

**MINUTES OF THE**  
**492nd MEETING OF THE**  
**HEALTH SERVICES COST REVIEW COMMISSION**

**October 10, 2012**

Chairman John Colmers called the meeting to order at 10:26 a.m. Commissioners George H. Bone, M.D., Stephen F. Jencks, M.D., Jack C. Keane, Bernadette C. Loftus, M.D., Thomas R. Mullen, and Hebert S. Wong, Ph.D. were also present.

**REMEMBERING JIM KELLY**

John Colmers, Chairman, commented on the death of Jim Kelly former member of the Commission's staff. The Chairman noted that Jim Kelly was one of the original rate setters from Hospital Cost Analysis, Inc. who helped establish the Commission in the early 1970's before there was a permanent staff. During this time, Jim established a close relationship with Hal Cohen and eventually signed on to the permanent Commission staff. Jim didn't just learn the system, he lived the system. He was dedicated to achieving the Commission's mandate of making hospital care more affordable. Jim worked his way up to Chief Rate Analyst. He always treated hospital representatives fairly, strictly adhering to his principles at all times. After leaving the Commission, Jim went on to work in the health consulting world and continued to maintain close personal and professional relationships with Hal, Jack Keane, and Jack Cook. Jim served his country in the military, serving in Vietnam with great courage and distinction. Jim Kelly always represented himself with honor, integrity, and humility.

The Chairman introduced Jim's wife Monica who was in attendance.

The Chairman expressed condolences to Dennis Phelps and his family on the loss of their newborn grandson Kyle Phelps.

**REPORT OF THE EXECUTIVE SESSION OF OCTOBER 10, 2012**

Oscar Ibarra, Chief-Program Administration & Information Management, summarized the minutes of the October 10, 2012 Executive Session.

**COMFORT ORDER - FREDERICK MEMORIAL HOSPITAL**

The Commission voted unanimously to ratify the Comfort Order for Frederick Memorial Hospital approved in Executive Session.

**ITEM I**  
**EXECUTIVE AND PUBLIC SESSIONS OF SEPTEMBER 5, 2012**

The Commission voted unanimously to approve the minutes of the September 5, 2012 Executive and Public Sessions.

**ITEM II**  
**EXECUTIVE DIRECTOR'S REPORT**

Patrick Redmon, Ph.D., Executive Director, updated the Commission on the progress of several high priority endeavors. Dr. Redmon reported that Monitoring Maryland Performance (MMP) indicated that the rate of growth in charge per case increased by 5% for the fiscal year ended July 2012; inpatient revenue increased 1.6% while the number of inpatient cases declined by 3.2%; outpatient revenue increased 14.1%; and total gross revenue increased 5.9%.

Dr. Redmon stated that staff has calculated the effect of the Commission decision to bring the case mix impact of short stay cases under the case mix governor for FY 2012, and that the impact appears to be larger than expected. Staff will keep the Commission apprised of the size of the adjustment and its implications for the revenue base in the current fiscal year.

As discussed in previous public meetings, the Admission Readmission Revenue policy is required to meet or exceed the results of the Centers for Medicare and Medicaid Services' (CMS') program for readmissions in order for Maryland to be exempt from the program. In its final Inpatient Prospective Payment System (IPPS) rule for FY 2013, CMS allows Maryland an exemption for FY 2013. However based on discussions with CMS staff, the ARR program will have to be modified to share savings with the payers in order to maintain the exemption. Dr. Redmon stated that staff has begun discussions with interested parties to address changes to the ARR program to share savings. Staff anticipates bringing a recommendation to the November public meeting.

Dr. Redmon announced that staff will begin discussions with the payment workgroup to consider the amount of revenue that would be scaled for the Maryland Hospital Acquired Conditions (MHAC) and the Quality Based Reimbursement (QBR) programs in the future.

