
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 561 Session of
1993

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MICHLOVIC AND WOZNIAK, MARCH 15, 1993

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, MARCH 15, 1993

AN ACT

1 Establishing the Health Services Cost Review Commission and
2 providing for its powers and duties; establishing financial
3 disclosure and data collection procedures; creating rate
4 review and approval procedures; authorizing hearings and
5 investigations; allowing rate changes; providing for appeals;
6 establishing user fees; and making an appropriation.

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5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Health
9 Services Cost Review Act.

10 Section 2. Legislative intent.

11 The General Assembly finds and declares the following to be
12 the purposes of this act:

13 (1) To improve access to health care services by
14 reducing the costs of providing health services.

15 (2) To establish a health services rate system based on
16 input costs and customary charges within the health care
17 industry.

18 (3) To provide a system where similar services of
19 similar hospitals cost about the same and the charges
20 patients pay for services relates to the actual costs of
21 provide those services.

22 (4) To establish a health services rate system that
23 ensures that all hospitals have sufficient revenues to meet
24 their cost obligations and continue to provide excellence in
25 health care.

26 Section 3. Definitions.

27 The following words and phrases when used in this act shall
28 have the meanings given to them in this section unless the
29 context clearly indicates otherwise:

30 "Commission." The Health Services Cost Review Commission.

1 "Council." The Health Care Cost Containment Council.

2 "Fund." The Health Services Cost Review Fund created under
3 section 13.

4 "Hospital." An institution having an organized medical staff
5 which is engaged primarily in providing to inpatients, by or
6 under the supervision of physicians, diagnostic and therapeutic
7 services for the case of the injured, disabled, pregnant,
8 diseased or sick or mentally ill persons. The term includes
9 facilities for the diagnosis and treatment of disorders within
10 the scope of specific medical specialties, but not facilities
11 caring exclusively for the mentally ill and drug or alcohol
12 inpatient detoxification. Further, the term does not include a
13 facility which is operated by a religious organization for the
14 purpose of providing health care services exclusively to
15 clergyman or other persons in a religious profession who are
16 members of a religious denomination or a facility providing
17 treatment solely on the basis of prayer or spiritual means.

18 "Hospital services." Services lawfully provided by a
19 hospital on an inpatient or outpatient basis, or hospice
20 services that would substitute for inpatient or outpatient
21 services.

22 "Insurer." An entity subject to any of the following:

23 (1) 40 Pa.C.S. Ch. 61 (relating to hospital plan
24 corporations) or 63 (relating to professional health services
25 plan corporations).

26 (2) The act of May 17, 1921 (P.L.682, No.284), known as
27 The Insurance Company Law of 1921.

28 (3) The act of December 29, 1972 (P.L.1701, No.364),
29 known as the Health Maintenance Organization Act.

30 (4) The act of December 14, 1992 (P.L. , No.134), known

1 as the Fraternal Benefit Societies Code.

2 Section 4. Health Services Cost Review Commission.

3 (a) Establishment.--The Health Services Cost Review
4 Commission is hereby established as an independent commission.

5 (b) Membership.--The commission shall consist of seven
6 members; three appointed by the Governor, one appointed by the
7 President pro tempore of the Senate, one appointed by the
8 Speaker of the House of Representatives, one appointed by the
9 Minority Leader of the Senate and one appointed by the Minority
10 Leader of the House of Representatives.

11 (c) Qualifications.--Each member shall be interested and
12 have expertise in the problems of health care. No commission
13 member may be a member of the General Assembly. No commission
14 member appointed by a member of the General Assembly may have
15 any connection with the management or policy of any hospital. Of
16 the Governor's three appointees, two shall have a connection
17 with the management or policy of a hospital.

18 (d) Tenure and vacancies.--

19 (1) Except as provided in this section, the term of a
20 member shall be four years.

21 (2) The terms of initial members shall begin on July 1,
22 1993, and are staggered with expiration dates as follows:

23 (i) The Governor's appointees: one on June 30, 1994,
24 and two on June 30, 1997.

25 (ii) The appointees of the President pro tempore of
26 the Senate and of the Speaker of the House of
27 Representatives: June 30, 1995.

