

MS Regulatory & Legislative Update

2023 MS HFMA Annual Conference

April 20, 2023

National Strength.
SOUTHERN ROOTS.



CRI CARR
RIGGS &
INGRAM

CPAs and Advisors

CRICpa.com

MS Reg./Leg. Update

- Significant legislative measures
 - Hits & Home runs
 - Sac Fly
 - Strikeouts
 - Stranded on base
- Significant Regulatory matters
 - REH
 - Medicaid DSH
 - Physician UPL
 - Increase in provider taxes



Legislative- Hits & Home Runs

- **SB 2212** - extends postpartum coverage (1yr)
- **SB 2372** - Hospital access pmts
 - One-time payment - \$103m
 - Not applicable to VA or State operated mental hospitals
 - Distribution variables - bed size, CAH, rural, ER and specialty care (women's, LTAC, psych & rehab)
 - Funds administered by MSDH
 - MHA work group report required concerning recommendations for access/sustainability



SB 2372 – Distribution

Primary Distribution

- < 100 beds, rural, no ER = \$300k
- CAH = \$500k
- < 100 beds, non-CAH, w/ ER = \$625k
- < 200 beds & specialty services = \$500k
- > 100 beds = \$1m

Secondary Distribution

- <= 50 beds, rural, w/ ER = \$250k
- Remainder allocated on bed count excluding specialty service hospitals

Legislative- Hits & Home Runs

SB 2371 – Creates three grant programs

- 1) Accelerate MS Nursing/Allied Health Grant
- 2) Accelerate MS Physician Residency and Fellowship Start-Up Grant Program
- 3) Mississippi Allied Health College and Career Navigator Grant
 - Improve graduation rates for these programs

Funds are available thru 12/31/2026

Nursing / Allied Grant Program

- Community/Junior college (75%) or other entities w/ healthcare training programs (25%)
- Administered by MDES
- Target - nursing, allied health & paramedics

Physician Residency & Fellowship Grant

- New programs or increase capacity in existing programs
- General acute care hospital
- Administered by MDES

Legislative- Hits & Home Runs

- **SB 2373** - \$6k per yr for up to 3 yrs
 - Resident of the State
 - Full time RN or LPN licensed in MS
 - Gained employment for first time in last year
 - SNF or acute care hospital located in MS
 - Outstanding qualifying educational loans
 - Ineligible for those with State forgivable loan or in default/delinquent on any educational loans
 - First come, first serve basis; paid upon completion of year of employment directly to lender
 - Administered by MS Postsecondary Education Financial Assistance Board

CON Bills

Two bills undermining CON laws were killed!

Continued diligence required!
Political leaders continue to have:

- Fallacy of the healthcare free market
- Infatuation w/ competition among providers but not with insurers



Legislative- Hits & Home Runs

- **SB 2323** – facilitates Hospital consolidation / collaboration



Community Hospitals

- Allows provision of services outside service area for the benefit of the community hospital
- Facilitates investments & joint ventures
- Removes term limits on contractual arrangements
- Exemption from state and federal antitrust laws

Private Hospitals

- Allows for cooperative agreements with a certificate of public advantage (COPA)

Legislative- Hits & Home Runs

- **HB 388** – allows city/county owned hospitals to collect debts with State income tax refunds
- **HB 584** – reauthorization of grant funding to FQHCs for physician recruiting & retention
 - Fund capped at \$4m
 - Each Clinic capped at \$400k
 - One-time salary supplement to PC physician being recruited
 - 3-yr work amortization period for physician

Legislative- Sacrifice Fly

- **HB 518** – reauthorized Provider Innovation Grant Program for SFY 2024.... **BUT...**
no funding was provided (HB 272 died in conference)



Legislative - Strikeouts



- Medicaid expansion
- Uncompensated care pools
- Temporary suspension of provider tax
 - Tax authority sunsets 7/1/2024 (§43-13-145)
- Any willing provider legislation
- Income tax credits for nurses
- Prevention of weapons on hospital campuses
- Mandatory sentencing guidelines for assault on healthcare workers



SB 2224

- Insurance Commissioner w/authority to address payment inequality/irregularity
- Insurers allowed to provide evidence to justify inequality/irregularity
- Up to \$10k fine per violation
- Required payers (upon request) to provide written list of info needed for clean claim

