

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 32

Short Title: Hospital Medicaid Assessment/Payment Program. (Public)

Sponsors: Senators Brunstetter, Clodfelter; Allran, Apodaca, Atwater, Bingham, Blake, Brown, Daniel, Dannelly, Garrou, Goolsby, Hartsell, Hise, Hunt, Jackson, Jenkins, Jones, Mansfield, McKissick, Meredith, Preston, Purcell, Rabon, Robinson, Rouzer, Rucho, Soucek, Stein, Tillman, Tucker, and Walters.

Referred to: Finance.

February 3, 2011

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE FOR HOSPITAL ASSESSMENTS TO BE USED TO OBTAIN
3 MATCHING FEDERAL MEDICAID FUNDS TO REDUCE THE LOSSES HOSPITALS
4 SUSTAIN WHEN TREATING MEDICAID AND UNINSURED PATIENTS, TO
5 REDUCE THE INEQUITY IN MEDICAID PAYMENTS BETWEEN PUBLIC AND
6 NONPUBLIC HOSPITALS, AND TO PROVIDE FORTY-THREE MILLION DOLLARS
7 IN ADDITIONAL FUNDING FOR THE STATE OF NORTH CAROLINA.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.(a)** The Secretary of Health and Human Services shall implement a
10 hospital assessment program for eligible hospitals to improve funding for payments for hospital
11 services provided to Medicaid and uninsured patients.

12 **SECTION 1.(b)** The hospital assessment program shall consist of two different
13 assessments, Equity Assessments and Upper Payment Limit (UPL) Assessments. Each
14 assessment shall be levied as a percent of total hospital costs calculated using the most recent
15 available Hospital Cost Report Information Systems (HCRIS) cost report data or comparable
16 data. Equity Assessments shall consist of both inpatient and outpatient components and shall
17 be calculated to produce annually the nonfederal share of the aggregate payment amount
18 required under Section 1(d)(1) of this act plus an additional amount for the State's Medicaid
19 program. UPL Assessments shall consist solely of an inpatient component and shall be
20 calculated to produce annually the nonfederal share of the aggregate Medicaid payments for
21 which provision is made in Section 1(d)(2) of this act plus an additional amount for the State's
22 Medicaid program. The total annual amount for the State's Medicaid program under this
23 section shall be forty-three million dollars (\$43,000,000) annually, allocated between the
24 Equity Assessment and the UPL Assessment based on the amount of gross payments received
25 by hospitals under Sections 1(d)(1) and 1(d)(2) of this act respectively. Each assessment shall
26 comply with applicable federal regulations. Assessments shall be calculated annually and paid
27 quarterly, and shall be prorated for any partial year.

28 **SECTION 1.(c)** The assessments shall be levied on all licensed North Carolina
29 hospitals except State-owned and State-operated hospitals, the primary affiliated teaching
30 hospital for each University of North Carolina medical school, critical access hospitals as
31 defined in 42 C.F.R. § 400.202 (Critical Access Hospitals), long-term care hospitals,
32 freestanding psychiatric hospitals, and freestanding rehabilitation hospitals, all of which shall
33 be exempt from all assessments. Hospitals that certify their public expenditures to the
34 Department for the respective assessment year pursuant to 42 C.F.R. § 433.51(b) (Public



Hospitals) are subject to UPL Assessments but exempt from Equity Assessments. Assessments shall be levied quarterly and shall be accompanied by notice to each hospital being assessed that includes the applicable assessment rates, the hospital costs on which the hospital's assessments are based, and the elements of the calculation of the hospital's Upper Payment Limit, which is the maximum ceiling imposed by federal regulation on hospital Medicaid payments under 42 C.F.R. § 447.272 for inpatient services. A hospital may appeal an assessment determination through a reconsideration review, however, the pendency of an appeal shall not relieve a hospital from its obligation to pay any assessment amount when due. The Department shall set the due date for each assessment. Payment of an assessment amount shall be considered delinquent if not paid within seven days of the due date. With respect to any past-due unpaid assessment, the Department may withhold the unpaid amount from Medicaid payments otherwise due or impose a reasonable penalty. The Department may waive a penalty for good cause shown. All assessment proceeds and corresponding matching federal funds shall be used solely for the purpose of making the payments to hospitals and transfers to the General Fund described in Section 1(d) of this act.

