

SENATE, No. 2326

STATE OF NEW JERSEY

INTRODUCED DECEMBER 11, 1997

By Senators ADLER and MATHEUSSEN

1 AN ACT concerning payment for charity care health care services and  
2 amending and supplementing P.L.1992, c.160.

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

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7 1. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended to  
8 read as follows:

9 8. There is established the Health Care Subsidy Fund in the  
10 Department of Health and Senior Services.

11 a. The fund shall be comprised of revenues from employee and  
12 employer contributions made pursuant to section 29 of P.L.1992,  
13 c.160 (C.43:21-7b), revenues from the hospital assessment made  
14 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), revenues  
15 pursuant to section 11 of P.L.1996, c.28 (C.26:2H-18.58c), revenues  
16 from interest and penalties collected pursuant to this act, federal  
17 disproportionate share monies received by the State for care to low-  
18 income persons in hospitals and revenues from such other sources as  
19 the Legislature shall determine. Interest earned on the monies in the  
20 fund shall be credited to the fund. The fund shall be a nonlapsing fund  
21 dedicated for use by the State to: (1) distribute charity care and other  
22 uncompensated care disproportionate share payments to hospitals and  
23 other eligible providers, and provide subsidies for the Health Access  
24 New Jersey program established pursuant to section 15 of P.L.1992,  
25 c.160 (C.26:2H-18.65); and (2) assist hospitals and other health care  
26 facilities in the underwriting of innovative and necessary health care  
27 services.

28 b. The fund shall be administered by a person appointed by the  
29 commissioner.

30 The administrator of the fund is responsible for overseeing and  
31 coordinating the collection and reimbursement of fund monies. The  
32 administrator is responsible for promptly informing the commissioner  
33 if monies are not or are not reasonably expected to be collected or  
34 disbursed.

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

Matter underlined thus is new matter.

1 c. The commissioner shall adopt rules and regulations to ensure the  
2 integrity of the fund, pursuant to the "Administrative Procedure Act,"  
3 P.L.1968, c.410 (C.52:14B-1 et seq.).

4 d. The administrator shall establish separate accounts for the  
5 charity care component of the disproportionate share hospital subsidy,  
6 other uncompensated care component of the disproportionate share  
7 hospital subsidy, hospital and other health care initiatives funding and  
8 the payments for subsidies for insurance premiums to provide care in  
9 disproportionate share hospitals, known as the Health Access New  
10 Jersey subsidy account, respectively.

11 e. In the event that the charity care component of the  
12 disproportionate share hospital subsidy account has a surplus in a  
13 given year after payments are distributed pursuant to the methodology  
14 established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and  
15 section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and within the  
16 limitations provided in subsection e. of section 9 of P.L.1992, c.160  
17 (C.26:2H-18.59), the surplus monies in calendar years 1996 and 1997  
18 shall lapse to the unemployment compensation fund established  
19 pursuant to R.S.43:21-9, and each year thereafter shall lapse to the  
20 charity care component of the disproportionate share hospital subsidy  
21 account for distribution in subsequent years.

22 (cf:P.L.1996,c.28,s.3)

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24 2. Section 9 of P.L.1992, c.160 (C.26:2H-18.59) is amended to  
25 read as follows:

26 9. a. The commissioner shall allocate such funds as specified in  
27 subsection e. of this section to the charity care component of the  
28 disproportionate share hospital subsidy account. In a given year, the  
29 department shall transfer from the fund to the Division of Medical  
30 Assistance and Health Services in the Department of Human Services  
31 such funds as may be necessary for the total approved charity care  
32 disproportionate share payments to hospitals for that year.

33 b. For the period January 1, 1993 to December 31, 1993, the  
34 commission shall allocate \$500 million to the charity care component  
35 of the disproportionate share hospital subsidy account. The  
36 Department of Health and Senior Services shall recommend the  
37 amount that the Division of Medical Assistance and Health Services  
38 shall pay to an eligible hospital on a provisional, monthly basis  
39 pursuant to paragraphs (1) and (2) of this subsection. The department  
40 shall also advise the commission and each eligible hospital of the  
41 amount a hospital is entitled to receive.

