

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

1 (relating to definitions); and

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

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

11 * * *

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

20 * * *

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

24 Section 802-E. Authorization.

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

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

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

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

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

50 (1) For State fiscal years beginning after June 30,
51 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.