

## AMENDMENTS TO HOUSE BILL NO. 33

Sponsor: REPRESENTATIVE DUNBAR

Printer's No. 47

1 Amend Bill, page 1, lines 1 through 7, by striking out all of  
2 said lines and inserting

3 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
4 act to consolidate, editorially revise, and codify the public  
5 welfare laws of the Commonwealth," in public assistance,  
6 further providing for definitions, for general assistance-  
7 related categorically needy and medically needy only medical  
8 assistance programs, for the medically needy and  
9 determination of eligibility and for medical assistance  
10 payments for institutional care; in hospital assessments,  
11 further providing for definitions, for authorization, for  
12 administration, for no hold harmless, for tax exemption and  
13 for time period; and, in Statewide quality care assessment,  
14 further providing for definitions.

15 Amend Bill, page 1, lines 10 through 19; page 2, lines 1  
16 through 30; page 3, lines 1 through 6; by striking out all of  
17 said lines on said pages and inserting

18 Section 1. Section 402 introductory paragraph and the  
19 definition of "general assistance" of the act of June 13, 1967  
20 (P.L.31, No.21), known as the Human Services Code, amended June  
21 30, 2012 (P.L.668, No.80), amendment declared unconstitutional,  
22 188 A.3d 1135, (Pa. 2018), are amended and the section is  
23 amended by adding a definition to read:

24 Section 402. Definitions.--As used in this article, unless  
25 the [content] context clearly indicates otherwise:

26 \* \* \*

27 ["General assistance" means assistance granted under the  
28 provisions of section 432(3) of this act.]

29 "General assistance-related categorically needy medical  
30 assistance" means medical assistance for persons who meet the  
31 requirements under section 432(3).

32 \* \* \*

33 Section 2. Section 403.2 of the act, added June 30, 2012  
34 (P.L.668, No.80), addition declared unconstitutional, 188 A.3d  
35 1135, (Pa. 2018), is reenacted and amended to read:

1 Section 403.2. General Assistance-Related Categorically  
2 Needy and Medically Needy Only Medical Assistance Programs.--(a)  
3 Subject to subsection (b) and notwithstanding any other  
4 provision of law, the general assistance cash assistance program  
5 shall cease [August 1, 2012] August 1, 2019.

6 (b) The general assistance-related categorically needy  
7 medical assistance program shall continue, including, but not  
8 limited to, the eligibility and work and work-related  
9 requirements under this article. The general assistance-related  
10 medical assistance program for the medically needy only shall  
11 continue.

12 Section 3. Section 442.1(a)(3) introductory paragraph and  
13 (i) of the act, amended June 30, 2012 (P.L.668, No.80),  
14 amendment declared unconstitutional, 188 A.3d 1135, (Pa. 2018),  
15 are amended to read:

16 Section 442.1. The Medically Needy; Determination of  
17 Eligibility.--(a) A person shall be considered medically needy  
18 if that person meets the requirements of clauses (1), (2) and  
19 (3):

20 \* \* \*

21 (3) Complies with [either] subclause [(i) or] (ii):  
22 [(i) Receives general assistance in the form of cash.]

23 \* \* \*

24 Section 4. Section 443.1(1.1)(i) and (7)(vi) of the act,  
25 amended June 22, 2018 (P.L.258, No.40), are amended to read:

26 Section 443.1. Medical Assistance Payments for Institutional  
27 Care.--The following medical assistance payments shall be made  
28 on behalf of eligible persons whose institutional care is  
29 prescribed by physicians:

30 \* \* \*

31 (1.1) Subject to section 813-G, for inpatient hospital  
32 services provided during a fiscal year in which an assessment is  
33 imposed under Article VIII-G, payments under the medical  
34 assistance fee-for-service program shall be determined in  
35 accordance with the department's regulations, except as follows:

36 (i) If the Commonwealth's approved Title XIX State Plan for  
37 inpatient hospital services in effect for the period of July 1,  
38 2010, through June 30, [2018] 2023, specifies a methodology for  
39 calculating payments that is different from the department's  
40 regulations or authorizes additional payments not specified in  
41 the department's regulations, such as inpatient disproportionate  
42 share payments and direct medical education payments, the  
43 department shall follow the methodology or make the additional  
44 payments as specified in the approved Title XIX State Plan.

