

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 922 Session of 2009

INTRODUCED BY KITCHEN, WASHINGTON, TARTAGLIONE, FONTANA, HUGHES, DINNIMAN AND WILLIAMS, JUNE 5, 2009

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, OCTOBER 5, 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," further providing for
4 ESTABLISHMENT OF COUNTY BOARDS AND EXPENSES AND FOR lifetime
5 limit; further defining "exempt hospital" "GENERAL ACUTE CARE
6 HOSPITAL"; PROVIDING FOR A DEFINITION; and further providing
7 for AUTHORIZATION, FOR administration, FOR NO HOLD HARMLESS,
8 FOR TAX EXEMPTION AND FOR CESSATION.



9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 441.4 of the act of June 13, 1967
12 (P.L.31, No.21), known as the Public Welfare Code, added July 7,
13 2005 (P.L.177, No.42), is amended to read:



14 SECTION 1. SECTION 415 OF THE ACT OF JUNE 13, 1967 (P.L.31,
15 NO.21), KNOWN AS THE PUBLIC WELFARE CODE, IS AMENDED TO READ:



16 SECTION 415. ESTABLISHMENT OF COUNTY BOARDS; EXPENSES.--FOR
17 EACH COUNTY OF THE COMMONWEALTH, THERE IS HEREBY ESTABLISHED A
18 COUNTY BOARD OF ASSISTANCE, TO BE KNOWN AS THE COUNTY BOARD OF
19 ASSISTANCE AND REFERRED TO IN THIS ARTICLE IV AS THE "COUNTY
20 BOARD," WHICH SHALL BE COMPOSED OF MEN AND WOMEN, TO BE

1 APPOINTED BY THE GOVERNOR [WITH THE ADVICE AND CONSENT OF TWO-
2 THIRDS OF ALL MEMBERS OF THE SENATE]. EACH APPOINTMENT BY THE
3 GOVERNOR SHALL BEAR THE ENDORSEMENT OF THE SENATOR OF THE
4 DISTRICT IN WHICH THE NOMINEE RESIDES. IN THE CASE OF A VACANCY
5 IN THAT SENATORIAL DISTRICT, THE NOMINEE SHALL BE ENDORSED BY
6 THE SENATOR OF AN ADJACENT DISTRICT. THE COUNTY BOARDS SHALL BE
7 COMPOSED AS FAR AS POSSIBLE OF PERSONS ENGAGED OR INTERESTED IN
8 BUSINESS, SOCIAL WELFARE, LABOR, INDUSTRY, EDUCATION OR PUBLIC
9 ADMINISTRATION. THE MEMBERS OF THE COUNTY BOARDS SHALL SERVE
10 WITHOUT COMPENSATION, BUT SHALL BE REIMBURSED FOR NECESSARY
11 EXPENSES. NO MEMBER OF A COUNTY BOARD SHALL HOLD OFFICE IN ANY
12 POLITICAL PARTY. NOT ALL OF THE MEMBERS OF A COUNTY BOARD SHALL
13 BELONG TO THE SAME POLITICAL PARTY.

14 SECTION 2. SECTION 441.4 OF THE ACT, ADDED JULY 7, 2005
15 (P.L.177, NO.42), IS AMENDED TO READ:

16 Section 441.4. [Lifetime Limit] Reasonable Limits on
17 Allowable Income Deductions for Medical Expenses When
18 Determining Payment Toward the Cost of Long-Term Care
19 Services.--(a) [Necessary medical or remedial care expenses
20 recognized under Federal or State law but not paid for by the
21 medical assistance program are allowable income deductions when
22 determining a recipient's payment toward the cost of long-term
23 care services. An allowable income deduction for unpaid medical
24 expenses incurred prior to the authorization of medical
25 assistance eligibility and those medical expenses incurred for
26 long-term care services after medical assistance is authorized
27 shall be subject to a lifetime maximum of ten thousand dollars
28 (\$10,000) unless application of the limit would result in undue
29 hardship.] When determining a recipient's payment toward the
30 cost of long-term care services, long-term care medical expenses

1 incurred six months or more prior to application for medical
2 assistance ~~are~~ SHALL BE disallowed as a deduction, and medical ←
3 and remedial expenses that were incurred as a result of a
4 transfer of assets penalty shall be limited to zero unless
5 application of these limits would result in undue hardship.

6 (b) As used in this section, the term "undue hardship" shall
7 mean that either:

8 (1) denial of medical assistance would deprive the
9 individual of medical care and endanger the individual's health
10 or life; or

11 (2) the individual or a financially dependent family member
12 would be deprived of food, shelter or the necessities of life.

