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623rd Meeting of the Health Services Cost Review Commission

September 11, 2024

(The Commission will begin in public session at 11:30 am for the purpose of, upon motion and approval, adjourning into closed session. The open session will resume at 1:00pm)

CLOSED SESSION
11:30 am

1. Update on Administration of Model - Authority General Provisions Article, §3-103 and §3-104

PUBLIC MEETING
1:00 pm

1. Review of Minutes from the Public and Closed Meetings on July 10, 2024

Informational Subjects

2. Presentation from Green and Healthy Homes Initiative

Specific Matters

3. Docket Status – Cases Closed

   2646N UM Shore Medical Center at Easton
   2652A Johns Hopkins Health System
   2653A Johns Hopkins Health System
   2654A Johns Hopkins Health System
   2618A Johns Hopkins Health System - Request for Extension

4. Docket Status – Cases Open

   2655A Johns Hopkins Health System
   2656A Johns Hopkins Health System
   2657A Johns Hopkins Health System

Subjects of General Applicability

5. HCAHPS Presentation
6. Report from the Executive Director
   a. AHEAD Model Update

b. Update on Advancing Innovation in Maryland Contest
c. Model Monitoring
d. Emergency Department Initiatives Update
e. Hospital Reimbursement Project Update
f. Set Aside Update
g. Fall Preview

7. Update on Accounting and Budget Manual
8. Hearing and Meeting Schedule

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Application for an Alternative Method of Rate Determination

Johns Hopkins Health System

September 11, 2024

IN RE: THE APPLICATION FOR AN	*	BEFORE THE MARYLAND HEALTH	
ALTERNATIVE METHOD OF RATE	*	SERVICES COST REVIEW	
DETERMINATION	*	COMMISSION	
JOHNS HOPKINS HEALTH	*	DOCKET:	2024
SYSTEM	*	FOLIO:	2465
BALTIMORE, MARYLAND	*	PROCEEDING:	2655A

I. INTRODUCTION

Johns Hopkins Health System ("System") filed an application with the HSCRC on June 26, 2024, on behalf of its member hospitals, Johns Hopkins Hospital, Johns Hopkins Bayview Medical Center, and Howard County General Hospital ("the Hospitals") and on behalf of Johns Hopkins HealthCare, LLC (JHHC) and Johns Hopkins Employer Health Programs, Inc. for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The System and JHHC request approval from the HSCRC to continue to participate in a global rate arrangement for Executive Health Services with Under Armour, Inc. for a period of one year beginning August 1, 2024.

II. OVERVIEW OF APPLICATION

The contract will continue to be held and administered by Johns Hopkins HealthCare, LLC ("JHHC"), which is a subsidiary of the System. JHHC will continue to manage all financial transactions related to the global price contract including payments to the Hospitals and bear all risk relating to regulated services associated with the contract.

III. FEE DEVELOPMENT

The hospital portion of the new global rates for solid organ transplants was developed by calculating mean historical charges for patients receiving the procedures for which global rates are to be paid. The remainder of the global rate is comprised of physician service costs. Additional per diem payments were calculated for cases that exceed a specific length of stay outlier threshold.

IV. IDENTIFICATION AND ASSESSMENT OF RISK

The Hospitals will continue to submit bills to JHHC for all contracted and covered services. JHHC is responsible for billing the payer, collecting payments, disbursing payments to the Hospitals at their full

HSCRC approved rates, and reimbursing the physicians. The System contends that the arrangement among JHHC, the Hospitals, and the physicians holds the Hospitals harmless from any shortfalls in payment from the global price contract. JHHC maintains it has been active in similar types of fixed fee contracts for several years, and that JHHC is adequately capitalized to bear risk of potential losses.

V. STAFF EVALUATION

Staff found that the experience under the arrangement for the last year has been favorable. Staff believes that the Hospitals can continue to achieve a favorable performance under the arrangement.

VI. STAFF RECOMMENDATION

The staff recommends that the Commission approve the Hospitals' application for an alternative method of rate determination for Executive Health Services with Under Armour for a one-year period commencing August 1, 2024. The Hospitals will need to file a renewal application for review to be considered for continued participation.

