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**Facility Fees and Facility Notices**

Required by sections 2 and 3 of Chapter 142 (2024)

December 2024

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# Executive Summary

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# Introduction

Maryland law requires the Health Services Cost Review Commission (HSCRC) to conduct a study on facility fees and submit reports related to the study in 2024 and 2025.[[1]](#footnote-1) In 2024, the HSCRC is required to submit a report that-

1. Considers the impact of expanding the facility fee notice requirement on consumers, including Medicaid recipients and consumers with recurring appointments, with consideration given to the impact on providers and payers.
2. Makes recommendations for the application of the outpatient facility fees notice requirement to apply to all outpatient services, including services provided by out-of-state hospitals at outpatient locations in the State.
3. Makes a preliminary report on the study that must be completed in 2025.

This report provides a description of facility fees and describes the impact of facility fee notices on patients, hospitals, and insurers. It describes requirements for facility fee notices in other states. It makes recommendations related to the expansion of facility fee notices to more services than is required under current law.

# What is a facility fee?

For purposes of this study, a “facility fee” is defined as a charge from a healthcare facility that is separate from and in addition to the professional fee. Facility fees are charged by institutional providers, including hospitals. This report will focus on facility fees charged by hospitals for outpatient services. “Facility fees” may also be referred to as the “hospital charges”. This report will not address facility fees in other types of facilities or hospital charges for ED or inpatient services.[[2]](#footnote-2)

Facility fees are intended to cover the overhead of operating the facility (see additional discussion of costs below). Facility fees are distinct from professional fees, which are charges from physicians or advanced practice providers (such as nurse practitioners) for services the clinician provided during the patient’s visit. Professional fees reimburse clinical professionals for the services they provide to the patient.

A clinical professional that works in a traditional office setting that is not owned by a hospital may only bill a professional fee. For services provided through a hospital, patients will usually receive two charges, one for the facility fee and one for the professional fee. The patient may receive these charges through a single bill (this is more common if the professional is employed by the hospital) or two bills (this may be more likely if the professional and the hospital are separate legal entities). For example, for an outpatient surgery, there will be a hospital charge for the operating room time and professional charges from the surgeon and anesthesiologist.

There are some services that occur at hospitals only that have a facility fee, with no associated professional fee. For example, if the staff member, such as a nurse, who provided the service to the patient does not have the authority to bill a professional fee, there will be no professional fee, but there will be a facility fee (e.g., room and board at a hospital).

Historically, hospitals and physician practices were separate businesses. The facility fee was paid to cover the facility’s costs, and the professional fee went to the independent physician practice. Over time, the percentage of physicians and other clinical professionals in private practice has decreased. Nationally, the percentage of physicians “working in practices at least partially owned by a hospital or health system increased from 23.4% to 31.3% between 2012 and 2022.”[[3]](#footnote-3) Despite this decrease in independent physician practices, there are still physicians that are employed by independent practices working within hospital settings. When a physician works in a hospital, but is not employed by the hospital, the facility fee is paid to the hospital and the professional fee goes to the entirely separate physician practice.

Maryland hospitals that are rate regulated by HSCRC only charge facility fees for HSCRC-regulated hospital services (see “The Regulation of Facility Fee Notices” section below for more information about HSCRC rate regulation). This is an important difference from the rest of the country. In other states, “as hospitals and health systems expand their ownership and control of ambulatory care practices, they are typically charging new facility fees for services delivered in these outpatient settings”, including outpatient settings that are not on the hospital campus.[[4]](#footnote-4) HSCRC has received reports of an out-of-state hospital with offices in Maryland charging facility fees at those office locations. HSCRC will include more detail on facility fees in a report due in late 2025.

# Hospital Costs covered by Outpatient Facility Fees

Hospital facility fees are intended to account for hospital overhead charges. Hospital facility fees cover a wide variety of costs unique to hospitals, which are listed below.

