

SENATE, No. 2143

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 21, 2010

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Removes cap on .53% hospital total operating revenue assessment and raises cap on ambulatory care facility gross receipts assessment to increase charity care subsidy monies.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning funding for charity care subsidies and
2 amending P.L.1992, c.160.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1992, c.160 (C.26:2H-18.57) is amended to
8 read as follows:

9 7. a. Effective January 1, 1994, the Department of Health and
10 Senior Services shall assess each hospital a per adjusted admission
11 charge of \$10.00.

12 Of the revenues raised by the hospital per adjusted admission
13 charge, \$5.00 per adjusted admission shall be used by the
14 department to carry out its duties pursuant to P.L.1992, c.160
15 (C.26:2H-18.51 et al.) and \$5.00 per adjusted admission shall be
16 used by the department for administrative costs related to health
17 planning.

18 b. Effective July 1, 2004, the department shall assess each
19 licensed ambulatory care facility that is licensed to provide one or
20 more of the following ambulatory care services: ambulatory
21 surgery, computerized axial tomography, comprehensive outpatient
22 rehabilitation, extracorporeal shock wave lithotripsy, magnetic
23 resonance imaging, megavoltage radiation oncology, positron
24 emission tomography, orthotripsy and sleep disorder services. The
25 Commissioner of Health and Senior Services may, by regulation,
26 add additional categories of ambulatory care services that shall be
27 subject to the assessment if such services are added to the list of
28 services provided in N.J.A.C.8:43A-2.2(b) after the effective date
29 of P.L.2004, c.54.

30 The assessment established in this subsection shall not apply to
31 an ambulatory care facility that is licensed to a hospital in this State
32 as an off-site ambulatory care service facility.

33 (1) For Fiscal Year 2005, the assessment on an ambulatory care
34 facility providing one or more of the services listed in this
35 subsection shall be based on gross receipts for the 2003 tax year as
36 follows:

37 (a) a facility with less than \$300,000 in gross receipts shall not
38 pay an assessment; and

39 (b) a facility with at least \$300,000 in gross receipts shall pay an
40 assessment equal to 3.5% of its gross receipts or \$200,000,
41 whichever amount is less.

42 The commissioner shall provide notice no later than August 15,
43 2004 to all facilities that are subject to the assessment that the first
44 payment of the assessment is due October 1, 2004 and that proof of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 gross receipts for the facility's tax year ending in calendar year 2003
2 shall be provided by the facility to the commissioner no later than
3 September 15, 2004. If a facility fails to provide proof of gross
4 receipts by September 15, 2004, the facility shall be assessed the
5 maximum rate of \$200,000 for Fiscal Year 2005.

6 The Fiscal Year 2005 assessment shall be payable to the
7 department in four installments, with payments due October 1,
8 2004, January 1, 2005, March 15, 2005 and June 15, 2005.

9 (2) For Fiscal Year 2006, the commissioner shall use the
10 calendar year 2004 data submitted in accordance with subsection c.
11 of this section to calculate a uniform gross receipts assessment rate
12 for each facility with gross receipts over \$300,000 that is subject to
13 the assessment, except that no facility shall pay an assessment
14 greater than \$200,000. The rate shall be calculated so as to raise the
15 same amount in the aggregate as was assessed in Fiscal Year 2005.
16 A facility shall pay its assessment to the department in four
17 payments in accordance with a timetable prescribed by the
18 commissioner.

19 (3) Beginning in Fiscal Year 2007 and for each fiscal year
20 thereafter through Fiscal Year 2010, the uniform gross receipts
21 assessment rate calculated in accordance with paragraph (2) of this
22 subsection shall be applied to each facility subject to the assessment
23 with gross receipts over \$300,000, as those gross receipts are
24 documented in the facility's most recent annual report to the
25 department, except that no facility shall pay an assessment greater
26 than \$200,000. A facility shall pay its annual assessment to the
27 department in four payments in accordance with a timetable
28 prescribed by the commissioner.