Consistent with its policy paper regarding applications for alternative methods of rate determination, the staff recommends that this approval be contingent upon the execution of the standard Memorandum of Understanding ("MOU") with the Hospitals for the approved contract. This document would formalize the understanding between the Commission and the Hospitals, and would include provisions for such things as payments of HSCRC-approved rates, treatment of losses that may be attributed to the contract, quarterly and annual reporting, confidentiality of data submitted, penalties for noncompliance, project termination and/or alteration, on-going monitoring, and other issues specific to the proposed contract. The MOU will also stipulate that operating losses under the contract cannot be used to justify future requests for rate increases.

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Application for an Alternative Method of Rate Determination

Johns Hopkins Health System

September 11, 2024

IN RE: THE APPLICATION FOR AN	*	BEFORE THE MARYLAND HEALTH	
ALTERNATIVE METHOD OF RATE	*	SERVICES COST REVIEW	
DETERMINATION	*	COMMISSION	
JOHNS HOPKINS HEALTH	*	DOCKET:	2024
SYSTEM	*	FOLIO:	2466
BALTIMORE, MARYLAND	*	PROCEEDING:	2656A

I. INTRODUCTION

On July 29, 2024, Johns Hopkins Health System ("System") filed a renewal application on behalf of its member hospitals, Johns Hopkins Hospital, Johns Hopkins Bayview Medical Center, and Howard County General Hospital (the "Hospitals") for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The System is requesting approval to continue to participate in a global price arrangement with Emerging Therapy Solutions formerly known as Life Trac (a subsidiary of Allianz Insurance Company of North America) for solid organ and bone marrow transplants and cardiovascular services, plus CAR-T services. The Hospitals request that the Commission approve the arrangement for one year beginning September 1, 2024.

II. OVERVIEW OF APPLICATION

The contract will continue to be held and administered by Johns Hopkins HealthCare, LLC ("JHHC"), which is a subsidiary of the System. JHHC will continue to manage all financial transactions related to the global price contract including payments to the Hospitals and bear all risk relating to regulated services associated with the contract.

III. FEE DEVELOPMENT

The hospital portion of the new global rates for solid organ transplants was developed by calculating mean historical charges for patients receiving the procedures for which global rates are to be paid. The remainder of the global rate is comprised of physician service costs. Additional per diem payments were calculated for cases that exceed a specific length of stay outlier threshold.

IV. IDENTIFICATION AND ASSESSMENT OF RISK

The Hospitals will continue to submit bills to JHHC for all contracted and covered services. JHHC is responsible for billing the payer, collecting payments, disbursing payments to the Hospitals at their full HSCRC approved rates, and reimbursing the physicians. The System contends that the arrangement

among JHHC, the Hospitals, and the physicians holds the Hospitals harmless from any shortfalls in payment from the global price contract. JHHC maintains it has been active in similar types of fixed fee contracts for several years, and that JHHC is adequately capitalized to bear risk of potential losses.

V. STAFF EVALUATION

Staff found that the experience under the arrangement for the last year has been favorable. Staff believes that the Hospitals can continue to achieve a favorable performance under the arrangement.

VI. STAFF RECOMMENDATION

The staff recommends that the Commission approve the Hospitals' application for an alternative method of rate determination for solid organ and bone marrow transplant services, cardiovascular, and CAR-T services with Emerging Therapy Solutions for the period beginning September 1, 2024. The Hospitals must file a renewal application annually for continued participation.

Consistent with its policy paper regarding applications for alternative methods of rate determination, the staff recommends that this approval be contingent upon the execution of the standard Memorandum of Understanding ("MOU") with the Hospitals for the approved contract. This document would formalize the understanding between the Commission and the Hospitals, and would include provisions for such things as payments of HSCRC-approved rates, treatment of losses that may be attributed to the contract, quarterly and annual reporting, confidentiality of data submitted, penalties for noncompliance, project termination and/or alteration, on-going monitoring, and other issues specific to the proposed contract. The MOU will also stipulate that operating losses under the contract cannot be used to justify future requests for rate increases.