1. Costs related to maintaining inpatient capacity and emergency services, such as capacity for anticipated seasonal increases in patient volume (like the winter respiratory virus season) and mass casualty events.
2. Operating and administrative expenses related to remaining open 24/7. These expenses are higher than a physician’s office. Factors that contribute to these higher costs include:
   1. higher staffing requirements to provide care throughout the hospital on a 24/7 basis, including the compensation for clinical professionals who are not able to bill for their services through professional fees;
   2. higher non-clinical staffing needs, including care coordinators, discharge planners, and chaplains;
   3. capital and maintenance expenses for the larger physical spaces that hospitals must maintain to provide a broader set of services than physician offices provide;
   4. higher indirect costs, such as housekeeping, cybersecurity, and professional liability insurance;
   5. requirements for more specialized diagnostic or therapeutic equipment and supplies, related to the broad set of services that a hospital providers; and
   6. compensation for clinical professionals who are on “standby” status to respond to emergencies. The cost of having these physicians on site, waiting to serve patients, cannot be reimbursed through professional fees.[[5]](#footnote-5)

Hospitals use the revenue from facility fees to fund graduate education for medical students and residents, subsidize physician salaries to improve physician recruitment and retention, provide financial assistance for patients, and provide other “community benefits.”[[6]](#footnote-6) Some of these costs are the result of federal and state regulatory standards, including the federal Emergency Medical Treatment & Labor Act (EMTALA), which requires EDs to stay open 24/7/365 and to comply with triage and stabilization requirements for all patients, regardless of their ability to pay.

Independent physician offices outside of hospitals also have overhead costs, but these costs are lower than the costs described above. For example, these offices have less equipment, lower staff needs, and fewer hours. The overhead costs of independent physician offices are covered by the professional fees.

# The Regulation of Facility Fee Notices in Maryland

Hospitals in Maryland are required to provide notices to patients of facility fees for certain patient visits.[[7]](#footnote-7) The intended purpose of these notices are to educate consumers about facility fees and promote consumer choice. The notices provide transparency about the existence of facility fees and an estimate of the amount of the fee that will be charged to the consumer. The notice also informs the consumer that they may choose to seek care at a different location, which may have lower costs.

## Locations where Facility Fee Notices are Required

Under current law, hospitals are required to provide facility fee notices to patients with visits that meet the following criteria:

1. The hospital charge for the visit is regulated by the HSCRC.
2. The visit is for an outpatient service within the HSCRC’s clinic rate center.[[8]](#footnote-8)

If the visit is for a service that is regulated by HSCRC, but the service is not an outpatient service within HSCRC’s clinic rate center, then the hospital is not required to provide a for that service. Similarly, if the visit is at a location that is not regulated by HSCRC, the hospital is not required to provide a facility fee notice.

### Which Locations are Regulated by HSCRC?

In Maryland, HSCRC sets hospital charges for hospital services at most, but not all hospitals.[[9]](#footnote-9) HSCRC sets rates for all-payers (including Medicare, Medicaid, commercial insurance, and self-pay individuals) at general acute care hospitals and chronic care hospitals. For these hospitals, HSCRC sets annual prospective global budgets on the hospital’s revenue.[[10]](#footnote-10) HSCRC also sets the rates for rate centers within the hospital, so that the amount the hospital charges the payers in the year will equal, in total, across all services, the global budget. If a hospital’s volume of patient visits differs from what was expected over the year, the hospital may adjust their rates within a corridor of plus/minus 5% of the rate set by HSCRC.

For specialty hospitals, including psychiatric hospitals and Mt. Washington Children's Hospital, HSCRC only sets commercial insurance rates. These hospitals do not operate under global budgets.

HSCRC only regulates hospital services which fit into the following categories:

1. inpatient services;
2. emergency services; and
3. outpatient services at the hospital “at the hospital”.[[11]](#footnote-11)

As noted above, facility fee notices are only required for certain HSCRC regulated outpatient services. Hospitals are not required to provide facility fee notices for hospital services delivered in the emergency department.[[12]](#footnote-12) This exclusion was included in Maryland law because it is difficult to provide this notice before care is delivered in an emergency situation and the patient in an emergency does not have a choice to seek care at a non-hospital location.

Hospitals are not required to provide patients with facility fee notices for visits that the HSCRC does not regulate. HSCRC does not regulate rates for outpatient services that HSCRC has determined are not “at the hospital”. This includes hospital owned office buildings that are off the hospital campus. HSCRC also occasionally makes a determination that an office on a hospital campus is not subject to rate regulation. This determination process is described in detail below.

HSCRC does not set rates for any payer for hospital services for specialty hospitals with high public payer mixes (i.e. most of the patients seen by the hospital are insured by Medicaid and/or Medicare). Kennedy Krieger is an example of a hospital with a high public payer mix. HSCRC also does not regulate rates for State-owned hospitals or out-of-state hospitals. This means that, under current law, facility fee notices are not required for these hospitals.

