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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 49
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Ferguson and Barhorst

Local Impact Statement Procedure Required: No

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Highlights

- The Ohio Department of Health (ODH) will experience costs to monitor each hospital's compliance with the bill's price transparency requirements. This will include costs to evaluate complaints, monitor compliance and corrective action, post a list of noncompliant hospitals on its website, and prepare reports regarding compliance and recommendations. However, the bill establishes administrative penalties which may help to offset these costs.
- Government-owned hospitals could experience costs under the bill in instances of noncompliance, including payment of administrative penalties to ODH and loss of specified collection revenues. These penalties are to be deposited in ODH's General Operations Fund (Fund 4700).

Detailed Analysis

Availability of hospital price information

The bill requires each hospital to maintain and make public both of the following: (1) a digital file in a machine-readable format that contains a list of all standard charges for all hospital items and services, and (2) a consumer-friendly list of standard charges for a limited set of shoppable services, or services that a health care consumer may schedule in advance. As part of establishing these requirements, the bill repeals current law requiring every hospital to make available for public inspection a price information list, which includes charges for certain hospital services. Hospitals must display each list on their web sites and update each list annually. Once a list has been updated, hospitals must submit it to the Director of Health on a form prescribed by the Director.

The bill's requirements regarding price information closely mirror those in the hospital price transparency rule adopted by the federal Centers for Medicare and Medicaid Services (CMS), which has been effective since January 1, 2021. Since these requirements are established and in effect at the federal level, government-owned hospitals should not realize any fiscal impacts.

Director of Health duties

The Director of Health is required to monitor each hospital to determine compliance with the bill's requirements and evaluate complaints. The Director is required to create and make publicly available a list identifying each hospital that is not in compliance. The initial list of noncompliant hospitals must be created and included on the Ohio Department of Health's (ODH) website no later than 90 days after the bill's effective date. The Director must update the list and website at least every 30 days thereafter. If the Director determines that a violation has occurred, the Director must issue a notice of violation to the hospital and require the hospital to submit a corrective action plan. The corrective action plan is subject to the Director's review and approval. The Director must monitor and evaluate the hospital's compliance with the plan. The Director must also prepare an annual report on the hospitals that have violated the bill's provisions and must also submit, on a periodic basis, a report containing recommendations for modifying the bill's provisions, which may include recommendations in response to changes to CMS's hospital transparency rule. ODH is also required to develop a template that each hospital must use in formatting both the standard charges and shoppable services lists.

ODH will experience an increase in costs to create list templates for hospitals to use, evaluate complaints, monitor compliance, monitor corrective action, post a list of noncompliant hospitals on its website, and prepare the required reports regarding compliance and recommendations. However, the bill establishes administrative penalties (described directly below) which may help to offset these costs. ODH's total costs will depend a great deal on the number of hospitals not in compliance with the bill's requirements and the amount of time required to review, approve, and monitor corrective plans.

Administrative penalties

If a hospital fails to maintain and make public the required lists, or fails to respond to a notice of violation or submit a corrective action plan or complete the corrective action, the Director must impose an administrative penalty on the hospital. In the case of a hospital with a bed count of 30 or fewer, the penalty must not be lower than \$600. For a hospital with a bed count that is greater than 30 and equal to or fewer than 550, the penalty must not be lower than \$20 per bed. And with respect to a hospital whose bed count exceeds 550, the penalty must not be lower than \$11,000. Penalties are to be deposited in ODH's General Operations Fund (Fund 4700). Penalties collected under the bill must be used to administer and enforce its provisions, except that the Director may use a portion for purposes of informing the public about the availability of hospital price information and other consumer rights under the bill. Under the federal rule, CMS may also assess administrative penalties.

Any government-owned hospital not in compliance would have to pay a penalty as described above. ODH will be able to use any penalty revenue received to help offset administrative costs. The amount of penalty revenue will depend on the number and size of hospitals that are not in compliance.

Collection actions

If the Director determines that a hospital failed to maintain or make public the required lists and the hospital was in violation on the date that it provided hospital items or services to a patient, then the hospital is prohibited from taking, or continuing to take, a collection action against the patient or a patient guarantor for a debt owed for the items or services. A hospital must dismiss any suit it has brought to collect the debt and must pay any attorney's fees and costs incurred by the patient or patient guarantor relating to the suit. The hospital must remove or cause to be removed from the patient's credit report any report made to a consumer reporting agency relating to the debt. Additionally, the hospital must refund the payer any amount of the debt that has been paid and must pay a penalty to the patient in an amount that is twice the total amount of the debt. The bill specifies that its provisions do not prohibit a hospital from billing a patient, patient guarantor, or third-party payor for hospital items or services provided to the patient. It also states that its provisions do not require a hospital to refund any payment made to the hospital for hospital items or services provided to the patient, as long as a collection action is not taken in violation of the bill.

Government-owned hospitals may realize a loss in revenue regarding collection actions and additional penalties paid to a patient if a hospital is not in compliance with the bill's provisions at the time a patient received care.