13 ~~Section 2. The definition of "exempt hospital" in section~~ ←
14 ~~801 E of the act, added July 4, 2008 (P.L.557, No.44), is~~
15 ~~amended to read:~~

16 SECTION 3. THE DEFINITION OF "GENERAL ACUTE CARE HOSPITAL" ←
17 IN SECTION 801-E OF THE ACT, ADDED JULY 4, 2008 (P.L.557,
18 NO.44), IS AMENDED AND THE SECTION IS AMENDED BY ADDING A
19 DEFINITION TO READ:

20 Section 801-E. Definitions.

21 The following words and phrases when used in this article
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 * * *

25 ~~"Exempt hospital." A hospital that the Secretary of Public~~ ←
26 ~~Welfare has determined meets one of the following:~~

27 ~~(1) Is excluded under 42 CFR 412.23(a), (b), (d), (e) and~~
28 ~~(f) (relating to excluded hospitals: classifications) as of~~
29 ~~March 20, 2008, from reimbursement of certain Federal funds~~
30 ~~under the prospective payment system described by 42 CFR Pt. 412-~~

1 ~~(relating to prospective payment systems for inpatient hospital~~
2 ~~services).~~

3 ~~(2) Is a Federal veterans' affairs hospital.~~

4 ~~(3) Is part of an institution with State related status as~~
5 ~~that term is defined in 22 Pa. Code § 31.2 (relating to~~
6 ~~definitions) and provides over 100,000 days of care to medical~~
7 ~~assistance patients annually.~~

8 ~~(4) Provides care, including inpatient hospital services, to~~
9 ~~all patients free of charge.~~

10 "GENERAL ACUTE CARE HOSPITAL." A HOSPITAL OTHER THAN [AN
11 EXEMPT HOSPITAL.] A HOSPITAL THAT THE SECRETARY OF PUBLIC
12 WELFARE HAS DETERMINED MEETS ONE OF THE FOLLOWING:

13 (1) IS EXCLUDED UNDER 42 CFR 412.23(A), (B), (D), (E) AND
14 (F) (RELATING TO EXCLUDED HOSPITALS: CLASSIFICATIONS) AS OF
15 MARCH 20, 2008, FROM REIMBURSEMENT OF CERTAIN FEDERAL FUNDS
16 UNDER THE PROSPECTIVE PAYMENT SYSTEM DESCRIBED BY 42 CFR 412
17 (RELATING TO PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL
18 SERVICES).

19 (2) IS A FEDERAL VETERANS' AFFAIRS HOSPITAL.

20 (3) IS A HIGH VOLUME MEDICAID HOSPITAL.

21 (4) PROVIDES CARE, INCLUDING INPATIENT HOSPITAL SERVICES, TO
22 ALL PATIENTS FREE OF CHARGE.

23 "HIGH VOLUME MEDICAID HOSPITAL." A HOSPITAL THAT THE
24 SECRETARY OF PUBLIC WELFARE HAS DETERMINED MEETS ALL OF THE
25 FOLLOWING:

26 (1) IS A NONPROFIT HOSPITAL SUBSIDIARY OF A STATE-RELATED
27 INSTITUTION AS THAT TERM IS DEFINED IN 62 PA.C.S. § 103
28 (RELATING TO DEFINITIONS); AND

29 (2) PROVIDES MORE THAN 90,000 DAYS OF CARE TO MEDICAL
30 ASSISTANCE PATIENTS ANNUALLY.

1 * * *

2 ~~Section 3. Section 804-E of the act, added July 4, 2008~~ ←
3 ~~(P.L.557, No.44), is amended to read:~~

4 SECTION 4. SECTIONS 802-E, 804-E, 805-E, 807-E AND 808-E OF ←
5 THE ACT, ADDED JULY 4, 2008 (P.L.557, NO.44), ARE AMENDED TO
6 READ:

7 SECTION 802-E. AUTHORIZATION.

8 (A) GENERAL RULE.--IN ORDER TO GENERATE ADDITIONAL REVENUES
9 FOR THE PURPOSE OF ASSURING THAT MEDICAL ASSISTANCE RECIPIENTS
10 HAVE ACCESS TO HOSPITAL SERVICES AND THAT ALL CITIZENS HAVE
11 ACCESS TO EMERGENCY DEPARTMENT SERVICES, AND SUBJECT TO THE
12 CONDITIONS AND REQUIREMENTS SPECIFIED UNDER THIS ARTICLE, A
13 MUNICIPALITY MAY, BY ORDINANCE, [IMPOSE] DO THE FOLLOWING:

14 (1) IMPOSE A MONETARY ASSESSMENT ON THE NET OPERATING
15 REVENUE REDUCED BY ALL REVENUES RECEIVED FROM MEDICARE OF EACH
16 GENERAL ACUTE CARE HOSPITAL LOCATED IN THE MUNICIPALITY [SUBJECT
17 TO THE CONDITIONS AND REQUIREMENTS SPECIFIED UNDER THIS
18 ARTICLE].

