$160,119,126
Adjusted For Crowd-Out	\$115,285,771
Amount Spent on Hospital Services (61%)	\$70,324,320
Adjusted To Account for Lower-Hospital Use Rate Of Uninsured (82%)	\$57,665,943
Adjusted to Account for Out-Of-State Hospital Expenditures (6%)	\$54,205,986
Adjusted to Account For Savings to Payers (25%)	\$40,654,490
<b>TOTAL AMOUNT TO DUE MEDICAID</b>	<b>\$40,654,490</b>
<b>DIFFERENCE BETWEEN ACTUAL TRANSFER AN UPDATED NUMBER</b>	<b>\$16,490,523</b>

agreement for Medicare and Medicaid between the State of Maryland and the federal government.

(2) If notice of intent to terminate is made by the federal government to this State prior to the first day of an intervening session of the Maryland General Assembly, this section shall expire June 30 of the following calendar year. However, under no circumstances shall less than seven calendar months occur between notice of termination and expiration of this section. (1983, ch. 132; 1986, ch. 684; 1988, ch. 391; 1991, ch. 169; 1992, ch. 18; 1993, ch. 136; 1995, ch. 319; 1997, ch. 238; ch. 635, § 9; ch. 636, § 9; 1999, ch. 613; ch. 702, § 2; 2000, ch. 375; 2001, ch. 498; 2004, ch. 430, § 4; 2005, ch. 444, § 1; 2006, ch. 107; 2007, ch. 628; 2008, ch. 641.)

**Effect of amendments.** — Chapter 628, Acts 2007, effective July 1, 2007, in (c), substituted "\$5,500,000" for "\$4,000,000" in (c)(1) and added "and any . . . the Department" in (c)(3); reenacted (d)(1) without change, and in (d)(8), deleted "For each of fiscal years 2005 and 2006,

the" at the beginning of the second sentence; and deleted the third sentence concerning calculation of amount to be paid for costs.

Chapter 641, Acts 2008, effective October 1, 2008, deleted former (c)(6) and redesignated accordingly.

### § 19-214. Hospital uncompensated care [Amendment subject to contingent abrogation].

(a) *Causes; development of alternatives.* — The Commission shall assess the underlying causes of hospital uncompensated care and make recommendations to the General Assembly on the most appropriate alternatives to:

- (1) Reduce uncompensated care; and
- (2) Assure the integrity of the payment system.

(b) *Regulations.* — The Commission may adopt regulations establishing alternative methods for financing the reasonable total costs of hospital uncompensated care provided that the alternative methods:

- (1) Are in the public interest;
- (2) Will equitably distribute the reasonable costs of uncompensated care;
- (3) Will fairly determine the cost of reasonable uncompensated care included in hospital rates;
- (4) Will continue incentives for hospitals to adopt fair, efficient, and effective credit and collection policies; and
- (5) Will not result in significantly increasing costs to Medicare or the loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act.

(c) *Use of funds generated.* — Any funds generated through hospital rates under an alternative method adopted by the Commission in accordance with subsection (b) of this section may only be used to finance the delivery of hospital uncompensated care.

(d) *Annual assessment for savings in averted uncompensated care.* — (1) Each year, the Commission shall assess a uniform, broad-based, and reasonable amount in hospital rates to:

(i) Reflect the aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage under Chapter 7 of the Acts of the 2007 Special Session of the General Assembly; and

(ii) Operate and administer the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article.

(2) (i) For the portion of the assessment under paragraph (1)(i) of this subsection:

1. The Commission shall ensure that the assessment amount does not exceed the savings realized in averted hospital uncompensated care from the health care coverage expansion; and

2. Each hospital shall remit its assessment amount to the Health Care Coverage Fund established under § 15-701 of this article.

(ii) Any savings realized in averted uncompensated care as a result of the expansion of health care coverage under Chapter 7 of the Acts of the 2007 Special Session of the General Assembly that are not subject to the assessment under paragraph (1)(i) of this subsection shall be shared among purchasers of hospital services in a manner that the Commission determines is most equitable.

(3) For the portion of the assessment under paragraph (1)(ii) of this subsection:

(i) The Commission shall ensure that the assessment:

1. Shall be included in the reasonable costs of each hospital when establishing the hospital's rates;

2. May not be considered in determining the reasonableness of rates or hospital financial performance under Commission methodologies; and

3. May not be less as a percentage of net patient revenue than the assessment of .8128% that was in existence on July 1, 2007; and

(ii) Each hospital shall remit monthly one-twelfth of the amount assessed under paragraph (1)(ii) of this subsection to the Maryland Health Insurance Plan Fund established under Title 14, Subtitle 5 of the Insurance Article, for the purpose of operating and administering the Maryland Health Insurance Plan.

(4) The assessment authorized under paragraph (1) of this subsection may not exceed 3% in the aggregate of any hospital's total net regulated patient revenue.

(5) Funds generated from the assessment under this subsection may be used only as follows:

(i) To supplement coverage under the Medical Assistance Program beyond the eligibility requirements in existence on January 1, 2008;

(ii) To provide funding for the operation and administration of the Maryland Health Insurance Plan, including reimbursing the Department for subsidizing the plan costs of members of the Maryland Health Insurance Plan under a Medicaid waiver program; and

(iii) Any funds remaining after expenditures under items (i) and (ii) of this paragraph have been made may be used for the general operations of the Medicaid program.