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Johns Hopkins Health System

September 11, 2024

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ALTERNATIVE METHOD OF RATE	*	SERVICES COST REVIEW	
DETERMINATION	*	COMMISSION	
JOHNS HOPKINS HEALTH	*	DOCKET:	2024
SYSTEM	*	FOLIO:	2467
BALTIMORE, MARYLAND	*	PROCEEDING:	2657A

I. INTRODUCTION

On July 29, 2024, Johns Hopkins Health System ("System") filed a renewal application on behalf of its member hospitals, Johns Hopkins Hospital, Johns Hopkins Bayview Medical Center, and Howard County General Hospital (the "Hospitals") for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The System is requesting approval to continue to participate in a revised global price arrangement with Cigna Health Corporation for solid organ and bone marrow transplants and ventricular assist device (VAD) services. The Hospitals request that the Commission approve the arrangement for one year beginning September 1, 2024.

II. OVERVIEW OF APPLICATION

The contract will continue to be held and administered by Johns Hopkins HealthCare, LLC ("JHHC"), which is a subsidiary of the System. JHHC will continue to manage all financial transactions related to the global price contract including payments to the Hospitals and bear all risk relating to regulated services associated with the contract.

III. FEE DEVELOPMENT

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payment from the global price contract. JHHC maintains it has been active in similar types of fixed fee contracts for several years, and that JHHC is adequately capitalized to bear risk of potential losses.

V. STAFF EVALUATION

Staff found that the experience under the arrangement for the last year has been favorable. Staff believes that the Hospitals can continue to achieve a favorable performance under the arrangement.

VI. STAFF RECOMMENDATION

The staff recommends that the Commission approve the Hospitals' application for an alternative method of rate determination for solid organ and bone marrow transplant services and VAD with Cigna Health Corporation services for the period beginning September 1, 2024. The Hospitals must file a renewal application annually for continued participation.

Consistent with its policy paper regarding applications for alternative methods of rate determination, the staff recommends that this approval be contingent upon the execution of the standard Memorandum of Understanding ("MOU") with the Hospitals for the approved contract. This document would formalize the understanding between the Commission and the Hospitals and would include provisions for such things as payments of HSCRC-approved rates, treatment of losses that may be attributed to the contract, quarterly and annual reporting, confidentiality of data submitted, penalties for noncompliance, project termination and/or alteration, on-going monitoring, and other issues specific to the proposed contract. The MOU will also stipulate that operating losses under the contract cannot be used to justify future requests for rate increases.

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To: **HSCRC Commissioners**

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

Deb Rivkin, Director, Government Affairs

Date: **September 3, 2024**

Re: **Legality of the Proposed Reimbursement Process**

Background

Maryland law (the "Reimbursement Law") requires general acute care and chronic care hospitals to provide refunds to eligible patients (Health General §19-214.4). 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 (HG §19-214.1) are eligible for these refunds.

Issue

During the 2024 session, HSCRC staff worked with legislators and other stakeholders to address the workflow that HSCRC staff developed, with stakeholders, in 2023. These meetings lead to agreement on a new workflow. Under this workflow, state agencies, rather than hospitals, would send the letters to patients to notify them of the eligibility of the patient for a refund. Patients would then contact hospitals to confirm their eligibility for refunds. This process was chosen because it does not require the sharing of State data between state agencies, and it does not require the sharing of State agency data with hospitals. Hospitals, State agencies, and consumer advocates decided that this alternative approach was the most feasible option for implementing this law. Because HG § 19-214.4(d)(1) gives the Commission broad authority when implementing this law, we believed we had authority to make this change.

As the HSCRC worked with hospitals to implement the process we agreed on during the legislative session, stakeholders notified HSCRC that this process is prohibited by law. We've included a detailed description of this issue on the next page of this memo.

HSCRC informed key legislators of this issue in July. In order to fix this issue, interested legislators and stakeholders will need to introduce legislation in the 2025 session to remove the legal language that prohibits this process. In addition, the legislation will need to extend the

sunset date in the law beyond June 30th, 2025, to give the hospitals and state agencies sufficient time to implement the law.