29 (4) Beginning in Fiscal Year 2011 and for each fiscal year
30 thereafter, the uniform gross receipts assessment shall be applied at
31 the rate of 2.95% to each facility subject to the assessment with
32 gross receipts over \$300,000, as those gross receipts are
33 documented in the facility's most recent annual report submitted to
34 the department pursuant to subsection c. of this section, except that
35 no facility shall pay an assessment greater than \$350,000. A
36 facility shall pay its annual assessment to the department in four
37 payments in accordance with a timetable prescribed by the
38 commissioner.

39 c. Each ambulatory care facility that is subject to the
40 assessment provided in subsection b. of this section shall submit an
41 annual report including, at a minimum, data on volume of patient
42 visits, charges, and gross revenues, by payer type, for patient
43 services, beginning with calendar year 2004 data. The annual
44 report shall be submitted to the department according to a timetable
45 and in a form and manner prescribed by the commissioner.

46 The department may audit selected annual reports in order to
47 determine their accuracy.

1 d. (1) If, upon audit as provided for in subsection c. of this
2 section, it is determined that an ambulatory care facility understated
3 its gross receipts in its annual report to the department, the facility's
4 assessment for the fiscal year that was based on the defective report
5 shall be retroactively increased to the appropriate amount and the
6 facility shall be liable for a penalty in the amount of the difference
7 between the original and corrected assessment.

8 (2) A facility that fails to provide the information required
9 pursuant to subsection c. of this section shall be liable for a civil
10 penalty not to exceed \$500 for each day in which the facility is not
11 in compliance.

12 (3) A facility that is operating one or more of the ambulatory
13 care services listed in subsection b. of this section without a license
14 from the department, on or after July 1, 2004, shall be liable for
15 double the amount of the assessment provided for in subsection b.
16 of this section, in addition to such other penalties as the department
17 may impose for operating an ambulatory care facility without a
18 license.

19 (4) The commissioner shall recover any penalties provided for
20 in this subsection in an administrative proceeding in accordance
21 with the "Administrative Procedure Act," P.L.1968, c.410
22 (C.52:14B-1 et seq.).

23 e. The revenues raised by the ambulatory care facility
24 assessment pursuant to this section shall be deposited in the Health
25 Care Subsidy Fund established pursuant to section 8 of P.L.1992,
26 c.160 (C.26:2H-18.58).

27 (cf: P.L.2004, c.54, s.1)

28

29 2. Section 12 of P.L.1992, c.160 (C.26:2H-18.62) is amended
30 to read as follows:

31 12. a. (Deleted by amendment, P.L.2005, c.237).

32 b. (Deleted by amendment, P.L.2005, c.237).

33 c. (1) Notwithstanding any law to the contrary, each general
34 hospital and each specialty heart hospital shall pay .53% of its total
35 operating revenue to the department for deposit in the Health Care
36 Subsidy Fund], except that the amount to be paid by a hospital in a
37 given year shall be prorated by the department so as not to exceed
38 the \$40 million limit set forth in this subsection]. The hospital
39 shall make monthly payments to the department beginning July 1,
40 1993], except that the total amount paid into the Health Care
41 Subsidy Fund plus interest shall not exceed \$40 million per year].
42 The commissioner shall determine the manner in which the
43 payments shall be made.

44 For the purposes of this subsection, "total operating revenue"
45 shall be defined by the department in accordance with financial
46 reporting requirements established pursuant to N.J.A.C.8:31B-3.3
47 and shall include revenue from any ambulatory care facility that is

1 licensed to a general hospital as an off-site ambulatory care service
2 facility.

