

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 417 Session of
2009

INTRODUCED BY BAKER, PICKETT, GINGRICH, CAUSER, BELFANTI, BEYER,
BUXTON, CREIGHTON, EVERETT, FLECK, GIBBONS, GROVE, HESS,
LONGIETTI, MAJOR, MICOZZIE, MURT, QUINN, RAPP, REICHLEY,
ROHRER, SEIP, STERN, STURLA AND VULAKOVICH, FEBRUARY 13, 2009

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, FEBRUARY 13,
2009

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," providing for medical
4 assistance payments for hospital services; and establishing
5 the State Health Payment Review Board.

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

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
9 as the Public Welfare Code, is amended by adding sections to
10 read:

11 Section 443.11 Payment Policies for Hospital Inpatient and
12 Outpatient Services.--Payment rates for services provided by
13 hospitals enrolled in the medical assistance program shall be
14 adequate to provide incentives for provider efficiency, to
15 facilitate beneficiaries' access to high-quality care and to
16 offer cost-effective care. Stability and predictability in
17 hospital payment rates are necessary for responsible and
18 effective planning and budgeting by this Commonwealth and

1 hospitals.

2 (1) Rates shall be supported by factual evidence in
3 sufficient detail to demonstrate why they are deemed reasonable.

4 (2) Rates shall be established and adjusted annually using
5 accepted and verifiable benchmarks for assessing adequacy,
6 including calculation of provider costs, comparison to rates
7 established by federally funded health care programs,
8 consideration of geographic variations across this Commonwealth
9 and relationship to providers' clinical activity.

10 (3) Rates shall be fair and equitable across and within
11 categories of hospitals so that comparable services are
12 comparably reimbursed based on resource use. Fairness and equity
13 shall be established by assuring, at a minimum, that rates
14 account for such variables as severity and complexity of
15 patients' conditions and resources required to treat them, the
16 number or percentage of indigent patients treated by providers,
17 and the hospital's health professional education costs.

18 (4) Rates shall exclude any disproportionate share or
19 medical education payments. Disproportionate share payments
20 shall be based on the number or percentage of low-income persons
21 served by the hospital. Medical education costs shall reflect
22 the medical assistance share of actual allowable costs for
23 medical education.

24 Section 443.12. State Health Payment Review Board.--(a)
25 There is hereby established the State Health Payment Review
26 Board that shall consist of five members who shall be appointed
27 in accordance with the following:

28 (1) One resident appointed by the Governor who shall serve
29 as chairman of the review board.

30 (2) Four residents of this Commonwealth, one of whom shall

1 be appointed by the President pro tempore of the Senate, one of
2 whom shall be appointed by the Minority Leader of the Senate,
3 one of whom shall be appointed by the Speaker of the House of
4 Representatives and one of whom shall be appointed by the
5 Minority Leader of the House of Representatives.

6 (3) All appointees shall serve terms coterminous with their
7 respective appointing authorities. Members of the review board
8 shall be chosen for their familiarity and experience with health
9 care finance, economics, delivery or law and have relevant
10 training and experience, to assist the board in performing its
11 designated functions. No person shall be chosen who is an
12 employee of the Commonwealth or of any health care provider. No
13 member shall participate in any action or decision concerning
14 any matter in which the member has an economic interest or other
15 conflict of interest. The appointing authorities shall make
16 their initial appointments within sixty days of the effective
17 date of this section.

18 (4) Each member of the review board shall be paid travel and
19 other necessary expenses and compensation at a rate to be fixed
20 by the Executive Board, as established in the act of April 9,
21 1929 (P.L.177, No.175), known as "The Administrative Code of
22 1929."

23 (5) The Governor shall appoint counsel to serve and advise
24 the review board and shall replace such counsel upon request of
25 the board.

26 (b) (1) The review board shall hear de novo appeals on
27 payments for inpatient and outpatient hospital services.

28 (2) Hearings before the review board shall conform to the
29 following:

30 (i) All hearings before the review board shall be subject to

1 the right of notice, hearing and adjudication in accordance with
2 2 Pa.C.S. Chs. 1 (relating to general provisions), 5 (relating
3 to practice and procedure) and 7 (relating to judicial review),
4 and a written record shall be kept of said proceedings and a
5 copy thereof provided to the parties at cost.

6 (ii) Persons conducting hearings under this section shall
7 have the power to subpoena witnesses and documents required for
8 the hearing, to administer oaths and examine witnesses and
9 receive evidence in any locality which the hearing body may
10 designate, having regard to the public convenience and proper
11 discharge of its functions and duties.

12 (iii) Notice of hearings before the board shall be given to
13 the parties at least twenty-one calendar days in advance of the
14 hearing.

15 (iv) Any party may request an expedited hearing, which
16 request shall not be unreasonably denied.

17 (v) The board shall make best efforts to conclude each
18 proceeding within one hundred eighty days.

19 (3) Decisions of the department regarding payment for
20 hospital services to medical assistance recipients may be
21 appealed to the review board. The appeal to the review board
22 shall be de novo, and shall be limited to issues raised by the
23 appellant in the specification of objections. Decisions of the
24 review board relating to payment rates may be appealed to the
25 Commonwealth Court as provided in paragraph (4) by any party to
26 the proceeding. Group appeals by hospitals shall be permitted.

27 (4) The record made on appeal to the review board shall
28 contain all of the evidence required to sustain any decisions or
29 determinations by the department in reaching its decision. The
30 department may rely upon regulations unless the authority of the

1 department or the reasonableness of the regulations is
2 challenged. The record for determining the propriety of the
3 regulations shall be made before the review board and any
4 evidence the department may wish to introduce to establish
5 justification for the regulations shall be submitted at the
6 hearing. The review board may pass upon the reasonableness of
7 the regulation and the authority for its promulgation under this
8 section. An aggrieved party may appeal an adverse decision by
9 the review board to the Commonwealth Court and should provide
10 notice of such appeal to the review board within thirty days.

11 (c) As used in this section, the term "board" shall mean the
12 State Health Payment Review Board.

13 Section 2. This act shall take effect in 60 days.