# Delaware House Bill 350: Hospital budget review and temporary price increase limits

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## Background

Delaware House Bill 350 (HB350) seeks to limit hospital cost growth in Delaware[1] by establishing the Diamond State Hospital Cost Review Board (the Board). The Board's responsibilities include an annual review of hospital budgets and finances starting in 2025 for the 2026 calendar year. The bill also includes a temporary measure that limits hospital price increases for 2025 and 2026. HB350 was introduced on April 23, 2024.[2] After being passed by the Senate and the House, HB350 was signed by the governor on June 13, 2024.

Since 2019, Delaware has annually set a statewide healthcare spending trend benchmark in the range of 3% to 4%, based on overall economic growth measures for the state.[3] The benchmark is defined as the year-over-year percentage change in total healthcare expenditures expressed on a per capita basis. From 2019 through 2022, Delaware healthcare spending trends have exceeded the benchmark in each year except for 2020.[4]

The Board established by HB350 was created in the model of the Vermont Green Mountain Care Board (established in the state of Vermont in 2011), which works to improve access, affordability, and quality.[5] Like the Vermont Green Mountain Care Board,[6] Delaware's Board is charged with reviewing hospital budgets and financial information as well as establishing changes to budgets when deemed necessary by the Board.

## Summary of key financial provisions

Starting in 2025 for the 2026 hospital fiscal year (FY), hospitals in Delaware are required to submit information to the Board, including the upcoming year's budget with all changes from the previous year, revenue data, financial details, scope of services, utilization information, and any other relevant data the Board requests. The Board will utilize this information to review budgets, discuss budget proposals with hospitals, examine utilization information, assess changes in revenue and finances, analyze salaries, and perform other tasks related to cost and budget monitoring.

### SPENDING BENCHMARK

As part of this process, the Board will compare each hospital's budget changes to a "spending benchmark." The spending benchmark is set by the Delaware Economic and Financial Advisory Council (DEFAC) Health Care Spending Benchmark Subcommittee and is defined in Title 16[7] as "the target annual per capita growth rate for Delaware's statewide total health-care spending, expressed as the percentage growth from the prior year's per capita spending." The calculation for the spending benchmark is defined in Title 16 as, "the per capita potential gross state product (PGSP) growth rate" (i.e., projected growth in Delaware's per person economic output).

1. Delaware House Democrats (April 26, 2024). House Passes Rep. Longhurst Bill to Curb Healthcare Cost Growth. Press release. Retrieved October 23, 2024, from https://housedems.delaware.gov/2024/04/26/house-passes-rep-longhurst-bill-to-curb-healthcare-cost-growth/.
2. Delaware General Assembly. House Substitute 2 for House Bill 350. 152nd General Assembly (Present). Retrieved October 23, 2024, from https://legis.delaware.gov/BillDetail/141253.
3. Delaware Code. Title 16, Chapter 99, Section 9903. Retrieved October 23, 2024, from https://delcode.delaware.gov/title16/c099/sc01/.
4. Delaware News (May 7, 2024). DHSS Releases Fourth Annual Health Care Benchmark Trend Report. Retrieved October 23, 2024, from https://news.delaware.gov/2024/05/07/dhss-releases-fourth-annual-health-care-benchmark-trend-report/.
5. State of Vermont. Green Mountain Care Board: About GMCB. Retrieved October 23, 2024, from https://gmcboard.vermont.gov/board.
6. State of Vermont. Green Mountain Care Board: Hospital Budget Review. Retrieved October 23, 2024, from https://gmcboard.vermont.gov/hospital-budget-review.
7. Delaware Code, Title 16, Chapter 99, Section 9903, op cit.

## ACTIONS BASED ON THE BOARD REVIEW

Starting in 2026, if the Board finds that a hospital's actual annual healthcare cost growth exceeded the spending benchmark, the Board may require the hospital to submit a performance improvement plan. Performance improvement plans, "must identify the causes of the high healthcare cost growth," as well as specific solutions to improve the performance within 12 months. If, at the conclusion of the performance review plan timetable, the plan was unsuccessful, then the Board may either extend the timetable, require a new plan, or require participation in the budget approval process.