3 (2) The commissioner shall allocate the monies paid by
4 hospitals pursuant to paragraph (1) of this subsection as follows:

5 (a) In State fiscal years 2006 and 2007, \$35 million of those
6 monies shall be allocated to the support of federally qualified health
7 centers in this State, and the remainder shall be allocated to the
8 support of (i) the infant mortality reduction program in the
9 Department of Health and Senior Services, (ii) the primary care
10 physician and dentist loan redemption program established in the
11 Higher Education Student Assistance Authority by article 3 of
12 P.L.1999, c.46 (C.18A:71C-32 et seq.), and (iii) the development
13 and use of health information electronic data interchange
14 technology pursuant to P.L.1999, c.154 (C.17B:30-23 et al.); and

15 (b) In State fiscal year 2008 and thereafter, the entire amount of
16 those monies shall be allocated to the support of federally qualified
17 health centers in this State.

18 Monies allocated to the support of federally qualified health
19 centers in the State under this paragraph shall be used for the
20 purpose of compensating them for health care services provided to
21 uninsured patients.

22 d. The monies paid by the hospitals and allocated under
23 subsection c. of this section for the support of federally qualified
24 health centers shall be credited to the federally qualified health
25 centers account.

26 e. (1) Monies paid by hospitals under subsection c. of this
27 section in excess of \$40 million, federal matching funds received on
28 account of such monies, and interest received on such payments and
29 funds shall be allocated exclusively to support funding to hospitals.

30 (2) In the event that any approval, application, or other
31 condition necessary for the implementation of this subsection and
32 the distribution of funds pursuant thereto consistent with the Fiscal
33 Year 2011 annual appropriations act is not obtained, granted, or
34 satisfied, the Departments of Health Senior Services and Human
35 Services shall jointly prepare a plan concerning charity care and
36 related hospital funding, which shall be subject to the approval of
37 the Joint Budget Oversight Committee.

38 (cf: P.L.2005, c.237, s.2)

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40 3. This act shall take effect July 1, 2010.

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STATEMENT

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45 The Governor's proposed FY 2011 budget recommends the
46 enactment of legislation to amend current law by uncapping the
47 assessment imposed on hospitals and raising the cap on the
48 assessment on certain ambulatory care facilities in order to generate

1 additional State funds to draw down a greater amount of federal
2 matching funds for the purposes of increasing charity care funding.

3 Section 12 of P.L.1992, c.160 (C.26:2H-18.62) currently
4 provides for an annual assessment of .53% on a hospital's total
5 operating revenue, not to exceed a total of \$40 million for all
6 hospitals. Section 7 of P.L.1992, c.160 (C.26:2H-18.57) provides
7 for an assessment on the gross receipts of certain ambulatory care
8 facilities, with a per facility cap of \$200,000. Ambulatory care
9 facilities that are subject to the assessment include facilities with
10 gross receipts over \$300,000 that provide the following ambulatory
11 care services: ambulatory surgery, computerized axial tomography,
12 comprehensive outpatient rehabilitation, extracorporeal shock wave
13 lithotripsy, magnetic resonance imaging, megavoltage radiation
14 oncology, positron emission tomography, orthotripsy, and sleep
15 disorder services.

16 Specifically, the bill provides as follows:

- 17 • The \$40 million cap on the hospital assessment is removed,
18 and the \$200,000 cap on the ambulatory care facility
19 assessment is raised to \$350,000.
- 20 • With respect to the .53% assessment, monies paid by
21 hospitals in excess of \$40 million, federal matching funds
22 received on account of such monies, and interest received on
23 such payments and funds shall be allocated exclusively to
24 support funding to hospitals. In the event that any approval,
25 application, or other condition necessary for the
26 implementation of this provision and the distribution of
27 funds pursuant thereto consistent with the Fiscal Year 2011
28 annual appropriations act is not obtained, granted, or
29 satisfied, the Departments of Health Senior Services and
30 Human Services shall jointly prepare a plan concerning
31 charity care and related hospital funding, which shall be
32 subject to the approval of the Joint Budget Oversight
33 Committee.
- 34 • With respect to the ambulatory care facility gross receipts
35 assessment, the assessment shall be applied at the rate of
36 2.95%, beginning July 1, 2010.

37 It is anticipated that this legislation will generate increased
38 revenue, which will be matched with federal funding and
39 redistributed to hospitals.