



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

JAN 1 2 2010

The Honorable Ulysses Currie
Chairman, Senate Budget and Taxation Committee
3 West Miller Senate Office Building
Annapolis, MD 21401-1991

The Honorable Norman H. Conway
Chairman, House Appropriations Committee
Taylor House Office Building, Room 121
Annapolis, MD 21401-1991

The Honorable Thomas McLain Middleton
Chairman, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

The Honorable Peter Hammen
Chairman, House Government Operations Committee
Taylor House Office Building, Room 241
Annapolis, MD 21401-1991

Re: JCR 2009, Page 97, M00Q Report on options to prevent the necessity for future medical malpractice subsidies for the liability insurance policy issued to policyholders who are family practitioners with staff privileges at Garrett County Memorial Hospital

Dear Chairmen Currie, Middleton, Conway, and Hammen:

Pursuant to page 97 of the 2009 Joint Chairmen's Report of the Senate Budget and Taxation Committee and the House Appropriations Committee, and upon approval of a ninety-day requested extension by your committees, the Department of Health and Mental Hygiene is to submit a report to your committees by December 31, 2009. The report contains options to prevent the necessity for future medical malpractice subsidies for the liability insurance policy issued to policyholders who are family practitioners with staff privileges at Garrett County Memorial Hospital.

The Department has been working with all parties named in the report request as well as several other organizations to develop the options desired. As of January 1, 2010, no subsidy will be available to offset the high cost of malpractice insurance for the four physicians in Garrett County providing OB services. The following steps have been taken by DHMH, the Garrett County Health Department, and other affected entities, to insure that obstetric services continue to be provided for pregnant Garrett County women in the short term and foreseeable future.

In working with the Maryland Insurance Administration and both of the malpractice insurance companies providing coverage for these two practices in Garrett County, the Department has received assurance that an alternative rate will be established for Family Practitioners providing OB services in Garrett County. This rate will be slightly higher than the simple Family Practitioner rate but will allow each physician to make up to 30 deliveries per year and to perform some minor related surgical procedures.

In the years 2006-2008 an average of 273 babies were delivered by the four Garrett County physicians providing OB services. During that three-year period, 59% of deliveries were to women who had Maryland Medical Assistance as their primary or secondary insurance coverage. This rate varied from 55% to 63% in any given year. By excluding women covered by Maryland Medical Assistance from their OB practice, the four Garrett County physicians will come close to falling under the 30 delivery cap, thus qualifying them for the favorable FP-OB malpractice insurance rate. If the physicians elect this option, some mechanism must be found to provide maternity coverage for pregnant women in the Medical Assistance population.

In order to continue providing services for all pregnant women in Garrett County if the physicians decide to limit the OB aspects of their practices to non-Medicaid clientele, the Garrett County Health Department has agreed to establish a maternity clinic for women with primary or secondary Maryland Medical Assistance. The Health Department is in the process of modifying its billing and medical records software to accommodate program requirements. On September 14, I granted the Garrett County Health Department authority, under Health General Article 2, Section 108, to contract with insurance providers for Health Department OB services. The Health Department is in the process of executing contracts with all potential payers. The majority of the Garrett County Health Department maternity services will continue to be provided by the same physicians currently providing OB services. They will become eligible for protection as State employees under the Maryland Tort Claims Act upon execution of an employee contract by the Garrett County Health Department. In their practice for the Department, they will be supervised by the Deputy Health Officer, who is a physician. Enrollment of OB patients, and the initial visit including prenatal evaluation, will be provided by other Health Department staff. The Health Department program costs, including physician reimbursement, will partially be offset by receipts from billable services. As employees of the Health Department, the physicians have temporarily agreed to accept a lower level of reimbursement than they are currently receiving that will partially offset Garrett County Health Department costs. The Garrett County Health Department is preparing to begin services January 1, 2010, or as soon as is necessary after that date.

One of the medical malpractice companies has agreed to allow the practitioners to purchase its coverage on a quarterly basis. This feature would allow the physicians to purchase coverage for a limited period of time, which would provide some time for exploring other options.

Two other long-term solutions are being pursued by Garrett County. The first is proposed legislation that may be introduced to the General Assembly in the 2010 session. The legislation would amend the definition of State employee under the Maryland Tort Claims Act to include physicians in Garrett County providing OB services to Garrett County women covered by Maryland Medical Assistance. This legislation would provide an alternative to the Garrett County Health Department provision of OB services.

Finally, negotiations have recently begun between Mountain Laurel Medical Center (the Federally-Qualified Health Center located in Garrett County) and the two physician groups. It may be possible for Mountain Laurel to provide all OB services for the region through a contract or other arrangement with the current OB providers through which the providers would be covered under federal tort protection. This arrangement could be structured for all OB patients, depending on negotiations with the OB providers. For this alternative to be established, it would require specific HRSA approval of a scope of service change. This arrangement will take some time. These negotiations are ongoing and provide much promise for a long-term solution for continuing OB services in Garrett County.

Should you have any further questions please do not hesitate to contact Ms. Wynee E. Hawk, Director, Office of Governmental Affairs at 410-767-6481.

Sincerely,



John M. Colmers
Secretary

cc: Mr. James Johnson, DHMH
Ms. Frances Phillips, DHMH
Ms. Anne Hubbard, DHMH
Ms. Kathleen K. Wunderlich, DLS

Ms. Cathy Kramer, DLS
Ms. Beth Sammis, Maryland Insurance Administration
Mr. Rodney Glotfelty, Garrett Co. Health Department
Mr. Donald P. Battista, Garrett Co. Memorial Hospital