**ITEM III**  
**DOCKET STATUS CASES CLOSED**

2169A – University of Maryland Medical Center Center	2170A – University of Maryland Medical Center
2171A - University of Maryland Medical Center Center	2172A – MedStar Health
2173A- MedStar Health	2174A - Johns Hopkins Health System

**ITEM IV**  
**DOCKET STATUS CASES OPEN**

**MedStar Good Samaritan Hospital – 2176R**

On August 8, 2012, MedStar Good Samaritan Hospital submitted a partial rate application requesting that its approved Medical/Surgical-Acute (MSG) and Definitive Observation (DEF) rates be combined effective October 1, 2012.

After reviewing the Hospital's application, staff recommended:

1. That the Hospital be allowed to combine its MSG and DEF rates;
2. That a MSG rate of \$1,068,52 per day be approved effective October 1, 2012; and
3. That no change be made to the Hospital's Charge per Episode standard for MSG services.

The Commission voted unanimously to approve staff's recommendation.

**Chester River Hospital Center– 2180N**

On August 28, 2012, Chester River Hospital Center submitted a partial rate application requesting a rate for inpatient Renal Dialysis (RDL) services. The Hospital requested that the RDL rate be set at the lower of a rate based on its projected costs or the statewide median and that the rate be effective October 1, 2012.

After reviewing the Hospital's application, staff recommended:

1. That COMAR 10.37.10.07 requiring that rate applications be filed 60 days before the opening of a new service be waived;
2. That a RDL rate of \$762.27 per treatment be approved effective October 1, 2012; and
3. That the RDL rate not be rate realigned until a full year's cost experience has been reported to the Commission.

The Commission voted unanimously to approve staff's recommendation.

**James Lawrence Kernan Hospital – 2181R**

On August 28, 2012, the James Lawrence Kernan Hospital submitted a partial rate application requesting a rate for Computerized Tomography (CAT) services to be provided to both inpatients and outpatients. This rate would replace its current rebundled CAT rate. The Hospital requested

that the CAT rate be set at the lower of a rate based on its projected costs or the statewide median and that the rate be effective October 1, 2012.

After reviewing the Hospital's application, staff recommended:

1. That COMAR 10.37.10.07 requiring that rate applications be filed 60 days before the opening of a new service be waived;
2. That a CAT rate of \$6.92 per RVU be approved effective October 1, 2012;
3. That no change be made to the Hospital's Charge per Episode standard for CAT services; and
4. That the CAT rate not be rate realigned until a full year's cost experience has been reported to the Commission.

The Commission voted unanimously to approve staff's recommendation.

### **Johns Hopkins Health System – 2182A**

Johns Hopkins Health System ("System") filed an application with the HSCRC on August 23, 2012 on behalf of Johns Hopkins Hospital and Johns Hopkins Bayview Medical Center requesting approval from the HSCRC to continue to participate in a revised global rate arrangement for bone marrow transplants services with Cigna Health Corporation. The System requested approval for a period of one year beginning October 1, 2012.

The staff recommended that the Commission: 1) permit staff to extend Commission approval on alternative method of rate determination applications from 90 days to three full months; 2) approve a two day extension of its August 3, 2011 approval; 3) approve the Hospitals' application for an alternative method of rate determination for bone marrow transplant services, for a one year period commencing October 1, 2012; and 4) make this approval contingent upon the execution of the standard Memorandum of Understanding ("MOU").

The Commission voted unanimously to approve staff's recommendation, with Chairman Colmers recusing himself from the discussion and vote.

### **Johns Hopkins Health System – 2183A**

Johns Hopkins Health System ("System") filed a renewal application with the HSCRC on August 23, 2012 on behalf of its member hospitals, Johns Hopkins Hospital, Johns Hopkins Bayview Medical Center, and Howard County General Hospital (the "Hospitals") requesting approval from the HSCRC for continued participation in a global rate arrangement for solid organ and bone marrow transplants with Preferred Health Care LLC. The Hospitals request that the Commission approve the arrangement for one year beginning October 1, 2012.