#### “At the hospital”

Under HSCRC’s regulations, an outpatient hospital service provided on the campus of a hospital or freestanding medical facility is presumed to be ”at the hospital”, and thus subject to HSCRC’ rate regulation.[[13]](#footnote-13) Hospitals are required to request a determination from HSCRC of whether an outpatient service is subject to HSCRC rate regulation at the following times: before opening a new outpatient service, before relocating an existent outpatient service, and before converting existing outpatient service from regulated or unregulated status to the opposite status.

Upon receipt of a request for a determination, HSCRC staff must review the information presented, consult with appropriate parties, visit the site of the services if necessary, and notify the hospital of its determination as soon as possible. The regulation lists criteria for HSCRC staff to consider in making the determination of whether or not the outpatient service is subject to the presumption that outpatient services provided on the hospital campus are rate regulated or if the HSCRC should make an exception to that presumption.[[14]](#footnote-14)

### Rate Centers

As noted above, under current law, hospitals are only required to provide facility fee notices to patients for visits for outpatient services in HSCRC’s clinic rate center. Rate centers (also referred to as a revenue center) are a feature of HSCRC’s hospital rate setting system. HSCRC sets hospital rates for the hospital as a whole, but also for each rate center.[[15]](#footnote-15) A rate center is an accounting device for accumulating items of cost or revenue that have common characteristics. Some of HSCRC’s rate centers include outpatient services. A rate center may or may not be a department within the hospital.

|  |
| --- |
| **Examples of HSCRC Rate Centers** |
| Clinic Services  Diagnostic Radiology  Ultrasound, and Vascular Nuclear Medicine  Radiology Therapeutic  Electrocardiography  Electroencephalography  Physical Therapy & Occupational Therapy  Respiratory Therapy & Pulmonary Function Testing  Labor and Delivery  Interventional Radiology/Cardiovascular  Ambulance Services – Rebundled  Speech Therapy  Audiology  Laboratory Services  CT Scanner  MRI |

HSCRC’s rate centers only exist for HSCRC-regulated services. Rate centers are not a useful concept for describing types of outpatient services that are not regulated by the HSCRC.

# Impact of Facility Fee Notices on Consumers

As noted above, the purpose of facility fee notices is to educate consumers on facility fees, provide them with an estimate of the facility fee amount, and inform the patient that they may be able to seek care at another location for a lower cost.

The extent that facility fees directly impact consumers depends on whether or not the patient has health insurance.

Under Maryland law, if an HSCRC-regulated hospital charges an outpatient facility fee for a clinic service, the hospital must provide the patient with a written facility fee notice notice, regardless of the patient’s source of insurance.[[16]](#footnote-16),[[17]](#footnote-17) The statute provides an example of a form that hospitals can use (see Appendix C), or hospitals may use a substantially similar form.[[18]](#footnote-18) The current facility fee notice includes an estimate of the full facility charge before any amount covered by a patient’s insurance is applied. This charge may be many times larger than the amount that the patient will pay out of their own pocket for the outpatient hospital service. A hospital may not charge, bill, or attempt to collect an outpatient facility fee unless the patient was given written notice.[[19]](#footnote-19)

The extent that a facility fee notice impacts a consumer depends on many factors. Some factors that can influence the impact of the notice include:

* how and when the notice is provided to the patient (i.e. does the patient have time to read and understand it),
* the patient's literacy level (reading grade level) compared to the complexity of the notice,
* the patient’s health insurance literacy (i.e. the extent the patient understands how their health insurance works), and
* whether the notice is in a language the patient understands.

A national qualitative study of regulations and policies related to facility fees found that stakeholders and experts “generally did not believe that these [facility fee] disclosures would drive many consumers to seek care in settings that do not impose facility fees, observing that consumers tend to prioritize their existing provider relationships and seek care where their providers refer them. They did think disclosures can reduce consumer confusion when they receive a facility fee bill, however. Some interviewees also suggested that consumer disclosure requirements could generate broader support for reforms by increasing awareness of the extent of facility fee billing.”[[20]](#footnote-20)

## Patients with No Out-of-pocket Costs

For example, some patients have no out-of-pocket costs. This includes patients who are enrolled in Medicaid and patients who receive free care from the hospital. It also may include patients whose costs are covered by workers compensation or auto insurance. Facility fee notices serve no positive purpose for these patients, as they are being notified of a charge they do not have to pay.