Legislative – Stranded on Base



SB 2622 – MS Prior Authorization Reform Act

- Improved transparency from insurer related to PAs
- Established PA standards & guidelines
- Provide advance notice to providers of PA changes
- Publish stats on PA denials
- Standard electronic PA process
- Shorten the decision timeline for PA
- More robust appeal and review process
- Complaint/enforcement provisions



~~Houston~~ Jxon....We have a Insurance problem(s)

Hospital Average Commercial Rates (ACR)

- National – approx 2 times Medicare¹
- MS - ACR approximates Medicare rates²

¹Kaiser Foundation – 2020 study

²2023 DOM MHAP analysis

REH Statutory/Regulatory Framework

- Consolidation Appropriations Act (CAA) of 2021
- 2023 Outpatient Prospective Payment (OPPS) Final Rule
- CMS CoPs regulatory guidance
- MSDH issued licensure standards
- Rural & < 50 beds as of 12/27/2020

REH Considerations

Decision Point	Must	May	Can't
Inpatient Acute Care/Psych			✗
Inpatient swing-bed service			✗
Inpatient SNF services		✗	
24/7 Emergency room service (CAH-like)	✗		
Less than 50 beds & located in rural area	✗		
Observation services	✗		
Transfer agreement with Level I or II trauma center	✗		
Action plan for conversion	✗		
State licensure as REH – attestation in lieu of survey	✗		
On-campus & Off-campus outpatient services		✗	
Originating site for telehealth		✗	
Allowed to convert back to CAH or PPS		✗	
ALOS limited to 24 hrs (includes all OP encounters)	✗		

Payment Considerations

- OPPS
 - APC + 5%
- SNF
 - PDPM
- Additional Facility Payment (subsidy)
 - Monthly
 - Fixed sum of difference in PPS and CAH pmts
 - Increased annually by MB

2023 OPPS Final Rule - REH

REH payment provisions

- Fixed payment – \$272,866 monthly /\$3.3m annual
- 5% OP add-on pmt applied to all OPPS services
- Provider-based RHCs reimbursement would remain the same under REHs
- Off-campus PBD are not subject to §603 limitation
- REH enrollment deemed change of information rather than initial enrollment application

Profile: CAH Candidate for REH conversion

- Low to moderate IP MHAP payments
- Little to moderate Medicaid DSH payments
- The lower ADC = greater benefit of REH
- Small to negative margin on geri-psych DPU
- Little to moderate 340B benefit
- Capacity to retain SWB business thru affiliated nursing home or elsewhere in health system

Strategic Next Steps

- Gauge community support for REH
- Define outpatient service offerings
- Deep dive into expense savings due to inpatient closure
- Evaluate alternate uses for IP space
- MSDH guidance
<https://msdh.ms.gov/page/30,0,83,1019.html#convert>
- Lobby for improvements in REH model
 - Federal: 340B and Medicaid DSH
 - State: Medicaid reimbursement policy

DSH Audits

- FY 2019 - recently completed
 - Estimated \$43m recoupments redistributed
- FY 2020 – spring/summer 2023
 - Estimated \$30m recoupments to be redistributed
- DSH Reallocation Methodology
 - Current – Hierarchy
 - Class & MIUR
 - FY 2023 DSH audits & thereafter
 - Proportionate to remaining OBRA limit

Recent DSH Developments

- 2021 CAA:
 - Delayed ACA mandated reductions to FFY 2024
 - Impact ???
 - Medicaid primary
 - Narrow exception