Expected Process

HSCRC expects legislators will schedule a meeting with key stakeholders later this month to discuss possible 2025 legislation. HSCRC anticipates that a bill will be introduced in 2025 to solve this issue. Based on that expectation, HSCRC plans to continue to work with stakeholders to prepare for implementation of the bill over the next few months, with the goal of having contractual documents for state agencies and hospitals to sign as soon as the expected legislation becomes law.

Background

In 2022, the HSCRC produced a report titled “Free Hospital Care Refund Process” to outline the options available for implementing HG §19-214.4. In this report, three options for identifying eligible patients and distributing refunds were outlined.

The General Assembly mandated that Option 3 be implemented in HG § 19-214.4(g)(2). Option 3 requires State agencies and hospitals to identify patients eligible for refunds by starting with data from hospitals. This hospital data is then matched to State agency data to confirm. Hospitals would distribute a letter to notify that patient of their eligibility and instruct them on how to request a refund. Early in 2024, the HSCRC and other state agencies identified operational challenges to using option 3. These challenges were related to legal barriers to third-party access to state agency data. Hospitals and some state agencies rely on third-party contractors and software for operational tasks that are key to implementing this process.

During the 2024 legislative session, all interested parties, including State agencies, hospitals, and consumer advocates, met with you and agreed to develop a process that allows the State agencies to distribute letters to patients using hospital and State agency data. Hospitals, State agencies, and consumer advocates decided that this alternative approach is the most feasible option for implementing this law. We believed that the language below allowed HSCRC to make this change in the process.

HG § 19-214.4(d)(1): “The Commission may modify the process developed under subsection (a) of this section as necessary.”

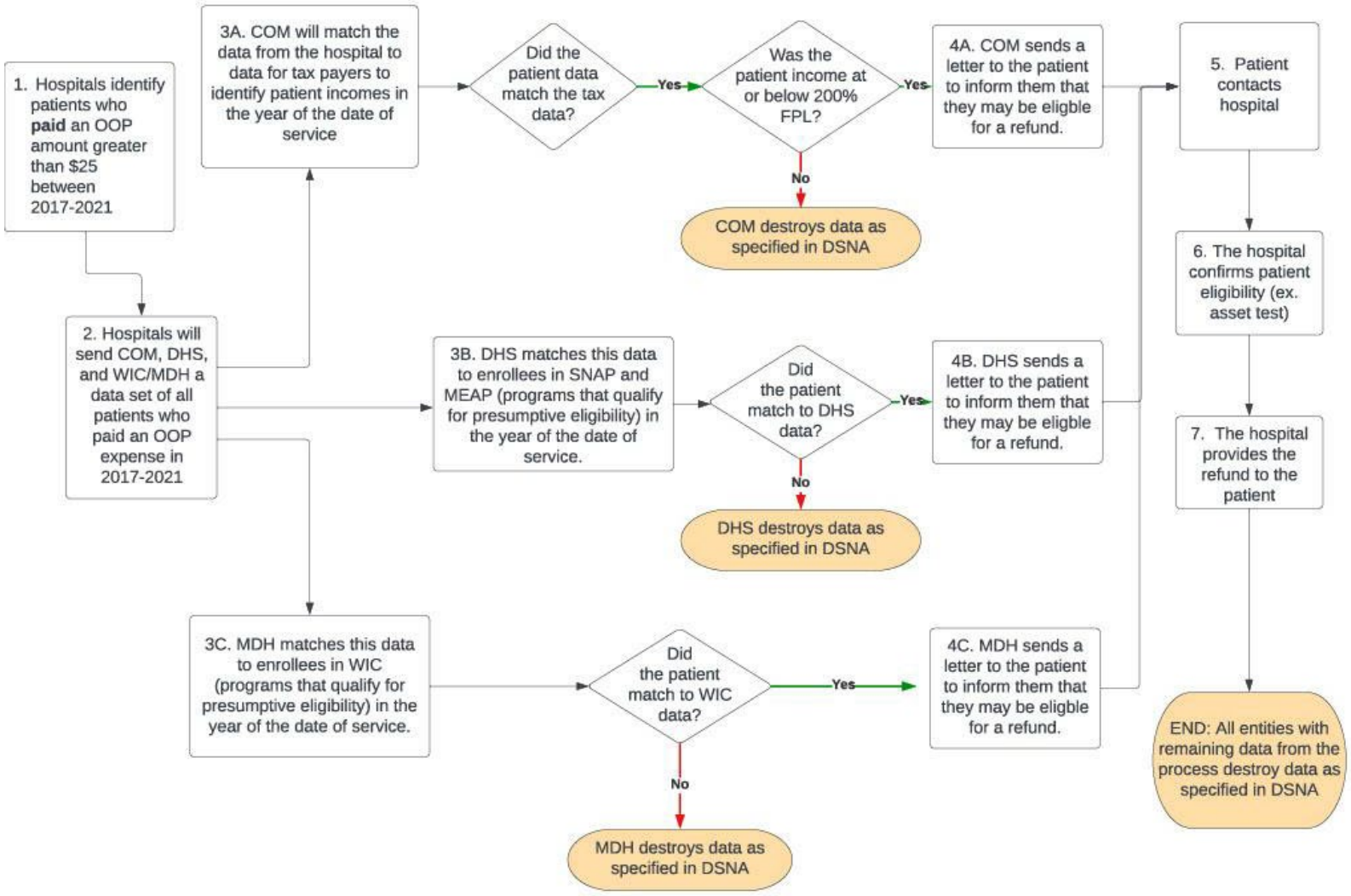
HSCRC worked closely with hospitals and other stakeholders to further develop this new process. We recently discovered that this process matches the description of a process that is *explicitly prohibited* by statute in HG § 19-214.4(g)(3).