The staff recommended that the Commission approve the Hospitals' application for an alternative

method of rate determination for solid organ and bone marrow transplant services for a one year period commencing October 1, 2012, and that the approval be contingent upon the execution of the standard Memorandum of Understanding.

The Commission voted unanimously to approve staff's recommendation, with Chairman Colmers recusing himself from the discussion and vote.

#### **Johns Hopkins Health System – 2184A**

On September 7, 2012, 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") requesting approval to continue to participate in a revised global price arrangement with Life Trac (a subsidiary of Allianz Insurance Company of North America) for solid organ and bone marrow transplants and cardiovascular services. The Hospitals request that the Commission approve the arrangement for one year beginning November 1, 2012.

The staff recommended that the Commission approve the Hospitals' application for an alternative method of rate determination for solid organ and bone marrow transplant services for the period beginning November 1, 2012 and that the approval be contingent upon the execution of the standard Memorandum of Understanding.

The Commission voted unanimously to approve staff's recommendation, with Chairman Colmers recusing himself from the discussion and vote.

#### **Johns Hopkins Health System – 2185A**

Johns Hopkins Health System (System) filed an application with the HSCRC on September 7, 2012 on behalf of Johns Hopkins Hospital and Johns Hopkins Bayview Medical Center (the Hospitals) for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The System requests approval from the HSCRC for participation in a global rate arrangement for solid organ transplant, bone marrow transplant, and cardiovascular services with Olympus Managed Health for a period of one year beginning November 1, 2012.

The staff recommended that the Commission approve the Hospitals' application for an alternative method of rate determination for solid organ, bone marrow transplant, and cardiovascular services for a one year period commencing November 1, 2012. Staff also recommended that this approval be contingent upon the execution of the standard Memorandum of Understanding ("MOU").

The Commission voted unanimously to approve staff's recommendation, with Chairman Colmers recusing himself from the discussion and vote.

### **Johns Hopkins Health System – 2186A**

Johns Hopkins Health System (System) filed a renewal application with the HSCRC on September 21, 2012 on behalf of the Johns Hopkins Bayview Medical Center (the "Hospital") for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The System requests approval from the HSCRC for continued participation in a capitation arrangement serving persons with mental health needs under the program title, Creative Alternatives. The arrangement is between the Johns Hopkins Health System and the Baltimore Mental Health Systems, Inc., with the services coordinated through the Hospital. The requested approval is for a period of one year beginning November 1, 2012.

Based on its favorable performance for the last year, staff recommended that the Commission approve the Hospital's renewal application for an alternative method of rate determination for a one year period commencing November 1, 2012. Staff also recommended that this approval be contingent upon the execution of the standard Memorandum of Understanding ("MOU").

The Commission voted unanimously to approve staff's recommendation, with Chairman Colmers recusing himself from the discussion and vote.

### **Johns Hopkins Health System – 2187A**

Johns Hopkins Health System (System) filed an application with the HSCRC on September 21, 2012 on behalf of Johns Hopkins Hospital and Johns Hopkins Bayview Medical Center (the Hospitals) for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The System requests approval from the HSCRC for participation in a global rate arrangement for cardiovascular and orthopedic services with PepsiCo, Inc. for a period of one year beginning December 1, 2012.

The staff recommended that the Commission approve the Hospitals' application for an alternative method of rate determination for cardiovascular and orthopedic services for a one year period commencing December 1, 2012. The staff also recommended that this approval be contingent upon the execution of the standard Memorandum of Understanding ("MOU").

The Commission voted unanimously to approve staff's recommendation, with Chairman Colmers recusing himself from the discussion and vote.