45 \* \* \*

46 (7) After June 30, 2007, payments to county and nonpublic  
47 nursing facilities enrolled in the medical assistance program as  
48 providers of nursing facility services shall be determined in  
49 accordance with the methodologies for establishing payment rates  
50 for county and nonpublic nursing facilities specified in the  
51 department's regulations and the Commonwealth's approved Title

1 XIX State Plan for nursing facility services in effect after  
2 June 30, 2007. The following shall apply:

3 \* \* \*

4 (vi) Subject to Federal approval of such amendments as may  
5 be necessary to the Commonwealth's approved Title XIX State  
6 Plan, for fiscal years 2015-2016, 2016-2017 [and], 2018-2019 and  
7 2019-2020, the department shall make up to four medical  
8 assistance day-one incentive payments to qualified nonpublic  
9 nursing facilities. The department shall determine the nonpublic  
10 nursing facilities that qualify for the medical assistance day-  
11 one incentive payments and calculate the payments using the  
12 total Pennsylvania medical assistance (PA MA) days and total  
13 resident days as reported by nonpublic nursing facilities under  
14 Article VIII-A. The department's determination and calculations  
15 under this subparagraph shall be based on the nursing facility  
16 assessment quarterly resident day reporting forms, as determined  
17 by the department. The department shall not retroactively revise  
18 a medical assistance day-one incentive payment amount based on a  
19 nursing facility's late submission or revision of the  
20 department's report after the dates designated by the  
21 department. The department, however, may recoup payments based  
22 on an audit of a nursing facility's report. The following shall  
23 apply:

24 (A) A nonpublic nursing facility shall meet all of the  
25 following criteria to qualify for a medical assistance day-one  
26 incentive payment:

27 (I) The nursing facility shall have an overall occupancy  
28 rate of at least eighty-five percent during the resident day  
29 quarter. For purposes of determining a nursing facility's  
30 overall occupancy rate, a nursing facility's total resident  
31 days, as reported by the facility under Article VIII-A, shall be  
32 divided by the product of the facility's licensed bed capacity,  
33 at the end of the quarter, multiplied by the number of calendar  
34 days in the quarter.

35 (II) The nursing facility shall have a medical assistance  
36 occupancy rate of at least sixty-five percent during the  
37 resident day quarter. For purposes of determining a nursing  
38 facility's medical assistance occupancy rate, the nursing  
39 facility's total PA MA days shall be divided by the nursing  
40 facility's total resident days, as reported by the facility  
41 under Article VIII-A.

42 (III) The nursing facility shall be a nonpublic nursing  
43 facility for a full resident day quarter prior to the applicable  
44 quarterly reporting due dates, as determined by the department.

45 (B) The department shall calculate a qualified nonpublic  
46 nursing facility's medical assistance day-one incentive payment  
47 as follows:

48 (I) The total funds appropriated for payments under this  
49 subparagraph shall be divided by the number of payments, as  
50 determined by the department.

51 (II) To establish the per diem rate for a payment, the

1 amount under subclause (I) shall be divided by the total PA MA  
2 days, as reported by all qualifying nonpublic nursing facilities  
3 under Article VIII-A for that payment.

4 (III) To determine a qualifying nonpublic nursing facility's  
5 medical assistance day-one incentive payment, the per diem rate  
6 calculated for the payment shall be multiplied by a nonpublic  
7 nursing facility's total PA MA days, as reported by the facility  
8 under Article VIII-A for the payment.

9 (C) The following shall apply:

10 (I) For fiscal years 2015-2016, 2016-2017 and 2018-2019, the  
11 State funds available for the nonpublic nursing facility medical  
12 assistance day-one incentive payments shall equal eight million  
13 dollars (\$8,000,000).

14 (II) For fiscal years 2019-2020, the State funds available  
15 for the nonpublic nursing facility medical assistance day-one  
16 incentive payments shall equal sixteen million dollars  
17 (\$16,000,000).

18 \* \* \*

19 Section 5. The definitions of "assessment," "general acute  
20 care hospital," "high volume Medicaid hospital," "hospital" and  
21 "net operating revenue" in section 801-E of the act are amended  
22 to read:

23 Section 801-E. Definitions.

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

27 "Assessment." The fee authorized to be implemented under  
28 this article [on every general acute care hospital within a  
29 municipality].

30 \* \* \*

31 "General acute care hospital." A hospital other than a  
32 hospital that the [Secretary of Human Services] secretary has  
33 determined meets one of the following:

34 (1) Is excluded under 42 CFR 412.23(a), (b), (d), (e) and  
35 (f) (relating to Excluded hospitals: Classifications) as of  
36 March 20, 2008, from reimbursement of certain Federal funds  
37 under the prospective payment system described by 42 CFR 412  
38 (relating to prospective payment systems for inpatient hospital  
39 services).

40 (2) Is a Federal veterans' affairs hospital.

41 (3) Is a high volume Medicaid hospital.

42 (4) Provides care, including inpatient hospital services, to  
43 all patients free of charge.