28 (iii) The appointees of the Minority Leader of the
29 Senate and the Minority Leader of the House of
30 Representatives: June 30, 1996.

1 (3) At the end of a term, a member shall continue to
2 serve until a successor is appointed.

3 (4) A member who is appointed after a term has begun
4 shall serve only for the rest of the term and until a
5 successor is appointed.

6 (5) A member who serves two consecutive four-year terms
7 may not be reappointed for four years after completion of
8 those terms.

9 (e) Officers.--Annually, the commission members shall select
10 a chairperson and vice chairperson from among its membership.

11 (f) Executive director.--With the approval of the Governor,
12 the commission shall appoint an executive director, who shall
13 serve as the chief administrative officer of the commission. The
14 executive director shall serve at the pleasure of the
15 commission. Under the direction of the commission, the executive
16 director shall perform any duty or function that the commission
17 requires and shall hire additional staff as considered
18 necessary.

19 (g) Quorum, meetings and compensation.--

20 (1) A majority of the full authorized membership of the
21 commission shall constitute a quorum. However, the commission
22 may not act on any matter unless at least four members in
23 attendance concur.

24 (2) The commission shall meet at least six times a year
25 at the times and places that it determines.

26 (3) Each member of the commission is entitled to
27 reimbursement for travel and other expenses that are
28 necessary to perform official duties.

29 Section 5. Powers and duties.

30 (a) General powers.--In addition to the powers otherwise

1 provided in this act, the commission may:

2 (1) Promulgate regulations to administer and enforce
3 this act.

4 (2) Create committees from among its members.

5 (3) Appoint advisory committees, which may include
6 individuals and representatives of interested public or
7 private organizations.

8 (4) Make agreements with a grantor or payor of funds,
9 property or services, including an agreement to make any
10 study, plan, demonstration or project.

11 (5) Publish and give out any information that is not
12 already compiled and released by the council that relates to
13 the financial aspects of health care and is considered
14 desirable in the public interest.

15 (6) Subject to the limitations of this act, exercise any
16 other power that is reasonably necessary to carry out the
17 purposes of this act.

18 (b) General duties.--In addition to the duties set forth
19 elsewhere in this act, the commission shall:

20 (1) Adopt rules and regulations that relate to its
21 meetings, minutes and transactions.

22 (2) Keep minutes of each meeting.

23 (3) Annually prepare a budget proposal that includes the
24 estimated income of the commission and proposed expenses for
25 its administration and operation.

26 (4) Within a reasonable time after the end of each
27 hospital's fiscal year or more often as the commission
28 determines, prepare from the information filed with the
29 commission any summary, compilation or other supplementary
30 report that will advance the purposes of this act.

1 (5) On or before July 1 of each year, submit to the
2 Governor, to the Secretary of the Senate and to the Chief
3 Clerk of the House of Representatives an annual report on the
4 operations and activities of the commission during the
5 preceding fiscal year, including:

6 (i) A copy of each summary, compilation and
7 supplementary report required by this act.

8 (ii) Any other fact, suggestion or policy
9 recommendation that the commission considers necessary.

10 (c) Deadlines for reports.--The commission shall set
11 deadlines for the filing of reports required under this act. The
12 commission shall promulgate regulations that impose penalties
13 for failure to file a report as required. The amount of any
14 penalty under this subsection may not be included in the costs
15 of a hospital in regulating its rates.

16 (d) Records.--Except for privileged medical information and
17 as prohibited by confidentiality requirements of State law, the
18 commission shall make:

19 (1) Each report filed and each summary, compilation and
20 report required under this act available for public
21 inspection at the office of the commission during regular
22 business hours.

23 (2) Each summary, compilation and report available to
24 any member of the General Assembly or to any agency upon
25 request.

26 (e) Contracts.--The commission may contract with a
27 qualified, independent third party for any service necessary to
28 carry out the powers and duties of the commission. Unless
29 permission is granted specifically by the commission, a third
30 party hired by the commission may not release, publish or

1 otherwise use any information to which the third party has
2 access under its contract.