SECTION 1.(d) Within seven days of the due date for each quarterly assessment installment, the Secretary shall make the following payments to hospitals and shall transfer to the State Controller the quarterly share of the forty-three million dollars (\$43,000,000) described in Section 1(b) of this act:

- (1) A quarterly Medicaid Equity Payment shall be made to each hospital that has paid its Equity Assessment for the respective quarter. The amount of the Medicaid Equity Payment shall be the sum of the participating hospital's Medicaid inpatient and outpatient deficits after calculating all other Medicaid payments, excluding disproportionate share hospital payments and the Upper Payment Limit Payment described below.
- (2) A quarterly Upper Payment Limit Payment shall be made to each of the following hospitals: (i) hospitals that paid their Upper Payment Limit Assessment for the respective quarter, (ii) the primary affiliated teaching hospital for the East Carolina University Brody School of Medicine, and (iii) Critical Access Hospitals. The aggregate Upper Payment Limit Payment made to Public Hospitals shall be the sum of the Upper Payment Limit Gaps for all Public Hospitals. The Aggregate Upper Payment Limit Payment for the remaining hospitals eligible for Upper Payment Limit Payments (the Non-Public Hospitals) shall be the sum of the Upper Payment Limit Gaps for all Non-Public Hospitals. Upper Payment Limit Gap means the difference between the Upper Payment Limit attributable to hospital inpatient services and the reasonable costs of inpatient hospital services as defined in Section (f)(2)(A) on page 11 of Attachment 4.19-A of the State Medicaid Plan as approved on December 15, 2005 (Medicaid Inpatient Costs). Upper Payment Limit Payments shall be paid to the individual hospitals in the ratio of each hospital's Medicaid Inpatient Costs to the total Medicaid Inpatient Costs for the respective group.
- (3) Notwithstanding any other provision in this act to the contrary, if for any payment year the data necessary to calculate the assessments or the Medicaid Equity Payment or the Upper Payment Limit Payments is not available to the Division in time to levy a quarterly assessment as contemplated in this Article, then the due dates for assessments and payments under this Article shall be deferred to a subsequent quarter.

If all or any part of a payment required hereunder is not made to one or more hospitals when due, the Secretary shall promptly refund to each such hospital the corresponding assessment proceeds collected in proportion to the amount of assessment paid by that hospital.

1 **SECTION 1.(e)** Assessments shall be implemented promptly after approval by
2 Centers for Medicare & Medicaid Services (CMS) of a State Plan amendment that incorporates
3 the payment provisions of this Article. The Department shall file with CMS a State Plan
4 amendment consistent with the provisions of this Article no later than March 31, 2011. Upon
5 CMS approval, the Secretary may levy the initial assessment retroactive to the first day of the
6 quarter in which the State Plan amendment was filed, provided that the corresponding
7 payments to hospitals described in Section 1(d) of this act are made for that quarter. If CMS
8 approves only one component of the Equity Assessment (either inpatient or outpatient), the
9 Secretary may adjust the Equity Assessment rate on the approved component to produce the
10 required aggregate payment amounts under Section 1(d) of this act. This Article shall
11 terminate and be of no further force or effect in the event that CMS determines at any time that
12 the assessment or payment methodologies described in this Article are impermissible or if CMS
13 revokes approval of any portion of the State Plan amendment authorizing the payments
14 required by this section.

15 **SECTION 1.(f)** Assessments paid under this act may be included as allowable
16 costs of a hospital for purposes of any applicable Medicaid reimbursement formula but shall
17 not be added as a surtax or assessment on a patient's bill. Nothing in this section authorizes a
18 political subdivision of the State to license a hospital for revenue or impose a tax or assessment
19 on a hospital.

20 **SECTION 2.** This act is effective when it becomes law.