

[First Reprint]

SENATE, No. 2758

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 18, 2018

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator M. TERESA RUIZ

District 29 (Essex)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

SYNOPSIS

Increases financial resources provided through Medicaid program for certain hospitals; Establishes County Option Hospital Fee Pilot Program.

CURRENT VERSION OF TEXT

As amended on September 27, 2018 by the Senate pursuant to the Governor's recommendations.



(Sponsorship Updated As Of: 6/26/2018)

1 AN ACT establishing the County Option Hospital Fee Pilot Program
2 and supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as “The County
8 Option Hospital Fee Pilot Program Act.”

9

10 2. As used in this act:

11 “Commissioner” means the Commissioner of Human Services.

12 “Department” means the Department of Human Services.

13 “Fee” means the local health care-related fee authorized pursuant
14 to this act.

15 “Hospital” means a hospital that is licensed pursuant to
16 P.L.1971, c.136 (C.26:2H-1 et seq.) and is located within the
17 borders of a participating county.

18 “Medicaid program” means the “New Jersey Medical Assistance
19 and Health Services Program” established pursuant to P.L.1968,
20 c.413 (C.30:4D-1 et seq.).

21 “Participating county” means a county with a population greater
22 than 250,000, according to the federal decennial census
23 immediately preceding the effective date of this act; that contains a
24 municipality which: (1) is classified, pursuant to N.J.S.40A:6-4, as
25 a First or Second Class municipality, or a Fourth Class municipality
26 whose population exceeds 20,000, and (2) has a Municipal
27 Revitalization Index score, as last calculated by the New Jersey
28 Department of Community Affairs prior to the effective date of this
29 act, that exceeds 60; and which chooses to participate in the pilot
30 program.

31 “Pilot program” means “The County Option Hospital Fee Pilot
32 Program” established pursuant to this act.

33 “Proposed fee and expenditure report” means a written report by
34 a participating county that describes how the fee will be imposed in
35 the participating county; how the funds collected from the fee will
36 be used by the participating county, including the amount and
37 services the participating county plans to provide with the funds;
38 and how the plan satisfies paragraph (1) of subsection b. of section
39 3 of this act.

40

41 3. a. There is established “The County Option Hospital Fee
42 Pilot Program” in the Department of Human Services.

43 b. The purpose of the pilot program is:

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate amendments adopted in accordance with Governor's recommendations September 27, 2018.

1 (1) to increase financial resources through the Medicaid
2 program to support local hospitals and to ensure that they continue
3 to provide necessary services to low-income citizens; and
4 (2) to provide participating counties with new fiscal resources.
5 c. To effectuate the purposes of this program, the
6 commissioner shall authorize no more than seven participating
7 counties in the State for participation in the program. Each
8 participating county shall be authorized to impose a local health
9 care-related fee on hospitals within its borders.
10 d. A participating county shall submit a proposed fee and
11 expenditure report to the commissioner to ensure that the proposed
12 fee and expenditure plan satisfies paragraph (1) of subsection b. of
13 this section and subsection e. of this section, and does not create a
14 direct or indirect guarantee to hold harmless, as those terms are
15 used in 42 C.F.R. s.433.68(f). ¹The commissioner shall further
16 review the proposed fee and expenditure report to determine
17 whether it complies with relevant rules and regulations.¹ Each
18 participating county shall consult with affected hospitals within its
19 jurisdiction to prepare the proposed fee and expenditure report
20 before the report is submitted to the commissioner. The
21 commissioner shall make the proposed fee and expenditure report
22 available to the affected hospitals for review and the hospitals shall
23 be permitted to provide comments to the commissioner regarding
24 the report for a period of 21 calendar days from the date the
25 proposed report is made available for review.
26 e. The board of chosen freeholders of a participating county,
27 following the approval of the participating county's proposed fee
28 and expenditure plan by the commissioner, may adopt an ordinance
29 providing for the imposition of a fee on hospitals located within its
30 borders and for appropriate administrative provisions, including,
31 but not limited to, provisions for the collection of interest and
32 penalties.
33 The fee shall be implemented in accordance with the provisions
34 of 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the
35 maximum aggregate amount that may be assessed pursuant to 42
36 C.F.R. s.433.68(f)(3), or any subsequent maximum amount as may
37 be established by federal law ¹, and shall be subject to a cap as
38 determined by the commissioner¹. The participating county may
39 exempt a hospital within its jurisdiction from the fee, provided that
40 the exemption complies with the requirements of 42 C.F.R.
41 s.433.68.
42 The fee authorized pursuant to this act may be collected only to
43 the extent, and for the period, that the commissioner determines that
44 the revenues generated qualify as the State share of Medicaid
45 program expenditures eligible for federal financial participation
46 pursuant to 42 C.F.R. s.433.68.