(e) *Annual report.* — On or before January 1 each year, the Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly the following information:

(1) The aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session; and

(2) change i  
and the  
these in  
Sp. Sess  
487, § 1

**Effect**  
2007 Sp.  
and effect  
(d).  
Chapte  
July 1,  
rewrote  
Chapte  
June 1,  
added "  
change.  
Sectio  
2009, in  
substitu  
added "  
and ma  
**Edito**  
Acts 20  
"Chapte  
Sectio  
vides t  
Review  
Health  
mecha  
hospita  
the ex  
acted  
Sect  
vides t  
§ 181  
termin  
ified t  
Articl  
shall  
which  
Sec  
vides  
trans  
Insur  
Act a  
unde  
ticle  
shal  
waiv  
Secu  
P  
arti  
eral

(2) The number of individuals who enrolled in Medicaid as a result of the change in eligibility standards under § 15-103(a)(2)(ix) and (x) of this article and the expenses associated with the utilization of hospital inpatient care by these individuals. (1992, ch. 375, § 1; 1999, ch. 702, § 2; 2007, ch. 5, § 7; 2007 Sp. Sess., ch. 7, § 1; 2008, ch. 36, § 6; chs. 244, 245; 2009, chs. 310, 311; ch. 487, § 1.)

**Effect of amendments.** — Chapter 7, Acts 2007 Sp. Sess., enacted November 19, 2007, and effective from the date of enactment, added (d).

Chapters 244 and 245, Acts 2008, effective July 1, 2008, made identical changes. Each rewrote (d) and added (e).

Chapters 310 and 311, Acts 2009, effective June 1, 2009, made identical changes. Each added "fair" in (b)(4) and made a stylistic change.

Section 1, ch. 487, Acts 2009, effective June 1, 2009, in the introductory language in (d)(5) substituted "as follows" for "to"; in (d)(5)(i) added "to"; rewrote (d)(5)(ii); added (d)(5)(iii); and made related changes.

**Editor's note.** — Pursuant to § 7 of ch. 5, Acts 2007, "Chapter 7" was substituted for "Chapter s.b. 6/h.b. 6" in (d)(1).

Section 10, ch. 7, Acts 2007 Sp. Sess., provides that "the State Health Services Cost Review Commission and the Department of Health and Mental Hygiene shall develop a mechanism to calculate the amount of averted hospital uncompensated care resulting from the expansion of health care coverage, as enacted under Section 1 of this Act."

Section 12, ch. 7, Acts 2007 Sp. Sess., provides that "if the State's Medicare waiver under § 1814(b) of the federal Social Security Act terminates, the hospital rate assessment specified under § 19-214(d) of the Health - General Article, as enacted under Section 1 of this Act, shall terminate at the end of the fiscal year in which the waiver terminates."

Section 13, ch. 7, Acts 2007 Sp. Sess., provides that "the State shall ensure that the transfer of funds from the Maryland Health Insurance Plan Fund under Section 11 of this Act and the hospital rate assessment specified under § 19-214(d) of the Health - General Article, as enacted under Section 1 of this Act, shall be consistent with the State's Medicare waiver under § 1814(b) of the federal Social Security Act and federal regulations."

Pursuant to § 6 of ch. 36, Acts 2008, "this article" was substituted for "the Health - General Article" in (e)(2).

Section 2, chs. 244 and 245, Acts 2008, provides that "it is the intent of the General Assembly that the Department of Health and Mental Hygiene policy of imposing Medicaid day limits on hospital services shall cease effective July 1, 2008."

Section 3, chs. 244 and 245, Acts 2008, as amended by § 16, ch. 487, Acts 2009, provides that "notwithstanding § 19-214(d)(1), (2), and (5) of the Health - General Article, as enacted by Section 1 of this Act, § 15-701 of the Health - General Article, or a delay in the expansion of health care coverage beyond July 1, 2008, under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session:

"(1) funds generated from the assessment under § 19-214(d)(1)(i) of the Health - General Article, as enacted by Section 1 of this Act, may be used to pay:

"(i) for the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008; and

"(ii) for Medicaid payments to hospitals between July 1, 2009, and June 2010; and

"(2) the Health Services Cost Review Commission shall ensure that the assessment under § 19-214(d)(1)(i) of the Health - General Article, as enacted by Section 1 of this Act, does not exceed the savings realized in averted hospital uncompensated care from:

"(i) the health care coverage expansion; and

"(ii) the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008."

Section 4, chs. 244 and 245, Acts 2008, provides that "if the State's Medicare waiver under § 1814(b) of the federal Social Security Act terminates or the provisions of 42 C.F.R. 433.68 are changed to prohibit the assessment authorized under this Act, this Act shall be abrogated and of no further force and effect."

**Medicare waiver.** — The Cost Review Commission has been directed repeatedly by the legislature to maintain the so-called "Medicare waiver," which is considered to be "the foundation of Maryland's hospital payment system." *Maryland Ass'n of Health Maintenance Orgs. v. Health Servs. Cost Review Comm'n*, 356 Md. 581, 741 A.2d 483 (1999).