“The Office of the Comptroller, the Department of Human Services, the Department, the State Department of Education, the Commission, and each hospital may not implement the alternative

approach included with Option 3 in the report identified under paragraph (2)(i) of this subsection"

This prohibition supersedes the Commission's authority to change the process in subsection (d)(1) of HG 19-214.4. The implementation of the hospital refunds cannot move forward since the process we agreed to during the legislative session is in violation of the law.

Appendix A: Current Workflow



Appendix B: Description of Option 3 and Alternative Approach - Excerpt from 2022 "Free Hospital Care Refund Process" Report

"Option 3: Start with Hospital Data

Under Option 3, the process starts with data from hospitals on patients who paid bills for services in the time period. This data would be combined with data from the Office of the Comptroller and DHS (and MDH and MSDE, if applicable) to identify patients who may be eligible for refunds for hospital financial assistance.

First, hospitals would identify all patients who paid an out-of-pocket expense for dates of service between 2017 and 2021. Each hospital will share an identifiable data set with the Office of the Comptroller that contains, for each patient, name, address in the year of the date of service, hospital name, the date of the hospital service, and other specified data elements specified to allow for data matching.

The Office of the Comptroller would match the hospital data with tax data and identify patients who received hospital services, paid out-of-pocket costs, and were at or below 200 percent FPL during the year of the service dates. After this matching process, the Office of the Comptroller would:

- send the data for those patients who were identified as having incomes at or below 200 percent FPL to the hospital;
- destroy data received from hospitals for patients over 200 percent FPL, as these patients likely do not qualify for free hospital care; and
- share with DHS (and MDH and MSDE, if applicable), identifiable data for patients that did not match to tax data that would contain, for each patient, name, address in the year of the date of service, hospital name, the date of the hospital service, and other specified data elements specified to allow for data matching.

The DHS (and MDH and MSDE, if applicable) would use the hospital data shared by the Office of the Comptroller for patients who paid a bill but did not match to tax data to match with enrollees in SNAP and Energy Assistance during the year of the service date. DHS (and MDH and MSDE, if applicable) would destroy data for patients who did not match. For patients that DHS (or MDH, or MSDE) identified as being enrolled in these programs, the applicable State agency would send that patient's data to the hospital. The hospital would then contact the patient to inform them that they may be due a refund. At the patient's request, the hospital would determine if the patient was eligible for free care and, if so, provide a refund.