**ITEM V**  
**DRAFT RECOMMENDATION ON OUTPATIENT CLINIC VOLUME ADJUSTMENT**

In response to the Commission's charge to develop a short-term outpatient constraint system to replace the Charge-per-Visit methodology, Mary Pohl, Deputy Director-Research and Methodology, presented a draft staff recommendation proposing an enhanced volume adjustment for clinics services. Ms. Pohl stated that the aim of the recommendation was to neutralize the strong financial incentive to increase clinic volumes and to address the site-of-service differential in reimbursement between the same service being provided in a hospital clinic and in a physician's office. The recommendation included: 1) a 50% variable cost volume adjustment for clinic outpatient volume increases; 2) a 85% outpatient variable cost volume adjustment for outpatient clinic volume decreases; 3) that these variable cost factors be applied to the clinic rate center only; 4) that this policy be applied for rate year 2014; and 5) that the clinic rate center be held out of the overall variable cost factor adjustment calculation.

Commissioner Mullen noted that historically HSCRC policies targeted inefficient hospitals. This policy does not.

Commissioner Jencks observed that this policy was attempting to deal with two issues: the incentive associated with a too generous cost volume adjustment, and also the differential between site-of-service reimbursement. Dr. Jencks stated that it is likely that even after applying this policy, we will find that because of the site-of-service reimbursement differential, clinic reimbursement is still too high. The problem is that all hospital clinics are not the same. We need to differentiate between the costs to provide services in various types of clinics.

Dr. Redmon stated that there is only one approved clinic rate for all clinics in a hospital. We may well have to disaggregate the clinic rate center into multiple rate centers.

Commissioner Keane stated that we need to get information on what it costs to provide a particular service in a hospital setting, so that it can be compared to the cost of providing that service in a non-hospital setting. Mr. Keane suggested that the revised volume adjustment be retroactive, so that rather than affecting the hospital's permanent revenue going forward, it would be removed so that hospitals would not get the benefit of the full rate for the year in which the additional volume is achieved. Mr. Keane also proposed that since the adjustment proposed for volume decrease is asymmetrical, the base year used for volume decreases should be fixed.

Chairman Colmers directed staff to provide a historical chronology of the fixed and variable cost percentages, prospective and retrospective, that were employed by the HSCRC in its rate setting methodologies.

Michael Robbins, Senior Vice President-Financial Policy of the Maryland Hospital Association, presented comments on the draft recommendation. Mr. Robbins stated that there are good reasons why clinic volume is increasing: 1) population increases; 2) efforts to avoid unnecessary admissions and readmission for hospitals participating in the Total Patient Revenue and the Admission-Readmission Revenue programs; and 3) referrals associated with the shift of services

from the more expensive Emergency Room setting to clinics. Mr. Robbins asserted that the revised clinic volume adjustment should not be retrospective. That is, the policy should not be applied in rate year 2014 since we are already almost four months into rate year 2013- - the rate year that hospitals' performance will be measured against.

According to Mr. Robbins, the reason that some physicians are moving into hospital clinics and requesting support from hospitals is that physician reimbursement in Maryland is inadequate.

John Hamper, Director-Provider Reimbursement, Analytics & Compliance of CareFirst, presented comments on the proposed policy. Mr. Hamper stated that CareFirst supported staff's recommendation with two modifications: 1) that the volume adjustment be 60% fixed and 40% variable and 2) that the adjustment be applied to all hospital volumes both inpatient and outpatient. According to Mr. Hamper, there are also three other issues that need further investigation: 1) hospitals charging more than the approved number of RVUs for clinic visits in which no non-physician services are rendered; 2) bills for physician professional services that do not disclose the place-of-service, that is whether the services were rendered in a hospital clinic or in the physician's office; and 3) the range in magnitude of hospital clinic rates.

Since this is a draft recommendation, no Commission action was required.

**ITEM VI**  
**HEARING AND MEETING SCHEDULE**

November 7, 2012

Time to be determined, 4160 Patterson Avenue,  
HSCRC Conference Room

December 5, 2012

Time to be determined, 4160 Patterson Avenue,  
HSCRC Conference Room

There being no further business, the meeting was adjourned at 12:05 p.m.