

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-410
HOUSE BILL 1147**

AN ACT TO PERMIT A HOSPITAL TO TEMPORARILY INCREASE ITS BED CAPACITY AFTER NOTIFYING THE DIVISION OF FACILITY SERVICES; PERTAINING TO HOSPITAL PAYMENTS FOR TREATMENT AND SERVICES RENDERED TO WORKERS' COMPENSATION PATIENTS; AND TO DIRECT THE MEDICAL CARE COMMISSION TO ADOPT TEMPORARY RULES FOR THE LICENSING OF NEONATAL CARE BEDS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-83. Temporary change of hospital bed capacity.

A hospital may temporarily increase its bed capacity by up to ten percent (10%) over its licensed bed capacity by utilizing observation beds for hospital inpatients if the hospital notifies and obtains the approval of the Division of Facility Services. For purposes of this section, 'temporarily' means not longer than 60 consecutive days."

SECTION 2. Notwithstanding G.S. 150B-21.1(a), the Medical Care Commission shall adopt temporary rules setting forth conditions for licensing all levels of neonatal care beds. After having the proposed temporary rules published in the North Carolina Register and at least 30 days prior to adopting any temporary rules pursuant to this section, the Commission shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt the temporary rules.
- (2) Accept oral and written comments on the proposed temporary rules.
- (3) Hold at least one public hearing on the proposed temporary rules.

When the Commission adopts temporary rules pursuant to this section, the Commission shall submit a reference to this section as the Commission's statement of need to the Codifier of Rules. The Codifier of Rules shall review the Commission's proposed temporary rules in accordance with G.S. 150B-21.1(b).

SECTION 3. G.S. 96-27(b) reads as rewritten:

"(b) Hospital Fees. – Each hospital subject to the provisions of this subsection shall be reimbursed the amount provided for in this subsection unless it has agreed under contract with the insurer, managed care organization, employer (or other payor obligated to reimburse for inpatient hospital services rendered under this Chapter) to accept a different amount or reimbursement methodology.

Except as otherwise provided herein, payment for medical treatment and services rendered to workers' compensation patients by a hospital shall be ~~equal to the payment the hospital is authorized to receive for the same treatment or service under the State Plan, provided that:~~

- ~~(1) Payment for inpatient hospital inpatient services provided on or after July 1, 1997, and on or before December 31, 1997, shall not be less than a minimum of ninety percent (90%) nor more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form.~~

- ~~(2) Payment for inpatient hospital services provided on or after January 1, 1998, through and including December 31, 1998, shall be not more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than a minimum percentage of such charges that the Commission determines would have been required to have produced an average payment rate equal to ninety three and one tenth percent (93.1%) of aggregate charges for all inpatient claims processed by the Commission during the fiscal year ending June 30, 1997.~~
- ~~(3) Payment for inpatient hospital services provided on or after January 1, 1999, shall be not more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than the minimum percentage established annually by the Commission as follows:~~
- ~~a. Beginning in the third quarter (July, August, and September) of 1998, and annually thereafter, the Commission shall review data from the State Plan to ascertain the aggregate hospital itemized charges and aggregate amounts authorized for payment by the State Plan (including payments actually made by the State Plan and deductible, coinsurance, or other amounts for which the patient/insured may have been liable) for inpatient hospital claims paid to participating hospitals by the State Plan during the immediately preceding fiscal year ending June 30. The Commission shall then utilize the data described in the preceding sentence to calculate the extent, if any, to which aggregate State Plan authorized payments were less than aggregate charges on inpatient hospital claims paid by the State Plan during the preceding fiscal year.~~
- ~~b. Beginning in the third quarter (July, August, and September) of 1998, and annually thereafter, the Commission shall calculate aggregate hospital itemized charges and aggregate payments authorized by the Commission on all inpatient hospital workers' compensation claims approved for payment by the Commission during the preceding fiscal year ending June 30.~~
- ~~c. Based on the data described in sub subdivisions a. and b. of this subdivision, the Commission shall on or before December 1, 1998, and December 1 of each subsequent year establish a minimum percentage that will result in a payment rate for inpatient workers' compensation cases that in the aggregate bears a percentage relationship to hospital itemized charges that is equal to the State Plan relationship between aggregate payments authorized and aggregate itemized charges for claims paid by the State Plan during the preceding fiscal year ending June 30. The percentage rate established shall be effective for the next succeeding calendar year beginning January 1 of that year. a reasonable fee determined by the Commission. Effective September 16, 2001, through June 30, 2002, the fee shall be the following amount unless the Commission adopts a different fee schedule in accordance with the provisions of this section:~~
- (1) For inpatient hospital services, the amount that the hospital would have received for those services as of June 30, 2001. The payment shall not be more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than the minimum percentage for payment of inpatient DRG claims that was in effect as of June 30, 2001.

- (2) For outpatient hospital services and any other services that were reimbursed as a discount off of charges under the State Plan as of June 30, 2001, the amount calculated by the Commission as a percentage of the hospital charges for such services. The percentage applicable to each hospital shall be the percentage used by the Commission to determine outpatient rates for each hospital as of June 30, 2001.
- (3) For any other services, a reasonable fee as determined by the Industrial Commission.

Notwithstanding any other provisions of law, the Commission's determination of payment rates under this subsection shall:

- (1) Comply with the procedures for adoption of a fee schedule established in G.S. 97-26(a);
- (2) Include publication ~~on or before October 1 of each year of the proposed payment rate, and a summary of the data and calculations on which the rate is based;~~based at least 90 days before the proposed effective date;
- (3) Be subject to the declaratory ruling provisions of G.S. 150B-4; and
- (4) Be deemed to constitute a final permanent rule under Article 2A of Chapter 150B for purposes of judicial review under Article 4 of that Chapter.

~~Payment for a particular type of medical compensation that is not covered under the State Plan shall be based on the allowable charge under the State Plan for comparable services or treatment, as determined by the Commission.~~

A hospital's itemized charges on the UB-92 claim form for workers' compensation services shall be the same as itemized charges for like services for all other payers."

SECTION 4. Section 1 of this act becomes effective November 1, 2001. Section 2 of this act is effective when it becomes law and expires 180 days from the effective date. Section 3 of this act becomes effective September 15, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 9:09 p.m. this 14th day of September, 2001