An alternative approach would be for each of the State agencies above to send letters to the patients that may have qualified for financial assistance based on their income or program

enrollment. Patients would reach out to the hospitals to request a refund based on the letters received from the State agencies. Based on the letter, the hospital would determine if the patients were eligible for free care and provide a refund to those that overpaid. This alternative approach would minimize the sharing of State data with hospitals but not allow for the use of patient portals for those patients that use portals. As discussed above, patient portals are the preferred method for contacting patients. Hospitals expressed concerns that they will not be able to validate the authenticity of the letters that patients present to them related to potential eligibility for hospital refunds, since the hospitals will not have direct access to the information from the State agencies under this alternative approach."

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Final Recommendation:

Updates to the Accounting and Budget Manual

September 11, 2024

P: 410.764.2605 ● 4160 Patterson Avenue | Baltimore, MD 21215 ● hscrc.maryland.gov

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Background

The current version of the Accounting and Budget Manual was created in the late 1970s. In July 2023, Staff engaged I3 Healthcare Consulting to assist with an Annual Filing Modernization (AFM) initiative. The goal of this project is to obtain additional information about the operational costs at hospitals and to improve Staff oversight over compliance. The project also seeks to streamline the documentation and collection of this information. During Phase I, Staff removed outdated contents and revised the Manual. See revision items below:

Section 100 (Accounting Principles and Concepts)

- Removed general accounting principles.

Section 200 (Chart of Accounts)

- Removed instructions for establishing an accounting system; updated cost center information.

Section 300

- No change. This section will remain blank until the manual is finalized.

Section 400 (Reporting Requirements)

- Updated mailbox addresses; removed reports no longer relevant.

Section 500 (Reporting Instructions)

- Updated instructions; removed reports no longer relevant.

Section 600 (Reporting Schedule Checklist)

- Updated checklist; removed attestation form.

Section 700 / Appendix D (Standard Units of Measure)

- No changes.

Appendix A (Glossary of Terms)

- Removed List of Accounting Terms section.

Appendix B (Hospital List)

- Added and Updated hospital names, financial and Medicare identification numbers.

Appendix C (Center Codes)

- Added additional center codes.

Alternative Method of Rate Determination (ARM) Manual

- Removed language no longer relevant and added current policy.

Feedback from Stakeholders

These changes were shared with the Maryland Hospital Association (MHA) and the hospitals in the months of July and August 2024 for comments. The 30-day comment period ended August 16, 2024. Both MHA and Adventist HealthCare provided feedback as noted below.

MHA Comments:

In Appendix B, there were hospitals listed that were not updated to include the affiliated system in their name (e.g., Germantown and Suburban) – this may be something to check if the aim is standardization. Also, we noticed that Appendix C does not include the 340B rate centers.

HSCRC Response:

We added the affiliated systems names to all relevant hospitals in Appendix B. The 340 Rate Centers may be added to Appendix C during Phase II after additional information is evaluated by the AFM team.

Adventist Comments:

There is currently a mix of old and new names in Appendix B, and two Centers for Medicare & Medicaid Services (CMS) identification numbers are incorrect. You will notice both Shady Grove and Germantown Emergency share the same CMS identification number. You will also notice both Rehab locations share the same CMS identification numbers. The Financial identification numbers are different to accommodate separate HSCRC reporting, but in each of these cases the two reporting units are one entity for CMS.

HSCRC Response:

We updated the names of all Adventist HealthCare hospitals in Appendix B. In addition, we added a footnote to Appendix B to communicate that several of the CMS identification numbers are only for HSCRC reporting purposes.

Staff Recommendation

1. That the Commission approve the revisions of Phase I to the Accounting & Budget Manual. These revisions are to remove outdated contents and are part of the Annual Filing Modernization initiative.

2. That the updated revisions of Phase I of the Accounting & Budget Manual be effective October 1, 2024.

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TO: HSCRC Commissioners

FROM: HSCRC Staff

DATE: September 11, 2024

RE: Hearing and Meeting Schedule

October 9, 2024 In person at HSCRC office and Zoom webinar

November 13, 2024 In person at HSCRC office and Zoom webinar

The Agenda for the Executive and Public Sessions will be available for your review on the Wednesday before the Commission meeting on the Commission's website at http://hscrc.maryland.gov/Pages/commission-meetings.aspx.

Post-meeting documents will be available on the Commission's website following the Commission meeting.