The budget approval process will start with budgets being submitted in 2025 for the 2026 calendar year. The Board will review budgets to ensure they reasonably adhere to the spending benchmark while considering financial/economic factors. The budgets should also maintain the hospital's ability to provide quality care and meet its financial requirements. The Board cannot require a hospital to adjust its budget if the submitted budget shows growth that is less than or equal to the Delaware Healthcare Spending Benchmark (see Figure 1). When a hospital meets its budget goals for three straight years, the Board can no longer require the hospital to participate in the budget approval process. If a hospital fails to maintain its budget, the Board can factor the amount of net revenues exceeding the budgeted amount of net revenues into the hospital's budget for the upcoming year, allow the hospital to retain surplus funds if the surplus was achieved while the hospital stayed within its budget, or allow the hospital to retain surplus funds generated primarily by volume in excess of what was projected for the year in question.

**FIGURE 1: COMPARISON OF DELAWARE HEALTHCARE SPENDING BENCHMARK AND ACTUAL COST GROWTH**

| | DELAWARE HEALTHCARE SPENDING BENCHMARK8 | ACTUAL DELAWARE HEALTHCARE SPENDING TREND | DIFFERENCE (ACTUAL – BENCHMARK) |
|---|---|---|---|
| **2019** | 3.8% | 5.8% | 2.0% |
| **2020** | 3.5% | -1.2% | -4.7% |
| **2021** | 3.25% | 11.2% | 8.0% |
| **2022** | 3.0% | 6.3% | 3.3% |
| **2023** | 3.1% | Not available | Not available |
| **2024** | 3.0% | Not available | Not available |

## TEMPORARY PRICING MEASURES FOR 2025 AND 2026

Delaware HB350 also includes temporary pricing measures for 2025 and 2026. The bill states that hospitals may not charge any payer, purchaser, insurer, public program, patient, or any other individual any amount that exceeds the greater of 2% or Core consumer price index (CPI) plus 1% more than the previous year. Core CPI is defined in Title 18 as, "the average of the 12 preceding bimonthly indices calculating the over-the-year changes of the Consumer Price Index for All Urban Consumers in the Philadelphia-Camden-Wilmington Area, all items less food and energy, developed by the United States Bureau of Labor Statistics."[9] See Figure 2.

8. For benchmark trend and actual results (accessed September 7l 2024), see:
   - https://dhss.delaware.gov/dhcc/files/pressrelease_benchmarkreport040623.pdf
   - https://news.delaware.gov/2024/05/07/dhss-releases-fourth-annual-health-care-benchmark-trend-report/

9. The full text of Title 18, Insurance Code, is available at https://delcode.delaware.gov/title18/title18.pdf.

**FIGURE 2: CPI MEASURES RELATED TO HB350**

| | CORE CPI[10] | GREATER OF 2% AND CORE CPI PLUS 1% |
|---|---|---|
| **2019** | 2.5% | 3.5% |
| **2020** | 0.5% | 2.0% |
| **2021** | 4.5% | 5.5% |
| **2022** | 5.6% | 6.6% |
| **2023** | 4.6% | 5.6% |
| **2024** | 4.0% | 5.0% |

The temporary pricing measures do not apply to "a hospital that serves less than five percent Medicare eligible patients per year or a hospital that derives 45% or more of its revenue from Medicaid or uninsured patients." As shown in Figure 3, major Delaware hospitals are expected to be impacted by the temporary pricing measures, except for Nemours Children's Hospital, which historically has had less than 5% of its revenues from Medicare fee-for-service (FFS) patients. However, the Medicaid revenue of Nemours was not readily available, and volumes can change over time.