Hospital Supplemental Payments

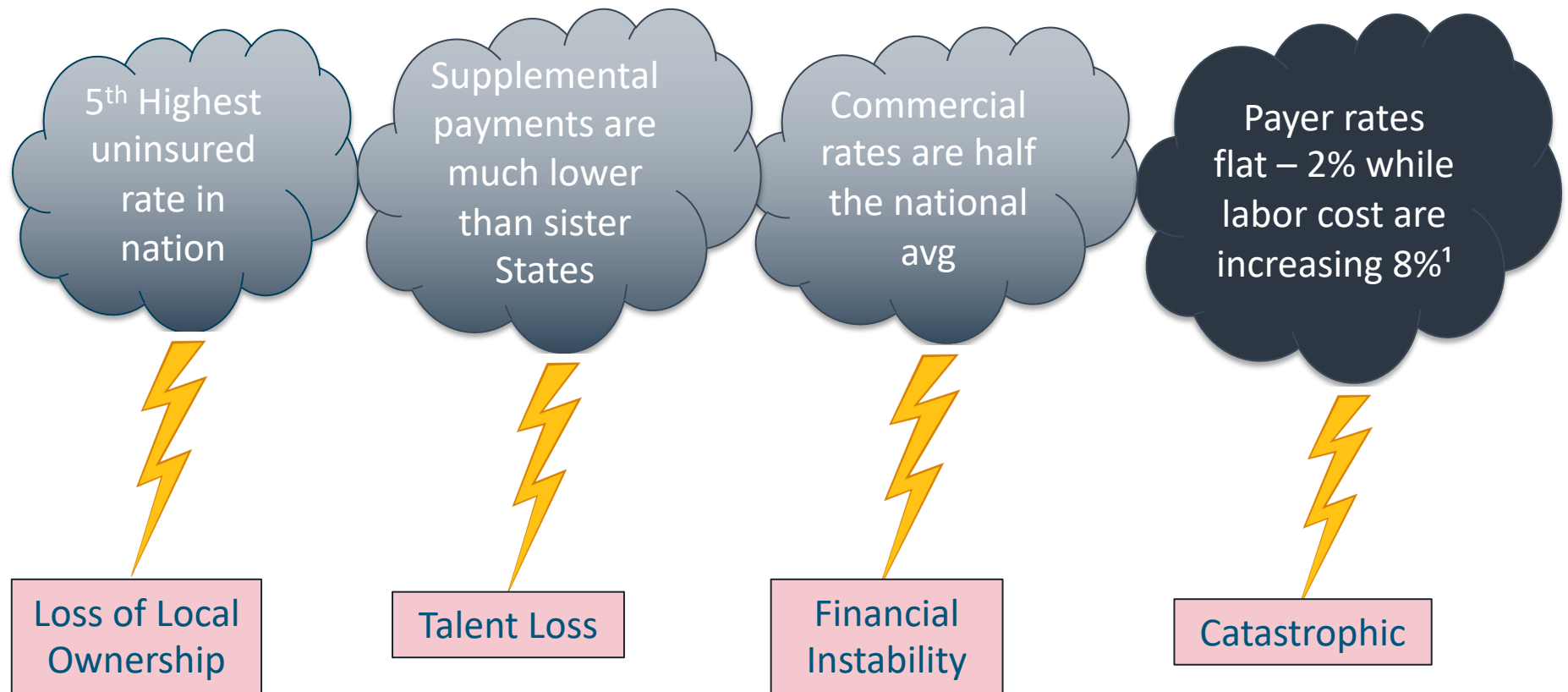
	LA	MS	AL
DSH Payments	\$1.2b	\$260m	\$500m
Non-DSH Payments	\$2.5b*	\$555m	\$1b
Medicaid Population ¹	1.8m	800k	1.1m
Per Capita	\$2,100	\$1,000	\$1,400
Quality Penalties	Yes	Yes	No
Responsible Party	MCOs	Providers	n/a
Uninsured ²	7.5%	11.9%	10.0%