3 Section 6. Financial disclosure and data collection.

4 The commission shall study the data collected by the Council
5 and determine if additional information is required to be
6 collected from hospitals to complete the requirements of this
7 act. If the commission determines additional information is
8 necessary, the commission shall have the authority to collect
9 this information from all hospitals and shall establish
10 reporting requirements with which hospitals must comply.

11 Section 7. Review and approval of hospital rates.

12 (a) Rate reviewing power.--The commission may review
13 hospital rates and make any investigation that the commission
14 considers necessary to assure each purchaser of hospital
15 services that:

16 (1) The total rates charged for all hospital services
17 offered by or through a hospital are reasonable.

18 (2) The aggregate rates of the hospital are related
19 reasonably to the aggregate costs of the hospital.

20 (3) The rates are set equitably among all purchasers or
21 classes of purchasers without undue discrimination or
22 preference.

23 (b) Rate approval power.--The commission has the power to
24 approve or disapprove hospital service rates. To carry out its
25 powers under subsection (a), the commission may review and
26 approve or disapprove the reasonableness of any rate that a
27 hospital sets or requests. A hospital shall charge for services
28 only at a rate set in accordance with this act. In determining
29 the reasonableness of rates, the commission may take into
30 account objective standards of efficiency and effectiveness. In

1 determining the reasonableness of rates for clinic services of a
2 hospital, the commission may consider the rates for similar
3 services provided in nonhospital settings located in the same
4 county as the hospital.

5 (c) Rate accounting.--The commission shall use any
6 reasonable, relevant or generally accepted accounting principles
7 to determine reasonable rates for each hospital.

8 (d) Alternate rate-setting methods.--To promote the most
9 efficient and effective use of hospital services and, if it is
10 in the public interest and consistent with this act, the
11 commission may promote and approve alternate methods of rate
12 determination and payment that are of an experimental nature.

13 Section 8. Rate review and approval procedures.

14 (a) Compilation of information.--To have the statistical
15 information needed for rate review and approval of a hospital's
16 rates, the commission shall compile all relevant financial and
17 accounting information, including information already compiled
18 by the council. The information shall include the following:

19 (1) Necessary operating expenses.

20 (2) Appropriate expenses that are incurred as bad debt
21 and in providing charity care.

22 (3) Incurred interest charges.

23 (4) Reasonable depreciation expenses that are based on
24 the expected useful life of property or equipment.

25 (b) Definition of regulated rates.--The commission shall
26 define by regulation the types and classes of rates that may not
27 be changed, except as specified in section 10.

28 (c) Compilation of rate structures.--The commission shall
29 obtain from each hospital its current charge schedule and each
30 later change in the schedule that the commission requires.

1 (d) Certain rates to be permitted.--In reviewing rates or in
2 considering a request for change in rates, the commission shall
3 permit a hospital to charge rates that, in the aggregate, will
4 produce enough total revenue to enable the hospital to meet
5 reasonably each requirement specified in this act.

6 (e) Executive sessions.--Except as otherwise provided by
7 law, in reviewing rates or considering a request for changes in
8 rates, the commission may not hold executive sessions.

9 (f) Financial status.--The commission shall:

10 (1) Review for reasonableness and certify the rates of
11 each hospital.

12 (2) Keep informed as to whether a hospital has enough
13 resources to meet its financial requirements.

14 (3) Concern itself with solutions if a hospital does not
15 have enough resources.

16 (4) Assure each purchaser of hospital services that:

17 (i) The total rates charged for all hospital
18 services offered by or through a hospital are reasonable.

19 (ii) The aggregate rates of the hospital are related
20 reasonably to the aggregate costs of the hospital.

21 (iii) Rates are set equitably among all purchasers
22 or classes of purchasers of services without undue
23 discrimination or preference.

24 (g) Uniform accounting and financial reporting system.--

25 (1) After public hearings and consultation with any
26 appropriate advisory committee and the council, the
27 commission shall adopt by regulation a uniform accounting and
28 financial reporting system that:

29 (i) Includes any cost allocation method that the
30 commission determines.

1 (ii) Requires each hospital to record its income,
2 revenues, assets, expenses, outlays, liabilities and
3 units of service.