**FIGURE 3: DELAWARE HOSPITALS' REPORTED MEDICARE AND MEDICAID REVENUE (FY2022)**

| | FY2022 REVENUE ($ MILLIONS) | | | | |
|---|---|---|---|---|---|
| **HOSPITAL** | **TOTAL** | **MEDICARE FFS** | **% MEDICARE FFS** | **MEDICAID REVENUE (INCLUDING SNAF)** | **% MEDICAID** |
| **ChristianaCare** | $1,998.0 | $508.0 | 25.4% | $311.0 | 15.6% |
| **Nemours Children's Hospital, Delaware** | $718.0 | $2.0 | 0.3% | n/a | n/a |
| **Bayhealth Hospital, Kent Campus** | $569.4 | $120.1 | 21.1% | $8.3 | 1.5% |
| **Beebe Medical Center** | $532.0 | $147.0 | 27.6% | $51.0 | 9.6% |
| **Bayhealth Hospital, Sussex Campus** | $276.0 | $64.0 | 23.2% | $3.0 | 1.1% |
| **St Francis Hospital** | $155.0 | $23.0 | 14.8% | $41.0 | 26.5% |
| **Tidalhealth Nanticoke, Inc.** | $140.4 | $49.9 | 35.6% | $18.9 | 13.4% |

Source: FY2022 Medicare Cost Reports

# Understanding healthcare trends

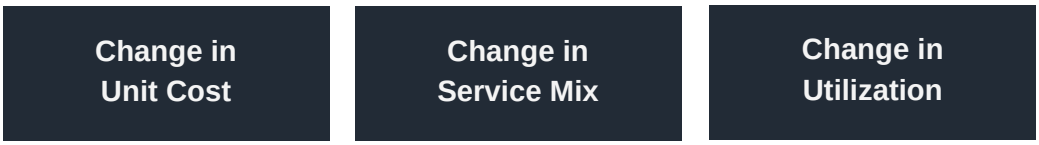
The total per capita healthcare trend (e.g., the Delaware Healthcare Spending Benchmark) is composed of unit price, mix, and utilization changes. Unit price is defined as the price per unit of care delivered after adjusting for case mix and volume changes. For example, CPI is a unit price measure, because it tracks the prices for a set of goods over time and generally does not include mix or utilization changes.

10. For the Core CPI for Philadelphia-Camden-Wilmington (accessed September 7, 2024), Series ID: CUURS12BSA0L1E, see:.
    - https://data.bls.gov/dataViewer/view/timeseries/CUURS12BSA0L1E
    - https://www.bls.gov/regions/mid-atlantic/news-release/consumerpriceindex_philadelphia.htm

Hospital costs are affected by three major trend components:

1. Changes in unit costs: The underlying cost per unit of care delivered. This includes hospital operating costs like supplies, equipment, salaries, building maintenance, and administrative costs.
2. Changes in service mix: The intensity or mix of services.
3. Changes in the total utilization of services: The volume of services provided.

**FIGURE 4: COMPONENTS OF HOSPITAL COST TREND**




Hospital revenue is affected by changes in unit *prices*, service mix, and utilization, as well as other factors like bad debt. Overall unit price changes depend not only on the contracted allowed hospitals agree upon with insurance companies, but also two other major effects:

1. The mix of payers. For example, if the proportion of patients covered by a low reimbursement payer like Medicaid increases, then this drives down the hospital's overall unit price.
2. Changes in government fee schedules (primarily Medicare and Medicaid).

Figure 5 provides an example of how the mix of payers can affect hospital profitability. In FY2021, Hospital A saw a significant decrease in Medicare and Medicaid payments as a percentage of total revenue, and a significant increase in operating margin. Hospital B saw the same result in FY2020. From FY2020 to FY2022, Hospital B saw a significant increase in Medicare and Medicaid payment volume as a percentage of total revenue, and a deterioration in operating margin. One driver of these results is lower Medicare and Medicaid payment rates relative to commercial payers. Delaware statewide average commercial reimbursement rates are estimated to be 225% for inpatient services and 289% for outpatient services.[11] Said differently, we estimate that Delaware hospitals on average receive 2.89 times the reimbursement for an outpatient service provided to a commercial patient (e.g., a patient with coverage through an employer) than for a Medicare patient.

