



**Department of Legislative Services
Office of Legislative Audits**

**Department of Health and
Mental Hygiene
Health Regulatory Commissions**

Report dated January 7, 2013



Department of Legislative Services Office of Legislative Audits

Audit Overview

The Department of Health and Mental Hygiene - Health Regulatory Commissions (HRC) consists of three independent commissions:

- Health Services Cost Review Commission (HSCRC). HSCRC's responsibilities include establishing, reviewing, and approving hospital billing rates, monitoring hospital compliance with approved billing rates, and collecting data on hospital utilization. As of September 2011, HSCRC's rate-setting authority applied to 53 hospitals, with combined annual revenues exceeding \$13 billion.
 - Maryland Health Care Commission (MHCC). MHCC's responsibilities include administering a program that provides reimbursements from the Maryland Trauma Physician Services Fund to trauma physicians for services rendered to uncompensated care patients treated at Maryland trauma centers.
 - Maryland Community Health Resources Commission (MCHRC). MCHRC is responsible for providing support to community health resources.
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Key Audit Issues

- HSCRC's projections indicate significant potential difficulties in the State's ability to maintain compliance with its unique Medicare Waiver granted by the federal government, which allows payments to hospitals to be based on rates set by HSCRC.
 - HSCRC rate-setting computations were not subject to independent review and HSCRC did not review for reasonableness certain rates unilaterally set by hospitals (accounting for 10 to 20% of revenues).
 - HSCRC monitoring of hospitals did not include a review of billing system controls to ensure that hospitals were billing in accordance with HSCRC rates. Also hospital billing overcharges identified by the hospitals' auditors were not fully investigated. OLA estimated the effect of overcharges identified in 2009 audits to be at least \$13.2 million, dating back to 2001.
 - MHCC did not verify the propriety of disbursements from the Maryland Trauma Physician Services Fund, which awards reimbursements to trauma physicians that provided uncompensated trauma care.
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Medicare Waiver Compliance

- The Waiver allows Maryland to establish an all-payer system (including Medicare, Medicaid, private insurers, and uninsured individuals) which pays hospitals based on the rates set by HSCRC, regardless of the payer. Maryland is the only State that has this federal Waiver, which was granted in 1977.
 - Waiver requirements: 1) The rate of growth in Medicare payments to Maryland hospitals per inpatient hospital admission (average cost) from 1981 to the present must be no greater than the rate of growth in Medicare payments nationally over the same period. 2) All payers must pay based on the same rates.
 - HSCRC tries to maintain a “waiver cushion” (the amount Medicare payments to Maryland hospitals could grow before the State failed to meet Waiver Requirement 1) of 10%, but as of December 2011 it was 3.08%, with future projected decreases.
 - HSCRC has identified reasons for the decrease and estimated the impact of losing the Waiver to the State’s hospitals at approximately \$1 billion in lost Medicare reimbursements.
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Hospital Monitoring

Background:

- In setting hospital rates, HSCRC's goal is to assure that:
 - The total costs of all services offered by a hospital are reasonable.
 - Aggregate hospital rates are reasonably related to its aggregate costs.
 - Rates are set equitably among all purchasers of hospital services.
 - HSCRC establishes hospital-specific and service-specific rates for all inpatient, hospital-based outpatient, and emergency services resulting in unique service rates for each hospital.
 - HSCRC enters into annual written agreements (rate orders) with each regulated hospital.
 - HSCRC monitors compliance with rate orders using hospital-reported data and annual independent audits and agreed-upon procedure reviews.
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Hospital Monitoring (continued)

HSCRC did not have a process to determine if hospitals had established adequate controls over their billing systems to ensure that they were properly billing in accordance with the rate orders.

(Finding 1)

- Each regulated hospital uses an electronic billing system, which effectively stores the HSCRC's approved rates, to generate hospital bills.
- OLA discussions with two large payers disclosed that the payers do not verify the accuracy of hospital billing rates since they rely on HSCRC for this purpose.
- Inadequate controls over billing systems could allow billing errors to occur and remain undetected (see Finding 2).



Hospital Monitoring (continued)

HSCRC did not adequately investigate the impact of hospital billing overcharges identified through the required annual agreed-upon procedures reviews nor expand reviews to determine if overcharges occurred in other medical procedures. **(Finding 2)**

- HSCRC did not determine:
 - how long identified overcharges had been occurring,
 - the extent of prior years' overcharges, and
 - the patients and payers who were overcharged.
 - FY 2009 agreed-upon procedures reviews disclosed that 4 hospitals charged for certain procedures (one at each hospital) at rates ranging from 67% to 1,880% higher than allowed by HSCRC for certain medical procedures, yet HSCRC took no formal action other than instructing the hospitals to charge the correct rates in future billings for those procedures.
 - As of June 2011, OLA estimated that the related past overcharges (dating back to 2001) totaled at least \$13.2 million, of which at least \$3.7 million was overcharged to the State's Medicaid program.
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Hospital Rate Setting

- HSCRC did not periodically review documentation to support the reasonableness of the billing rates for certain unique inpatient and outpatient medical procedures (e.g., certain eye exams, specialized procedures) established by the hospitals. **(Finding 3)**
 - A periodic review of the reasonableness of these hospital-determined rates is necessary to ensure the billing rates are consistent with comparable procedures, as required by HSCRC policies.
 - While not specifically tracked, HSCRC estimates that these account for 10 to 20% of hospital revenues.
 - Although HSCRC's annual rate order preparation process involves multiple internal meetings and reviews by the hospitals, the formal underlying calculations prepared by HSCRC staff were not subject to an independent documented supervisory review. **(Finding 4)**
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Trauma Physician Reimbursements

MHCC did not require its contractor, which processes claims from the Maryland Trauma Physician Services Fund, to confirm that trauma patients on reimbursement claims were listed on the Maryland Trauma Registry (MTR), as required by State law.

(Finding 5)

- OLA's match of the contractor's approved claims processed from January 2009 through March 2011 to Registry records identified 1,357 claims totaling \$290,000 for which the patient trauma registry numbers in the contractor's claims records did not exist in the MTR dating back to July 1, 2006, as required by State law.
 - OLA tested 20 claims and found that for 16 claims totaling \$36,000 the related patient was not listed on the MTR on or after July 1, 2006, including 7 for which the actual dates of service in the contractor's records were prior to July 1, 2006.
 - During FYs 2009 to 2011, approved reimbursement claims from the Fund totaled \$16.2 million.
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Conclusion

HSCRC needs to:

- Establish procedures to ensure hospitals implement proper controls over the maintenance, updates, and management of hospital billing systems.
- Fully investigate overcharges to determine their extent, impact, and the appropriate action to be taken, and develop a policy to expand agreed-upon procedure reviews to include additional medical procedures, as necessary.
- Establish procedures to review the documentation supporting the reasonableness of hospital-assigned billing rates for unique medical procedures.
- Establish procedures to perform a documented independent supervisory review of hospital rate orders on a test basis.

MHCC should require its contractor to confirm trauma patients listed on reimbursement claims to the MTR to determine eligibility and MHCC should investigate the 1,357 claims noted and take appropriate action.