4 (2) Each hospital shall adopt the uniform accounting and
5 financial reporting system.

6 (3) In conforming with this act, the commission may
7 allow and provide for modifications in the uniform accounting
8 and financial reporting system to reflect correctly any
9 differences among hospitals in their type, size, financial
10 structure or scope or type of service.

11 (h) Required reports of hospitals.--

12 (1) At the end of the fiscal year for a hospital at
13 least 120 days following a merger or a consolidation and at
14 any other interval that the commission sets, the hospital
15 shall file:

16 (i) A balance sheet that details its assets,
17 liabilities and net worth.

18 (ii) A statement of income and expenses.

19 (iii) Any other report that the commission requires
20 about costs incurred in providing services.

21 (2) The commission shall require each hospital to give
22 the commission information that:

23 (i) Concerns the total financial needs of the
24 hospital.

25 (ii) Concerns its current and expected resources to
26 meet its total financial needs.

27 (3) A report under this section shall:

28 (i) Be in the form that the commission requires.

29 (ii) Conform to the uniform accounting and financial
30 reporting system adopted under this section.

1 Section 9. Hearings and investigations.

2 (a) General rule.--In any matter that relates to the cost of
3 services in hospitals, the commission may:

4 (1) Hold a public hearing.

5 (2) If the commission considers a further investigation
6 necessary or desirable to authenticate information in a
7 report that a hospital files under this act, and may make any
8 necessary further examination of the records or accounts of
9 the hospital in accordance with the regulations of the
10 commission.

11 (3) Require the filing of any information.

12 (4) Subpoena any witness or evidence.

13 (5) The examination under this section may include a
14 full or partial audit of the records or accounts of the
15 hospital that is provided by the hospital or performed by the
16 staff of the commission or a third party for the commission.

17 (b) Oaths.--The executive director of the commission may
18 administer oaths in connection with any hearing or investigation
19 under this section.

20 Section 10. Change of rate structures or charges.

21 (a) Filing of notice.--A hospital may not change any rate
22 schedule or charge of any type or class defined under section 8
23 unless the hospital files with the commission a written notice
24 of the proposed change that is supported by any information that
25 the hospital considers appropriate. Unless the commission orders
26 otherwise in conformity to this section, a change in the rate
27 schedule or charge is effective on the date that the notice
28 specifies. That effective date shall be at least 30 days after
29 the date on which the notice is filed.

30 (b) Public hearing authorized.--

1 (1) Commission review of a proposed change may not
2 exceed 150 days after the notice is filed.

3 (2) The commission may hold a public hearing to consider
4 the notice.

5 (3) If the commission decides to hold a public hearing,
6 the commission:

7 (i) Within 65 days after the filing of the notice,
8 shall set a date, time and place for the hearing.

9 (ii) May suspend the effective date of any proposed
10 change until 30 days after conclusion of the hearing.

11 (4) If the commission suspends the effective date of a
12 proposed change, the commission shall give the hospital a
13 written statement of the reasons for the suspension.

14 (5) The commission may:

15 (i) Conduct the public hearing without complying
16 with formal rules of evidence.

17 (ii) Allow any interested party to introduce
18 evidence that relates to the proposed change, including
19 testimony by witnesses.

20 (c) Temporary change authorized.--The commission may permit
21 a hospital to change any rate or charge temporarily if the
22 commission considers it to be in the public interest. An
23 approved temporary change becomes effective immediately on
24 filing. Under the review procedures of this section, the
25 commission promptly shall consider the reasonableness of the
26 temporary change.

27 (d) Partial approval of proposed change.--If the commission
28 modifies a proposed change or approves only part of a proposed
29 change, a hospital, without losing its right to appeal the part
30 of the commission order that denies full approval of the

1 proposed change, may:

2 (1) Charge its patients according to the decision of the
3 commission.

4 (2) Accept any benefits under that decision.

5 (e) Refund of funds collected pending delay or appeal.--If a
6 change in any rate or charge increase becomes effective because
7 a final determination is delayed because of an appeal or
8 otherwise, the commission may order the hospital to do the
9 following:

10 (1) Keep a detailed and accurate account of funds
11 received because of the change and the persons from whom
12 these funds were collected.