42 (1) The department shall determine if a hospital is eligible to  
43 receive a charity care subsidy in 1993 based on the following:

1 Hospital Specific Approved Uncompensated Care-1991

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3 Hospital Specific Preliminary Cost Base-1992

4 = Hospital Specific % Uncompensated Care (% UC)

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6 A hospital is eligible for a charity care subsidy in 1993 if, upon  
7 establishing a rank order of the % UC for all hospitals, the hospital is  
8 among the 80% of hospitals with the highest % UC.

9 (2) The maximum amount of the charity care subsidy an eligible  
10 hospital may receive in 1993 shall be based on the following:

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12 Hospital Specific Approved Uncompensated Care-1991

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14 Total approved Uncompensated Care All Eligible Hospitals-1991  
15 X \$500 million

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17 = Maximum Amount of Hospital Specific Charity Care  
18 Subsidy for 1993

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20 (3) A hospital shall be required to submit all claims for charity care  
21 cost reimbursement, as well as demographic information about the  
22 persons who qualify for charity care, to the department in a manner  
23 and time frame specified by the Commissioner of Health and Senior  
24 Services, in order to continue to be eligible for a charity care subsidy  
25 in 1993 and in subsequent years.

26 The demographic information shall include the recipient's age, sex,  
27 marital status, employment status, type of health insurance coverage,  
28 if any, and if the recipient is a child under 18 years of age who does  
29 not have health insurance coverage or a married person who does not  
30 have health insurance coverage, whether the child's parent or the  
31 married person's spouse, as the case may be, has health insurance.

32 (4) A hospital shall be reimbursed for the cost of eligible charity  
33 care at the same rate paid to that hospital by the Medicaid program;  
34 except that charity care services provided to emergency room patients  
35 who do not require those services on an emergency basis shall be  
36 reimbursed at a rate appropriate for primary care, according to a  
37 schedule of payments developed by the commission.

38 (5) The department shall provide for an audit of a hospital's charity  
39 care for 1993 within a time frame established by the department.

40 c. For the period January 1, 1994 to December 31, 1994, a hospital  
41 shall receive disproportionate share payments from the Division of  
42 Medical Assistance and Health Services based on the amount of  
43 charity care submitted to the commission or its designated agent, in a  
44 form and manner specified by the commission. The commission or its  
45 designated agent shall review and price all charity care claims and  
46 notify the Division of Medical Assistance and Health Services of the

1 amount it shall pay to each hospital on a monthly basis based on actual  
2 services rendered.

3 (1) (Deleted by amendment, P.L.1995, c.133.)

4 (2) If the commission is not able to fully implement the charity care  
5 claims pricing system by January 1, 1994, the commission shall  
6 continue to make provisional disproportionate share payments to  
7 eligible hospitals, through the Division of Medical Assistance and  
8 Health Services, based on the charity care costs incurred by all  
9 hospitals in 1993, until such time as the commission is able to  
10 implement the claims pricing system.

11 If there are additional charity care balances available after the 1994  
12 distribution based on 1993 charity care costs, the department shall  
13 transfer these available balances from the fund to the Division of  
14 Medical Assistance and Health Services for an approved one-time  
15 additional disproportionate share payment to hospitals according to  
16 the methodology provided in section 12 of P.L.1995, c.133  
17 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed  
18 \$75.5 million.

19 (3) A hospital shall be reimbursed for the cost of eligible charity  
20 care at the same rate paid to that hospital by the Medicaid program;  
21 except that charity care services provided to emergency room patients  
22 who do not require those services on an emergency basis shall be  
23 reimbursed at a rate appropriate for primary care, according to a  
24 schedule of payments developed by the commission.

25 (4) (Deleted by amendment, P.L.1995, c.133.)

26 d. (Deleted by amendment, P.L.1995, c.133.)