Some hospitals have raised concerns that some medicaid patients may cancel their appointments because of the large dollar amount included on the facility fee notice, without realizing that this charge will be completely covered by their insurance. This raises a concern about health care access. Medicaid patients are more likely to have access to health care providers in a hospital setting than outside of a hospital, as Medicaid generally pays higher rates in a hospital than outside of a hospital. For this reason, physicians and other clinicians outside of hospitals may not accept medicaid patients or may limit the number of medicaid patients that they see. If patients cancel their hospital-based appointments because of the facility fee notice, this may result in delayed care and worse health outcomes for this population.

Another concern is low income patients who are uninsured or underinsured. The facility fee notice states that “Receiving services here [at the hospital] may result in greater financial liability than receiving services at a location where a facility fee may not be charged.” Maryland law requires hospitals to provide free or reduced cost care to low income patients.[[21]](#footnote-21) If patients who would qualify for free care from the hospital reschedule their appointment in a non-hospital location due to the facility fee notice,they may end up with higher financial liability because of the lack of financial assistance in that location. While the facility fee notice does mention that financial help may be available, that may not be enough information for a consumer to make an informed choice about which location is best for them.

## Uninsured Patients

Conversely, if the patient is uninsured, the patient is responsible for the whole amount of the hospital charge unless the patient is determined eligible for Medicaid or hospital financial assistance. For these uninsured patients, the estimate of the hospital charge on the facility fee notice is likely an accurate estimate of cost that the patient can expect to pay for the hospital service.

## Insured Patients with Cost Sharing

If the patient is insured, the amount that the patient owes on the total hospital charge depends on the patient’s deductible, co-payment, and other cost sharing responsibilities under the terms of the insurance contract.[[22]](#footnote-22) For some patients these costs may be large (for example, patients with high deductible plans who have not met their deductible). Medicare beneficiaries who are enrolled in traditional fee-for-service (FFS) Medicare are responsible for 20 percent of the outpatient facility fee, which can be significant. Other insured patients have much lower cost-sharing for hospital services.

As noted above, the current facility fee notice includes an estimate of the full facility charge before any amount covered by a patient’s insurance is applied. The notice includes language that states that the amount that the patient may pay depends on their insurance coverage, and recommends that patients contact their insurance carrier to determine their estimated financial responsibility for the facility fee. HSCRC plans to test this notice with consumers in the coming year to determine how well they understand this language.

# Facility Fees Notices and Hospitals

Facility fees are designed to cover hospital costs, as detailed in the section “Hospital Costs covered by Outpatient Facility Fees” above. The legal requirement to provide facility fee notices to patients has increased administrative costs for hospitals.

# Facility Fees, Notices, and Insurers

The total cost of outpatient services in hospital settings (including both the facility fee and the professional fee) is generally higher than the cost of outpatient services in non-hospital settings (which generally only have a professional fee, unless the service is in a non-hospital facility that can charge a facility fee, such as an ambulatory surgery center). Excluding the amounts paid out-of-pocket by patients, these higher costs are paid by insurers. For commercial insurance, these costs are ultimately borne by employers, employees, and families buying individual insurance. For Medicaid and Medicare, these costs are borne by taxpayers.

HSCRC sets the amount of facility fees (i.e. hospital charges) for HSCRC-regulated services for all payers (except for hospitals where HSCRC only regulates commercial rates).

For hospital outpatient services that HSCRC does not regulate, including services provided in Maryland that are owned by out-of-state facilities, the amount of the facility fee differs based on the payer of the service. Medicare rates are set through annual regulations issued by the federal Centers for Medicare and Medicaid Services. The Maryland Department of Health sets facility fee rates for Medicaid. Commercial insurers negotiate rates with the hospital.

National experts think that facility fee notices cause relatively few patients to change their site of care or cancel appointments.[[23]](#footnote-23) If this is accurate, facility fee notices have relatively little impact on insurers. If, instead, the notices were effective at causing patients to change the location where they seek care, notices could lower insurer costs.