1 ¹f. Any subsequent alterations to the fee are subject to the
2 approval of the commissioner prior to implementation. Upon
3 approval, the commissioner shall apply for such State plan
4 amendments or waivers as may be necessary to implement the
5 changes and to secure federal financial participation for State
6 Medicaid expenditures under the federal Medicaid program.¹

7
8 4. a. A participating county may transfer funds collected from
9 the fee imposed pursuant to subsection c. of section 3 of this act to
10 the commissioner. The commissioner shall use funds transferred
11 from a participating county, and any matching amount of federal
12 Medicaid funds or other federal funds generated therefrom, for the
13 following purposes: to increase Medicaid payments to hospitals in
14 the jurisdiction from which the funds are received; for payments to
15 managed care organizations that have contracted with Medicaid
16 serving the jurisdiction from which the funds are received for
17 increased hospital or hospital-related payments; and for direct costs
18 related to administrative purposes to implement the pilot program.

19 The commissioner shall seek to minimize the length of time
20 between the collection of the fee by the participating county and the
21 distribution of payments pursuant to this subsection.

22 Notwithstanding any other law to the contrary, the commissioner
23 and a participating county are authorized to enter into an
24 intergovernmental transfer agreement as may be necessary to
25 transfer funds under this subsection or to otherwise satisfy the
26 requirements of this act.

27 b. A participating county may retain the funds collected from
28 the imposition of the fee, in which case the participating county
29 shall generate the same level of funding, in addition to the funds
30 collected from the imposition of the fee, that would be generated by
31 the department through any matching amount of federal Medicaid
32 funds or other federal funds, and use the total funding amount to
33 satisfy paragraph (1) of subsection b. of section 3 of this act.

34 c. At least ¹~~75~~ 90¹ percent of the funds collected from
35 imposition of the fee shall be used by a participating county or the
36 department for the benefit of local hospitals ¹~~or local hospital-~~
37 ~~related providers~~¹ within the participating county's borders to
38 ensure that the hospitals ¹~~or hospital-related providers~~¹ continue
39 to provide necessary services to low-income citizens. ¹The
40 participating counties shall transfer at least one percent of funds
41 collected from the imposition of the fee to the department for
42 administration of the program.¹

43
44 5. a. The fee imposed pursuant to subsection c. of section 3 of
45 this act shall be imposed in relation to health care items or services
46 provided only during the effective period of this act, and shall not
47 be collected until the commissioner notifies the appropriate

1 governmental entities that any State plan amendment or waivers
2 submitted pursuant to section 6 of this act have been approved.

3 b. No hospital subject to the fee shall pass on the cost of the fee
4 to any patient, insurer, self-insured employer program, or other
5 responsible party, nor list it separately on any invoice or statement
6 sent to a patient, insurer, self-insured employer program, or other
7 responsible party.

8 c. Unless otherwise prohibited by the federal government, no
9 managed care organization operating in the State that has contracted
10 with Medicaid shall retain any funds generated by the fee, other
11 than to offset any increased administrative costs incurred as a result
12 of the pilot program.

13 d. Funds generated by the fee shall not supplant or offset any
14 current or future State funds allocated to a county participating in
15 the pilot program.

16 e. Payments distributed to hospitals pursuant to this act shall
17 not supplant or offset any current or future funds paid to hospitals
18 through other State or federal funding mechanisms or pools.

19

20 6. The Commissioner of Human Services shall apply for such
21 State plan amendments or waivers as may be necessary to
22 implement the provisions of this act and to secure federal financial
23 participation for State Medicaid expenditures under the federal
24 Medicaid program, and shall receive approval for such State plan
25 amendments or waivers prior to collection of a fee authorized
26 pursuant to subsection c. of section 3 of this act.

27

28 ¹7. The commissioner shall promulgate, pursuant to the

29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

30 seq.), rules and regulations necessary for the implementation of this

31 act which shall include appropriate methodologies for the county

32 proposed fee and expenditure report. Participating counties shall

33 not submit the proposed fee and expenditure plan to the department

34 prior to the adoption of rules and regulations.¹

35

36 ¹[7.] 8.¹ This act shall take effect ¹[immediately, subject to

37 such actions by the federal government as are necessary to

38 effectuate the purposes of this act] on the 180th day after the date of

39 enactment¹, and shall expire five years after the effective date. ¹All

40 proposed fee and expenditure plans are subject to both approval of

41 the commissioner and such actions by the federal government as are

42 necessary to effectuate the purposes of this act.¹