



**To: Chief Executive Officers and Chief Financial Officers –
General Acute Care and Chronic Care Hospitals**

**From: Megan Renfrew, Deputy Director, Policy and Consumer
Protection**

Date: June 27, 2024

**Re: Hospital Reimbursement of Patients: Request for Review of
Documents, Deadlines for Submission of Information; and Project
Updates.**

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This memo contains content that should be reviewed by legal and data management/security teams. Please share this memo and the accompanying documents with the appropriate staff in your organization.

Maryland law (the “Reimbursement Law”) requires general acute care and chronic care hospitals to provide refunds to eligible patients.¹ Patients who paid more than \$25 for hospital services received in any year between 2017 and 2021 and were eligible, at the time of service, for free care from the hospital under Maryland’s law related to hospital financial assistance (Health General §19-214.1) are eligible for these refunds. This law was previously described in a memo sent on December 21, 2023.

Based on feedback from stakeholders early this year, HSCRC has changed the process that will be used to share data and notify patients (see flow chart on page five). The new process is designed to eliminate the exchange of personally identifiable information (PII) between state agencies. In addition, no state agency data is shared with hospitals. Patients will determine whether they want to share data they receive from state agencies with hospitals. Hospitals are currently scheduled to start sending data to State Agencies beginning in September 2024.

This memo contains:

- 1. a request for review and feedback of key project documents,
- 2. information about using asset tests when determining eligibility for refunds, and
- 3. preliminary estimates of state agency costs, which must be reimbursed by hospitals.

¹ Health General §19-214, Maryland Code

Review and Feedback on Key Program Documents

HSCRC is requesting review of the following documents:

1. The Memorandum of Understanding, Data Sharing and Nondisclosure Agreement, Scope of Work, and related documents.
2. Instructions and Template for Personally Identifiable Information (PII) Data
3. Instructions and Template for Summary Data
4. Project Timeline

These documents are attached to this memo. **Please submit any feedback to HSCRC.RefundLaw@maryland.gov no later than July 26, 2024. There will be no extensions to the deadline for feedback.** This law has a tight implementation timeline. I strongly encourage you to submit feedback as you develop it, rather than waiting for the deadline.

Feedback on the Memorandum of Understanding, Data Sharing and Nondisclosure Agreement, Scope of Work, and related documents

The Reimbursement Law requires hospitals to provide refunds to patients based on data from the Office of the Comptroller, the Department of Human Services, and the Women and Infant Children's program in the Maryland Department of Health related to the patient's income or social services program enrollment status.

The State's general acute and chronic care hospitals will be required to sign a Memorandum of Understanding (MOU) and Data Sharing and Nondisclosure Agreement (DSNA) before data exchange can begin. The purpose of the MOU is to establish the obligations and responsibilities of each party involved in implementing the Reimbursement Law. The MOU has several attachments, including a DSNA and a Scope of Work (SOW). The purpose of the DSNA is to establish the obligations and responsibilities of each party that is exchanging personally identifiable information (PII) and or protected health information (PHI) as a component of this process. The SOW provides additional details on the responsibilities of each party.

A draft of the MOU is attached to this memo and will also be posted to HSCRC's website at: <https://hscrc.maryland.gov/Pages/Free-Care-Refunds-Implementation-Updates.aspx>. Please review these documents carefully. Submit questions, comments, concerns, and suggested edits, in writing, to HSCRC.RefundLaw@maryland.gov. If you are suggesting edits, please provide a suggestion for alternative text to address any issue you are raising with the current draft text.

All feedback on these documents is due by **July 26, 2024**. This will be the **last opportunity** for hospitals to suggest changes to these documents.

Feedback on Data Instructions and Templates

Attached are two data templates and instruction spreadsheets that will be used by hospitals and state agencies. The purpose of these templates is to ensure that all data sets produced by hospitals and state agencies are consistent and usable for the purposes described in the Scope of Work document. Please send any feedback or questions about these templates by **July 26, 2024**. HSCRC will finalize these documents soon after that deadline and provide the final documents to all relevant stakeholders, so that hospitals and state agencies can program their systems.

Feedback on Project Work Plan

HSCRC is sharing this document to inform all hospitals of the planned timeline for this project and to ask for feedback. If your feedback states that one or more deadlines in this document will be difficult to meet, please provide a detailed explanation of *why* that deadline will be hard to meet. Please send any feedback or questions about these templates by **July 26, 2024**. All dates in this work plan are subject to change, and HSCRC will work closely with MHA moving forward to communicate any changes on a regular basis.

Submission of Asset Test Policy and Related Documents

In accordance with the law, if the hospital had a valid asset test in effect in the year of the date of service and the hospital previously denied the patient free care for the identified date of service in accordance with a valid asset test that was in effect on the date of service, the hospital is not required to provide a refund to a patient. This process is further described in the attached scope of work document.

A valid asset test is defined as an asset test that:

1. was in the hospital's financial assistance policy in the year of the relevant date of service; and
2. met all statutory and regulatory requirements in place in that year.

If a hospital decides to review de facto eligible patients for past denials based on a valid asset test, the hospital must provide the HSCRC with a copy of the following documents by **July 26, 2024**, before the hospital disqualifies any patients for refunds based on the previously applied asset test:

1. each asset test that was in effect during 2017 through 2021,
2. a written statement that the hospital intends to deny refunds based on prior application of asset tests for the purposes of implementing the Reimbursement Law, and

3. a written statement that the hospital intends to review all de facto eligibles for past denials based on the valid asset test.

HSCRC thanks you for your cooperation in this process which will benefit patients throughout the State. Please send your feedback on the templates, asset test documents, or any questions to HSCRC.RefundLaw@maryland.gov.

Cost of Reimbursement of State Agencies

The law requires hospitals to reimburse state agencies for the cost of implementing this law, including staff and contractor time and the cost of mailings. We will not start invoicing hospitals for these costs until after the data matching occurs. Some hospitals have asked for estimates of these costs. We do not have good estimates of these costs because we do not know how many letters will need to be sent. At this point, estimates of the potential costs to state agencies range from less than \$4 million to close to \$18 million, with costs most likely being in the middle of that range. These costs will be distributed between hospitals based on the percent of total patient who are de facto eligible for refunds at that hospital, compared to the statewide total. This process is described in more detail in the scope of work, which is attached to the MOU. The first invoice to hospitals is expected to be sent in the first quarter of calendar year 2025 under the current timeline. After that, invoices will be sent quarterly until this project ends.

Workgroups

The staff of the Health Services Cost Review Commission (HSCRC) is developing the policies and processes to implement this law, in consultation with the Office of the Comptroller (COM), the Department of Human Services (DHS), and the Women and Infant Children's program in the Maryland Department of Health (WIC/MDH), the Health Education and Advocacy Unit (HEAU) of the Office of the Attorney General, and the Maryland Hospital Association (including representatives from hospitals). HSCRC meets regularly with stakeholder workgroups on this project. These workgroups are open to the public. More information about these workgroups is available on HSCRC's website: <https://hscrc.maryland.gov/Pages/Free-Care-Refunds-Implementation-Updates.aspx>

Draft Process to Implement Reimbursement Law (Updated 3/7/24)