Insurers may be more effective at limiting their exposure to facility fees by limiting coverage for outpatient services in a hospital that are also available in lower costs settings. Some insurers already have these policies.[[24]](#footnote-24)

# Facility Fee Notice Regulation in other States

Facility fee notice regulations differ widely across the United States. Ten states, including Maryland, require that notices of facility fees are provided directly to patients.[[25]](#footnote-25) Nine states require notice of facility fees through signs in the health care facility, hospital websites, or similar forms of public notice.[[26]](#footnote-26) Seven states have both requirements.

For states with direct-to-consumer notice requirements, the timing and specifics of the notice differ. Some states require notices to be provided at the time of scheduling, before care, during care, within billing statements, when a facility is newly acquired or affiliated, or upon request. Massachusetts has different requirements for when notices are provided depending on whether the provider is in-network or out-of-network, as seen in Massachusetts.

Direct-to-consumer notices typically inform patients of the potential for a facility fee. Some states require additional details, such as an estimate of the charges, the purpose of the fee, and comparisons of cost at other locations. Some states include more educational information about when facility fees and when they can be charged than other states.

Several states impose limitations and conditions on when facility fee notices are required. For example, Florida limits notices to non-emergency services, while Rhode Island’s requirements only apply to consumers who are uninsured or have high deductibles. Texas and Washington restrict their regulations to freestanding emergency departments and hospital-owned off-campus clinics. A few states mandate that hospitals file a copy of their facility fee notice with a state agency. In some states, hospitals are prohibited from charging a facility fee unless the required notice has been provided.

# Recommendations Related to Facility Fee Notices

TBD

# Conclusion

TBD

# Appendix A: Stakeholder Engagement

Maryland law requires that, throughout the study on facility fees, HSCRC must consult with the Maryland Department of Health, the Maryland Insurance Administration, the Health Education and Advocacy Unit within the Office of the Attorney General, and representatives of hospitals (including out–of–state hospitals providing services to patients who are staying in facilities in the state), physician practices that provide services in hospital outpatient settings, health care payers, consumer advocacy groups, and employer groups. HSCRC convened a workgroup that includes these stakeholders to provide advice to the HSCRC on policies related to facility fee notices and facility fees themselves.

The Workgroup is charged with considering the following principles in its work:

* Providing effective notice to patients on cost exposure & protecting consumers from high facility fee bills.
* Maintaining access to health care services & minimizing deferral of necessary care by consumers.
* Addressing health equity concerns.
* Considering the impact of policy changes on consumers, hospitals, and payers.

The Facility Fee workgroup met three times in 2024. These meetings were focused on facility fee notice requirements. The workgroup is scheduled to have six meetings in 2025. In 2025, the workgroup will provide advice to HSCRC on a broad study of facility fees and facility fee regulation, both in Maryland and in other states.

All Workgroup meetings are open to the public. Information about workgroup meetings is available on HSCRC’s website.[[27]](#footnote-27)

# Appendix B: Criteria for At the Hospital Determinations

HSCRC may consider the following criteria when determining whether an outpatient service is being provided at the hospital:

* Location of entrances;
* Location and signage of parking;
* Location and language of signage at entrances, within buildings, on the campus, and in the parking areas effectively alerting the public that a given building or service is either at the hospital or not at the hospital;
* Location of registration, changing, and waiting areas;
* Whether billing reflects clearly that the service is rate regulated or not rate regulated;
* Whether any physical connection from an unregulated facility to the hospital, such as tunnels, hallways, covered walkways, elevators, or connecting bridges, will be restricted to hospital staff and physician use in order to ensure that patients and visitors do not have access to the unregulated facility from the hospital;
* Whether there is any duplication of an unregulated service within the hospital in order to avoid inappropriate patient steering;
* Whether there is any inappropriate mixing of regulated and unregulated services in the same building, which would tend to have the effect of confusing patients about the regulated or unregulated status of a given service being provided; and
* Whether any Medicare Part B physician services being provided in an unregulated building also includes components of a Medicare Part A hospital service that would be reasonably expected by a patient to fall under Commission rate-setting jurisdiction.

In addition, HSCRC staff may use other criteria that they deem appropriate in individual cases.

# Appendix C: Text of Facility Fee Notice

IMPORTANT FINANCIAL INFORMATION

(Patient Name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Appointment Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notice Of Hospital Outpatient Facility Fee And Billing Disclosure

a. Your appointment with (provider, practice, or outpatient facility name) will take place in an outpatient department of (hospital name).b. (Hospital name) will charge an outpatient facility fee that is separate from and in addition to the bill you will receive from (provider).c. You will receive two charges for your visit:1. a provider services bill from (provider); and2. a hospital facility bill from (hospital name).