27 e. The total amount allocated for charity care subsidy payments  
28 shall be: in 1994, \$450 million; in 1995, \$400 million; in 1996, \$310  
29 million; and in 1997 \$300 million. [Total payments to hospitals shall  
30 not exceed the amount allocated for each given year.] In 1998 and  
31 each year thereafter, the amount allocated for charity care subsidy  
32 payments shall be sufficient to cover the cost of all documented and  
33 audited charity care provided to eligible persons pursuant to P.L.1992,  
34 c.160 (C.26:2H-18.51 et al.).

35 f. Beginning January 1, 1995:

36 (1) The charity care subsidy shall be determined pursuant to  
37 section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

38 (2) A charity care claim shall be valued at the same rate paid to  
39 that hospital by the Medicaid program, except that charity care  
40 services provided to emergency room patients who do not require  
41 those services on an emergency basis shall be valued at a rate  
42 appropriate for primary care according to a schedule of payments  
43 adopted by the commissioner.

44 (3) The department shall provide for an audit of a hospital's charity  
45 care within a time frame established by the commissioner.

46 (cf:P.L.1996,c.28,s.4)

1       3. (New section) The State shall deposit in the Health Care Subsidy  
2 Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-  
3 18.58) all federal disproportionate share monies received by the State  
4 for care to low income persons in hospitals. The disproportionate  
5 share monies shall be used solely for the purpose of providing charity  
6 care subsidy payments as provided in P.L.1992, c.160 (26:2H-18.51  
7 et al.) and section 8 of P.L.1996, c.28 (C.26:2H-18.59f). The  
8 disproportionate share monies received by the State and deposited  
9 pursuant to this section, shall not include those federal funds received  
10 in connection with the provision of hospital reimbursements from the  
11 Hospital Health Care Subsidy account pursuant to section 4 of P.L. ,  
12 (C. ) (pending before the Legislature as this bill).

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14       4. (New section) a. The Commissioner of Health and Senior  
15 Services shall transfer to the Hospital Health Care Subsidy account,  
16 known as the Hospital Relief Fund, in the Division of Medical  
17 Assistance and Health Services in the Department of Human Services  
18 from the Health Care Subsidy Fund, \$71 million each year beginning  
19 in calendar year 1998, according to a schedule to be determined by the  
20 Commissioner of Health and Senior Services in consultation with the  
21 Commissioner of Human Services. These funds shall be distributed to  
22 eligible disproportionate share hospitals according to a methodology  
23 adopted by the Commissioner of Human Services pursuant to  
24 N.J.A.C.10:52-8.2, using hospital expenditure data for the most recent  
25 calendar year available for reimbursements from these funds.

26       b. In calendar year 1998 and each year thereafter, the Governor  
27 shall recommend and the Legislature shall appropriate to the Hospital  
28 Health Care Subsidy account for distribution to disproportionate share  
29 hospitals which are eligible for reimbursement pursuant to subsection  
30 a. of this section, those federal funds received in connection with the  
31 provision of hospital reimbursements from that account.

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33       5. This act shall take effect on January 1, 1998.

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#### STATEMENT

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38       This bill provides that in 1998 and each year thereafter, the amount  
39 allocated for charity care subsidy payments shall be sufficient to cover  
40 the cost of all documented and audited charity care provided to  
41 eligible persons. In prior years, the amount allocated for charity care  
42 was capped at a specific dollar amount, regardless of the actual cost  
43 of the care provided by the State's hospitals.

44       Further, the bill provides that all federal disproportionate share  
45 monies received by the State for care to low income persons in  
46 hospitals shall be deposited in the Health Care Subsidy Fund and shall

1 be used solely for the purpose of providing charity care subsidy  
2 payments to hospitals. Currently, federal disproportionate share  
3 monies are deposited in the General Fund and are not dedicated to  
4 payment for charity care services.

5 Finally, the bill provides that the Hospital Relief Fund, which  
6 provides subsidies to hospitals which provide a high percentage of care  
7 to patients with HIV, mental illness, tuberculosis, substance abuse and  
8 addiction or neonatal complexity, shall be allocated \$71 million each  
9 year in State funds and \$71 million each year in federal (matching)  
10 funds.

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15 Provides that hospitals will receive full funding for charity care and  
16 dedicates disproportionate share monies to charity care fund.