**FIGURE 5: FINANCIAL AND PAYER MIX SUMMARY (FY2019-FY2022)**

| | HOSPITAL A | | | HOSPITAL B | | |
|---|---|---|---|---|---|---|
| FISCAL YEAR (FY) | TOTAL REVENUE ($ MILLIONS) | OPERATING MARGIN | MEDICARE AND MEDICAID % OF REVENUE | TOTAL REVENUE ($ MILLIONS) | OPERATING MARGIN | MEDICARE AND MEDICAID % OF REVENUE |
| **2019** | $510.8 | 8.8% | 39.5% | $149.7 | 2.2% | 46.6% |
| **2020** | $525.0 | 4.7% | 39.7% | $238.1 | 39.3% | 23.9% |
| **2021** | $663.9 | 22.8% | 19.7% | $150.8 | -1.1% | 42.4% |
| **2022** | $569.4 | -5.6% | 22.5% | $140.4 | -13.3% | 49.0% |

Note: Medicare reflects Medicare FFS and excludes Medicare Advantage

11. See: https://www.milliman.com/en/insight/commercial-reimbursement-benchmarking-medicare-ffs-rates.
The RAND v5 study showed higher results: 316% of Medicare for inpatient and 391% for outpatient.

## How fixed unit prices affect trend

As discussed, HB350 requires hospital rate increases to be at or below the greater of 2% and Core CPI plus 1%. If Core CPI continues to decline from its high in 2022, then non-Medicare/non-Medicaid rate increases will likely be limited to 3.5% to 5.0% in 2025 and 2026 (assuming Core CPI is between 2.5% and 4.0%). Assuming Medicare and Medicaid unit prices increase at or below this range,[12] then hospitals may see an overall unit price increase below the temporary limit.

Additionally, because Medicare and Medicaid hospital reimbursement is typically lower than commercial rates, hospitals that see a growth in Medicare and Medicaid payment volume relative to commercial may see little or no overall unit price increase, as shown in Figure 6.

**FIGURE 6: ILLUSTRATION OF IMPACT OF INCREASING MEDICARE AND MEDICAID VOLUME RELATIVE TO COMMERCIAL**

| | FY2024 | | FY2025 | | CHANGE | |
|---|---|---|---|---|---|---|
| **LINE OF BUSINESS** | **% OF REVENUE** | **UNIT PRICE*** | **% OF REVENUE** | **UNIT PRICE*** | **% OF REVENUE** | **UNIT PRICE** |
| **Medicare and Medicaid** | 40% | 100% | 45% | 100% | 5% | 0% |
| **Commercial** | 40% | 250% | 35% | 255% | -5% | 5% |
| **Other** | 20% | 150% | 20% | 153% | 0% | 3% |
| **Total** | 100% | 144% | 100% | 139% | 0% | -5% |

* Unit price is shown as a percentage of Medicare. Medicaid unit price is assumed to equal 100% of Medicare in this illustration.

## Conclusion

HB350 introduces a framework Delaware believes may control hospital reimbursement. However, this framework will take time to operationalize. In the interim, HB350 introduces contract rate increase caps for 2025 and 2026 at the greater of 2% and Core CPI plus 1%. Hospitals that see a relative increase in Medicare and Medicaid payment volume might expect to have a total unit price increase below this cap. HB350 is expected to have an immediate impact on Delaware hospitals' financial performance and Delaware hospitals will need to understand how mix changes, unit price increases, and cost increases impact future operating margins.

12. See: https://www.milliman.com/en/insight/2024-medicare-ipps-and-opps-trend-summary.

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