Expected Fee

(if known) The amount of the facility fee that will be charged by (hospital name) for your appointment is $ \_\_\_\_\_\_\_\_\_\_\_. or

(if unknown) (Hospital name's) facility fee is likely to range from $ \_\_\_\_\_\_\_\_\_\_ to $ \_\_\_\_\_\_\_\_\_\_\_\_. AND

(if unknown) Based on appointments like the one you are scheduled for, we estimate the facility fee to be $ \_\_\_\_\_\_\_\_\_\_\_. AND

(if unknown) We are providing you with a range of fees and an estimate because the actual amount of the facility fee will depend on the hospital services that are actually provided. The fee could be higher if you require services during your appointment that we cannot reasonably predict today.

Financial help for your portion of the outpatient facility fee bill may be available. If you need financial help with the outpatient facility bill, please contact (hospital financial assistance office, with telephone number and direct website address).

Receiving services here may result in greater financial liability than receiving services at a location where a facility fee may not be charged.

(if applicable) No Facility Fee Location

You can see (provider) at another location that does not charge a facility fee.

(address and contact information)

Contact your insurance carrier to see if (provider) is a participating provider and in-network at the (address of alternative location) location.

Insurance Information

(1) The amount of the facility fee that you will be responsible for paying will depend on your insurance coverage.(2) Insurance companies could impose deductibles or higher copayment or coinsurance amounts for services provided in hospital outpatient departments.(3) If you have insurance, you should contact your carrier to determine your insurance coverage and your estimated financial responsibility for the facility fee, including copayments, coinsurance, and deductible amounts for the outpatient facility fee.

Facility Fee Complaints

If you have a complaint about an outpatient facility fee charge, please first contact the hospital, (hospital billing office contact information).

If the complaint is unresolved, you may then file the complaint with the Health Services Cost Review Commission, (contact information).

If you need additional information regarding your facility fee charges or if you need assistance mediating a facility fee complaint against a hospital, contact the Health Education and Advocacy Unit of the Office of the Attorney General, 1-877-261-8807 | Heau@oag.state.md.us | www.MarylandCares.org.

Acknowledgment

(1) I understand that I will be billed a hospital facility fee and a provider fee.(2) (Hospital name) provided me with information on the facility fees that will be billed for my appointment.(3) I understand that the fee could vary based on conditions and services provided to me that the hospital cannot reasonably predict today.(4) I understand that my out-of-pocket costs will depend on my insurance coverage.

\_\_\_\_\_\_\_ (initial here) - by initialing here, I confirm that I received the facility fee information at the time I made my appointment with (provider).

By signing this form, I acknowledge that I have received this information before receiving services today.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

To request this notice in an alternative format, please call (contact information) or e-mail (contact information).

(Same sentence in Spanish).