13 (2) As to any funds received because of a change that
14 later is held excessive or unreasonable, to refund the funds
15 with interest or if a refund of the funds is impracticable,
16 to charge over and amortize the funds through a temporary
17 decrease in charges or rates.

18 (f) Commission decision in contested case.--A decision by
19 the commission on any contested charge under this act shall
20 comply with the 2 Pa.C.S. (relating to administrative law and
21 procedure), and shall be only prospective in effect.

22 (g) Incentives for merger or consolidation.--

23 (1) If considered to be in the public interest, the
24 commission shall provide incentives for merger, consolidation
25 and conversion.

26 (2) Notwithstanding any of the provisions in this
27 section, on notification of a merger or consolidation by two
28 or more hospitals, the commission shall review the rates of
29 those hospitals that are directly involved in the merger or
30 consolidation in accordance with the rate review and approval

1 procedures provided in section 8 and the regulations of the
2 commission.

3 (3) The commission may provide, as appropriate, for
4 temporary adjustment of the rates of those hospitals that are
5 directly involved in the merger or consolidation, closure or
6 delicensure in order to provide sufficient funds for an
7 orderly transition. These funds may include:

8 (i) Allowances for those employees who are or would
9 be displaced.

10 (ii) Allowances to permit a surviving institution in
11 a merger to generate capital to convert a closed hospital
12 to an alternate use.

13 (iii) Agreements to allow retention of a portion of
14 the savings that result for a designated period of time.

15 Section 11. Appeals.

16 (a) Right to appeal.--Any person aggrieved by a final
17 decision of the commission under this act may take a direct
18 judicial appeal. The appeal shall be made as provided for
19 judicial review of final decisions under 2 Pa.C.S. (relating to
20 administrative law and procedure).

21 (b) Parties.--An appeal from a final decision of the
22 commission under this act shall be taken in the name of the
23 person aggrieved as appellant and against the commission as
24 appellee. The commission is a necessary party to an appeal at
25 all levels of the appeal. The commission may appeal any decision
26 that affects any of its final decisions to a higher level for
27 further review. On grant of leave by the appropriate court, any
28 aggrieved party or interested person may intervene or
29 participate in an appeal at any level.

30 (c) Standing for hearings and appeals.--A person, government

1 agency or insurer that contracts with or pays a hospital for
2 hospital services has standing to participate in commission
3 hearings and shall be allowed to appeal final decisions of the
4 commission.

5 Section 12. User fees.

6 (a) General rule.--The commission shall assess and collect
7 user fees from hospitals to cover the costs of operating the
8 commission.

9 (1) User fees shall be sufficient to cover the costs
10 associated with data collection and rate review.

11 (2) User fees shall be collected annually and assessed
12 as follows:

13 (i) On the basis of this Commonwealth's total annual
14 admissions at hospitals.

15 (ii) Each hospital shall be assessed a rate
16 concurrent to its ratio of this Commonwealth's total
17 annual admissions at hospitals.

18 (3) The commission shall assess each hospital on or
19 before April 30 of each year.

20 (b) Payment.--On or before July 1 of each year, each
21 hospital assessed under this section shall make payment to the
22 commission. The commission shall make provision for partial
23 payments. Any bill not paid within 30 days of an agreed payment
24 date may be subject to an interest penalty to be determined by
25 the commission.

26 Section 13. Health Services Cost Review Fund.

27 (a) Creation.--There is hereby created in the General Fund a
28 nonlapsing restricted receipt account to be known as the Health
29 Services Cost Review Fund. Fees under section 12 shall be
30 deposited in the fund. Moneys in the fund are hereby

1 appropriated to the commission.

2 (b) Data collection.--The fund shall be used exclusively to
3 fund the data collection and cost review activities of the
4 commission.

5 Section 14. Appropriation.

6 The sum of \$400,000, or as much thereof as may be necessary,
7 is hereby appropriated to the Health Services Cost Review
8 Commission for the fiscal year July 1, 1992, to June 30, 1993,
9 to carry out the provisions of this act.

10 Section 15. Effective date.

11 This act shall take effect in 60 days.