* Does not include \$700m Physician UPL program for hospitals

¹ Source: 2020 MacPAC

² Kaiser Foundation 2021

The Perfect – Horrible Storm



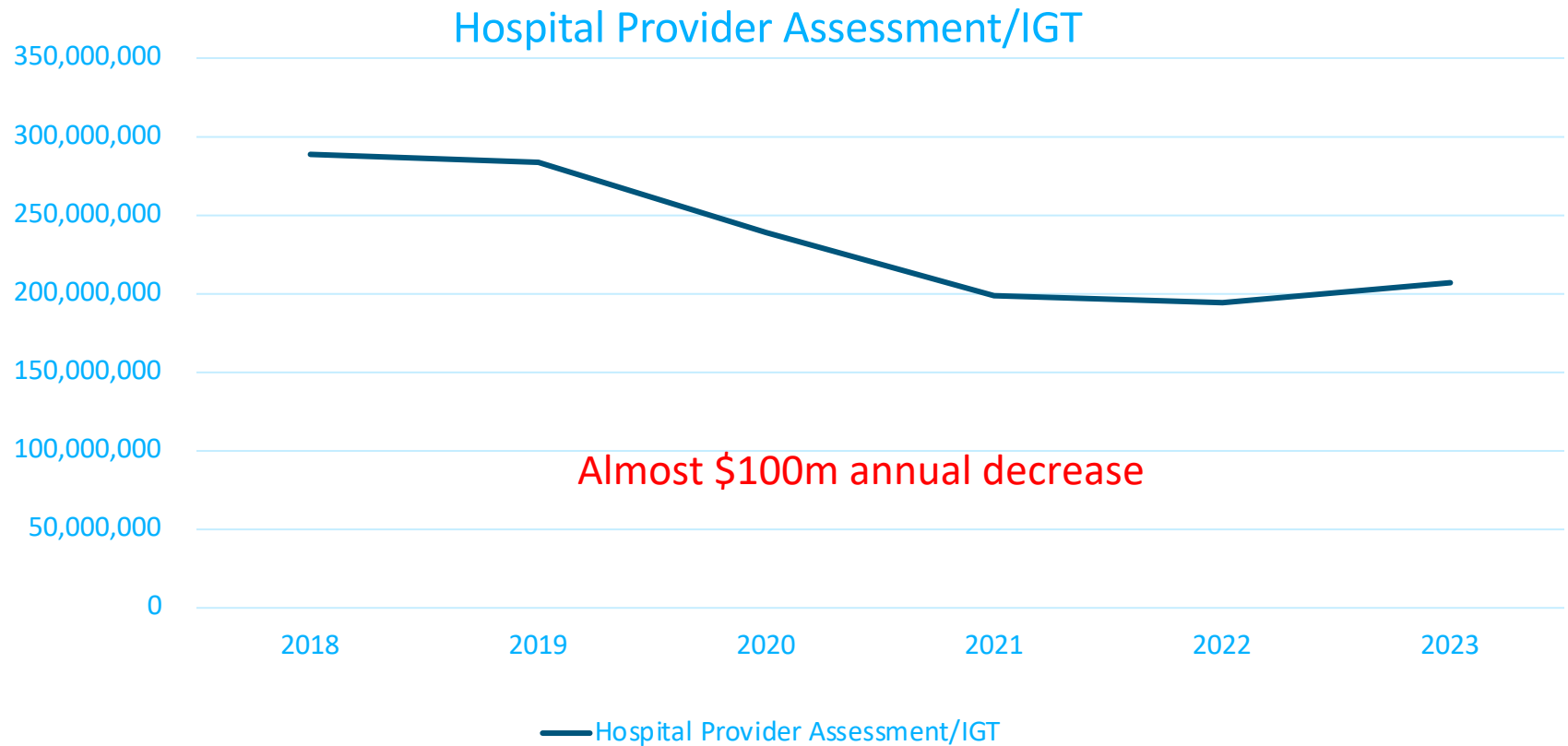
ACCESS to CARE

¹HCRIS – MS Hospitals 2021 v 2020

Physician UPL

- Current DOM position is not to include:
 - Arrangements where hospital-based physician group does their own billing and hospital pays subsidy
 - Physician extenders
- No statutory or regulatory prohibition for exclusions
 - LA plan includes subsidy arrangements & extenders
 - Current State Plan includes extenders

Hospital Provider Tax Trends



Provider Assessments - 2024

- Significantly higher due to PHE expiration
- Additional supplemental pmt programs
 - IP UPL
 - Physician UPL

TODAY'S PRESENTER

W. Shane Hariel, Partner
Ridgeland, MS
601-499-2558
shariel@cricpa.com

Text **CRI** to **66866** to receive CRI News and Alerts.

CARR, RIGGS & INGRAM, LLC

CRI Firm Values



CLIENT SERVICE

Defining our brand by meeting or exceeding the highest expectations of our clients

RESPECT

Building productive, long-term relationships with each other that are based on mutual respect, trust, and sharing

INTEGRITY

Living with sincerity, transparency, and honesty