1. 2024 MD Laws Ch. 142. [↑](#footnote-ref-1)
2. As an example, another type of facility that may charge facility fees is an ambulatory surgery center. [↑](#footnote-ref-2)
3. American Medical Association, “AMA examines decade of change in physician practice ownership and organization”, Jul 12, 2023. https://www.ama-assn.org/press-center/press-releases/ama-examines-decade-change-physician-practice-ownership-and [↑](#footnote-ref-3)
4. C. Monahan, K. Davenport, R. Swindle, and C. Picher, “Regulating Outpatient Facility Fees: States Are Leading the Way to Protect Consumers”, July 2023. https://georgetown.app.box.com/v/statefacilityfeeissuebrief [↑](#footnote-ref-4)
5. For a more detailed discussion of “standby” costs and Maryland regulation of trauma centers, see HSCRC’s 2024 report “Evaluation of Findings and Recommendations from the Commission to Study Trauma Center Funding in Maryland”. [↑](#footnote-ref-5)
6. MD law defines hospital community benefits as a “planned, organized, and measured activity that is intended to meet identified community health needs within a service area.” Hospital community benefit activities are reported to HSCRC annually and posted on HSCRC’s website: https://hscrc.maryland.gov/pages/default.aspx [↑](#footnote-ref-6)
7. MD Code Ann., Health-Gen §19-349.2. This requirement has been in effect since July 2021. In 2024, the Maryland General Assembly amended the law to change the text of the required facility fee notice. 2024 MD Laws Ch. 142. [↑](#footnote-ref-7)
8. Facility fee notices are required for visits related to a hospital outpatient charge approved by HSCRC for an outpatient clinic service, supply, or equipment, including the service of a non-physician clinician. [↑](#footnote-ref-8)
9. The HSCRC has been responsible for setting rates for hospital services for all payers in Maryland since 1977. These rates determine the charge for each service. Under Maryland law, HSCRC is required to ensure that the total costs at each hospital is reasonable and that aggregate charges are reasonably related to the aggregate costs at that hospital. [↑](#footnote-ref-9)
10. In 2014, the HSCRC implemented a major shift from traditional fee-for-service (FFS) rates to global budgets for hospital revenue. This change aimed to promote cost containment and efficiency in hospital operations by providing a fixed budget for all services delivered by the hospital, rather than reimbursing hospitals based on the volume of services provided. The amount that hospitals charge payers over the year equals the global budget on revenue set at the start of the year. [↑](#footnote-ref-10)
11. MD Code Ann., Health-Gen Art. §19–211; §19–201. [↑](#footnote-ref-11)
12. Emergency visits that do not result in an inpatient admission are a type of outpatient visit. [↑](#footnote-ref-12)
13. COMAR 10.37.10.07-1 [↑](#footnote-ref-13)
14. COMAR 10.37.10.07-1(G.) [↑](#footnote-ref-14)
15. For hospitals that are subject to global budgets on revenue, HSCRC calculates the rates for each revenue center to ensure that the revenue that the hospital brings in from charges add up to the global budget over the year. Because revenue is impacted both by price (i..e. the rates/charges) and patient volume (i.e. the number of visits), HSCRC allows hospitals to adjust their rates by plus/minus 5 percent if their patient volume is different then expected. This ensures that the hospital will meet their annual global budget. If the hospital needs to adjust their rates by a larger amount, they must apply to HSCRC for permission to do so. [↑](#footnote-ref-15)
16. MD Code Ann., Health-Gen §19-349.2. [↑](#footnote-ref-16)
17. MD Code Ann., Health-Gen §19-349.2(a)(3). [↑](#footnote-ref-17)
18. MD Code Ann., Health-Gen §19-349.2(b). [↑](#footnote-ref-18)
19. MD Code Ann., Health-Gen §19-349.2(g). [↑](#footnote-ref-19)
20. C. Monahan, K. Davenport, R. Swindle, and C. Picher, “Regulating Outpatient Facility Fees: States Are Leading the Way to Protect Consumers”, July 2023. https://georgetown.app.box.com/v/statefacilityfeeissuebrief [↑](#footnote-ref-20)
21. Hospitals are required to provide free care to patients with family incomes under 200% of the federal poverty level, reduced cost care to patients with family incomes under 300% of the federal poverty level, and reduced cost care to patients with high levels of medical debt and with family incomes under 500% of the federal poverty level. Health General 19-214.1 [↑](#footnote-ref-21)
22. HSCRC does not regulate the terms of insurance contracts. [↑](#footnote-ref-22)
23. C. Monahan, K. Davenport, R. Swindle, and C. Picher, “Regulating Outpatient Facility Fees: States Are Leading the Way to Protect Consumers”, July 2023. https://georgetown.app.box.com/v/statefacilityfeeissuebrie [↑](#footnote-ref-23)
24. Georgetown University Center on Health Insurance Reforms (2023). *Facility Fees 101: What is all the Fuss About?*. Available at: <https://chirblog.org/facility-fees-101-what-is-all-the-fuss-about/>. Accessed 8/23/2024. [↑](#footnote-ref-24)
25. Colorado, Connecticut, Florida, Maryland, Massachusetts, Minnesota, New York, Rhode Island, Texas, and Washington. <https://facilityfeereform.chir.georgetown.edu/>. [↑](#footnote-ref-25)
26. Colorado, Connecticut, Florida, Louisiana, Massachusetts, Maine, Minnesota, Texas, and Washington. <https://facilityfeereform.chir.georgetown.edu/>. [↑](#footnote-ref-26)
27. <https://hscrc.maryland.gov/Pages/facility-fee-workgroup.aspx> [↑](#footnote-ref-27)