44 (5) Is a free-standing acute care hospital organized  
45 primarily for the treatment of and research on cancer and which  
46 is an exempt hospital under section 801-G.

47 "High volume Medicaid hospital." A hospital that the  
48 [Secretary of Human Services] secretary has determined meets all  
49 of the following:

50 (1) is a nonprofit hospital subsidiary of a State-related  
51 institution as that term is defined in 62 Pa.C.S. § 103

(relating to definitions); and

(2) [provides] has provided more than [90,000] 60,000 inpatient acute care days of care to Pennsylvania medical assistance patients [annually] as reported by the hospital's State fiscal year 2014-2015 medical assistance hospital cost report on file with the department as of June 6, 2018.

"Hospital." A facility or the site of a facility that is licensed as a hospital under 28 Pa. Code Pt. IV Subpt. B (relating to general and special hospitals) and located within a municipality.

\* \* \*

"Net [operating] patient revenue." Gross [charges for facilities] revenues received or earned by a hospital for inpatient and outpatient hospital services, including medical assistance supplemental revenues received by the hospital for inpatient and outpatient hospital services, less any deducted amounts for bad debt expense, charity care expense and contractual allowances as identified in the hospital's records or on forms as specified by the department.

\* \* \*

Section 6. Section 802-E(a), (a.1) and (b) of the act are amended and the section is amended by adding a subsection to read:

Section 802-E. Authorization.

(a) General rule.--In order to generate additional revenues for the purpose of assuring that medical assistance recipients have access to hospital and other health care services [and that all citizens have access to emergency department services], and subject to the conditions and requirements specified under this article, a municipality may, by ordinance, [do] impose an assessment on the following:

(1) [Impose a monetary assessment on the net operating revenue reduced by all revenues received from Medicare of each general acute care hospital located in the municipality.] Each general acute care hospital.

(2) [Beginning on or after July 1, 2009, and subject to the advance written approval by the secretary, impose a monetary assessment on the net operating revenues reduced by all revenues received from Medicare of each high volume Medicaid hospital located in the municipality.] Each high volume Medicaid hospital.

(a.1) Assessment imposed by ordinance.--A municipality shall, by ordinance, establish the assessment imposed under subsection (a)(1) and (2) as a percentage of each hospital's net patient revenue reduced by all revenues received from Medicare for the year as the municipality shall specify, and may establish different assessment percentages under subsection (a)(1) or (2).

(a.2) Adjustments to assessment percentage.--

(1) For State fiscal years beginning after June 30, 2013, and subject to the advance written approval of the

1 secretary as prescribed by the department, the municipality  
2 may make a uniform adjustment to an assessment percentage  
3 established by ordinance under subsection (a).

4 (2) After receiving written approval under paragraph (1)  
5 and before implementing an adjustment, the municipality shall  
6 provide advance public notice. The notice shall specify the  
7 proposed adjusted assessment percentage and identify the  
8 aggregate impact on hospitals [located in the municipality]  
9 subject to an assessment. An interested party shall have 30  
10 days in which to submit comments to the municipality. Upon  
11 expiration of the 30-day comment period, the municipality,  
12 after consideration of the comments, shall publish a  
13 subsequent notice announcing the adjusted assessment  
14 percentage.

15 (b) Administrative provisions.--The ordinances adopted  
16 pursuant to [subsection] subsections (a), (a.1) and (a.2) may  
17 include appropriate administrative provisions including, without  
18 limitation, provisions for the collection of interest and  
19 penalties[.] and provisions for the calculation and imposition  
20 of the assessment on a hospital subject to an assessment which,  
21 during a fiscal year in which an assessment is imposed under  
22 this article, changes ownership or control, begins operations,  
23 closes or experiences any other change that affects its status  
24 as a general acute care hospital or high volume Medicaid  
25 hospital.

26 \* \* \*

27 Section 7. Sections 804-E, 805-E, 807-E and 808-E of the act  
28 are amended to read:

29 Section 804-E. Administration.

30 (a) Remittance.--Upon collection of the funds generated by  
31 the assessment authorized under this article, the municipality  
32 shall remit a portion of the funds to the Commonwealth for the  
33 purposes set forth under section 802-E, except that the  
34 municipality may retain funds in an amount necessary to  
35 reimburse it for its reasonable costs in the administration and  
36 collection of the assessment and to fund a portion of its costs  
37 of operating public health clinics and public health programs as  
38 set forth in an agreement to be entered into between the  
39 municipality and the Commonwealth acting through the secretary.