19 (2) BEGINNING ON OR AFTER JULY 1, 2009, AND SUBJECT TO THE
20 ADVANCE WRITTEN APPROVAL BY THE SECRETARY, IMPOSE A MONETARY
21 ASSESSMENT ON THE NET OPERATING REVENUES REDUCED BY ALL REVENUES
22 RECEIVED FROM MEDICARE OF EACH HIGH VOLUME MEDICAID HOSPITAL
23 LOCATED IN THE MUNICIPALITY.

24 (B) ADMINISTRATIVE PROVISIONS.--THE [ORDINANCE] ORDINANCES
25 ADOPTED PURSUANT TO SUBSECTION (A) MAY INCLUDE APPROPRIATE
26 ADMINISTRATIVE PROVISIONS INCLUDING, WITHOUT LIMITATION,
27 PROVISIONS FOR THE COLLECTION OF INTEREST AND PENALTIES.

28 (C) MAXIMUM ASSESSMENT.--IN EACH YEAR IN WHICH THE
29 ASSESSMENT IS IMPLEMENTED, THE ASSESSMENT SHALL BE SUBJECT TO
30 THE MAXIMUM AGGREGATE AMOUNT THAT MAY BE ASSESSED UNDER 42 CFR

1 433.68(F)(3)(I) (RELATING TO PERMISSIBLE HEALTH CARE-RELATED
2 TAXES) OR ANY OTHER MAXIMUM ESTABLISHED UNDER FEDERAL LAW.
3 Section 804-E. Administration.

4 (a) Remittance.--Upon collection of the funds generated by
5 the assessment authorized under this article, the municipality
6 shall remit a portion of the funds to the Commonwealth for the
7 purposes set forth under section 802-E, except that the
8 municipality may retain funds in an amount necessary to
9 reimburse it for its reasonable costs in the administration and
10 collection of the assessment and to fund a portion of its costs
11 of operating public health clinics as set forth in an agreement
12 to be entered into between the municipality and the Commonwealth
13 acting through the secretary.

14 (b) Establishment.--There is established a restricted
15 account in the General Fund for the receipt and deposit of funds
16 under subsection (a). Funds in the account are hereby
17 appropriated to the department for purposes of making
18 supplemental or increased medical assistance payments for
19 emergency department services to general acute care hospitals
20 within the municipality and to maintain or increase other
21 medical assistance payments to hospitals within the
22 municipality, as specified in the Commonwealth's approved Title
23 XIX State Plan.

24 SECTION 805-E. NO HOLD HARMLESS. 

25 NO GENERAL ACUTE CARE HOSPITAL OR HIGH VOLUME MEDICAID
26 HOSPITAL SHALL BE DIRECTLY GUARANTEED A REPAYMENT OF ITS
27 ASSESSMENT IN DEROGATION OF 42 CFR 433.68(F) (RELATING TO
28 PERMISSIBLE HEALTH CARE-RELATED TAXES), EXCEPT THAT, IN EACH
29 FISCAL YEAR IN WHICH AN ASSESSMENT IS IMPLEMENTED, THE
30 DEPARTMENT SHALL USE A PORTION OF THE FUNDS RECEIVED UNDER

1 SECTION 804-E(A) FOR THE PURPOSES OUTLINED UNDER SECTION 804-
2 E(B) TO THE EXTENT PERMISSIBLE UNDER FEDERAL AND STATE LAW OR
3 REGULATION AND WITHOUT CREATING AN INDIRECT GUARANTEE TO HOLD
4 HARMLESS, AS THOSE TERMS ARE USED UNDER 42 CFR 433.68(F)(I). THE
5 SECRETARY SHALL SUBMIT ANY STATE MEDICAID PLAN AMENDMENTS TO THE
6 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT ARE
7 NECESSARY TO MAKE THE PAYMENTS AUTHORIZED UNDER SECTION 804-
8 E(B).

9 SECTION 807-E. TAX EXEMPTION.

10 NOTWITHSTANDING ANY EXEMPTIONS GRANTED BY ANY OTHER FEDERAL,
11 STATE OR LOCAL TAX OR OTHER LAW, INCLUDING SECTION 204(A)(3) OF
12 THE ACT OF MAY 22, 1933 (P.L.853, NO.155), KNOWN AS THE GENERAL
13 COUNTY ASSESSMENT LAW, NO GENERAL ACUTE CARE HOSPITAL OR HIGH
14 VOLUME MEDICAID HOSPITAL IN THE MUNICIPALITY SHALL BE EXEMPT
15 FROM THE ASSESSMENT.

16 SECTION 808-E. [CESSATION] TIME PERIOD.

17 (A) CESSATION.--THE ASSESSMENT AUTHORIZED UNDER THIS ARTICLE
18 SHALL CEASE JUNE 30, 2013.

19 (B) ASSESSMENT.--A MUNICIPALITY SHALL HAVE THE POWER TO
20 ENACT THE ASSESSMENT AUTHORIZED IN SECTION 802-E(A)(2) EITHER
21 PRIOR TO OR DURING ITS FISCAL YEAR ENDING JUNE 30, 2010.

22 Section 4 5. This act shall take effect immediately. ←