40 (b) Establishment.--There is established a restricted  
41 account in the General Fund for the receipt and deposit of funds  
42 under subsection (a). Funds in the account [are hereby  
43 appropriated to] shall be used by the department for either or  
44 both of the following purposes [of making]:

45 (1) Making supplemental or increased medical assistance  
46 payments for [emergency department] hospital services to  
47 [general acute care] hospitals [within the municipality] and to  
48 maintain or increase other medical assistance payments to  
49 hospitals [within the municipality], as specified in the  
50 Commonwealth's approved Title XIX State Plan.

51 (2) Making adjusted capitation payments to medical

1 assistance managed care organizations for additional payments  
2 for health care services within the municipality.

3 Section 805-E. No hold harmless.

4 No [general acute care hospital or high volume Medicaid]  
5 hospital subject to the assessment shall be directly guaranteed  
6 a repayment of its assessment in derogation of 42 CFR 433.68(f)  
7 (relating to permissible health care-related taxes), except  
8 that, in each fiscal year in which an assessment is implemented,  
9 the department shall use a portion of the funds received under  
10 section 804-E(a) for the purposes outlined under section 804-  
11 E(b) to the extent permissible under Federal and State law or  
12 regulation and without creating an indirect guarantee to hold  
13 harmless, as those terms are used under 42 CFR 433.68(f)(i). The  
14 secretary shall submit any [State Medicaid plan] Title XIX State  
15 Plan amendments to the United States Department of Health and  
16 Human Services that are necessary to make the payments  
17 authorized under section 804-E(b).

18 Section 807-E. Tax exemption.

19 Notwithstanding any exemptions granted by any other Federal,  
20 State or local tax or other law, including section 204(a)(3) of  
21 the act of May 22, 1933 (P.L.853, No.155), known as The General  
22 County Assessment Law, no [general acute care hospital or high  
23 volume Medicaid] hospital [in the municipality] subject to the  
24 assessment shall be exempt from the assessment.

25 Section 808-E. Time period.

26 (a) Cessation.--The assessment authorized under this article  
27 shall cease June 30, [2019] 2024.

28 (b) Assessment.--

29 (1) A municipality shall have the power to enact the  
30 assessment authorized in section 802-E(a)(2) either prior to  
31 or during its fiscal year ending June 30, 2010.

32 (2) A municipality may adjust an assessment percentage  
33 as specified under section [802-E(a.1)] 802-E(a.2) either  
34 prior to or during the fiscal year in which the adjusted  
35 assessment percentage takes effect.

36 Section 8. The definitions of "net inpatient revenue" and  
37 "net outpatient revenue" in section 801-G of the act, amended or  
38 added June 22, 2018 (P.L.258, No.40), are amended to read:

39 Section 801-G. Definitions.

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

43 \* \* \*

44 "Net inpatient revenue." Gross [charges for facilities for  
45 inpatient services less any deducted amounts for bad debt  
46 expense, charity care expense and contractual allowances as  
47 reported on forms specified by the department and] revenues  
48 received or earned by a hospital for inpatient services,  
49 including medical assistance supplemental revenues received by  
50 the hospital for inpatient hospital services, less any deducted  
51 amounts for bad debt expense, charity care expense and

1 contractual allowances as identified in the hospital's records  
2 and reported on forms specified by the department for:

3 (1) [as identified in the hospital's records for] the  
4 State fiscal year commencing July 1, 2014, or such later  
5 State fiscal year, as may be specified by the department for  
6 use in determining an annual assessment amount owed on or  
7 after July 1, 2018; or

8 (2) [as identified in the hospital's records for] the  
9 most recent State fiscal year, or part thereof, if amounts  
10 are not available under paragraph (1).

11 "Net outpatient revenue." Gross [charges for facilities for  
12 outpatient services less any deducted amounts for bad debt  
13 expense, charity care expense and contractual allowances as  
14 reported on forms specified by the department and] revenues  
15 received or earned by a hospital for outpatient services,  
16 including medical assistance supplemental revenues received by  
17 the hospital for outpatient hospital services, less any deducted  
18 amounts for bad debt expense, charity care expense and  
19 contractual allowances as identified in the hospital's records  
20 and reported on forms specified by the department for:

21 (1) [as identified in the hospital's records for] the  
22 State fiscal year commencing July 1, 2014, or a later State  
23 fiscal year, as may be specified by the department for use in  
24 determining an annual assessment amount owed on or after July  
25 1, 2018; or

26 (2) [as identified in the hospital's records for] the  
27 most recent State fiscal year, or part thereof, if amounts  
28 are not available under paragraph (1).

29 \* \* \*

30 Section 9. This act shall take effect as follows:

31 (1) The amendment of section 442.1(a)(3) introductory  
32 paragraph and (i) of the act shall take effect August 1,  
33 2019.

34 (2) The remainder of this act shall take effect July 1,  
35 2019, or immediately, whichever is later.