

SENATE BILL REPORT

SB 6758

As of February 2, 2010

Title: An act relating to a hospital safety net assessment for increased hospital payments to improve health care access for the citizens of Washington.

Brief Description: Concerning hospital safety net assessment.

Sponsors: Senators Keiser, Prentice and Parlette; by request of Governor Gregoire.

Brief History:

Committee Activity: Ways & Means: 2/01/10.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Elaine Deschamps (786-7441)

Background: Medical assistance is available to eligible low-income state residents and their families from the Department of Social and Health Services (DSHS or the department), primarily through the Medicaid program. Most of the state medical assistance programs are funded with matching federal funds in various percentages. Federal funding for the Medicaid program is conditioned on the state having an approved Medicaid state plan and related state laws to enforce the plan.

Provider taxes have been used by states to help fund the costs of the Medicaid program. Under these taxes, states collect funds from providers and pay the money back to providers as Medicaid payments, while claiming the federal matching share of those payments. These taxes must conform to federal laws to ensure that they are generally redistributive in nature and that no hold harmless provisions are in place that would guarantee repayment of the tax. The taxes must be broad-based, which means they must be imposed on all providers in a given class, and uniform, which means the same tax rate must apply across providers. If a tax is not broad-based and uniform, it must meet statistical tests that demonstrate that the amount of the tax is not directly correlated to Medicaid payments. Additionally, Medicaid payment for these services cannot exceed Medicare reimbursement levels.

Summary of Bill: Effective February 1, 2010, a hospital provider assessment is imposed on certain hospitals if the following conditions are met: the Center for Medicare and Medicaid Services (CMS) approves any necessary state plan amendments or waivers, the state plan amendment to reduce hospital rates in the 2009-11 operating budget is withdrawn, and

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contracts between DSHS and managed care organizations are amended to the extent necessary to comply with the provisions of the bill.

The Hospital Safety Net Assessment Fund (the fund) is created within the state treasury. DSHS, in cooperation with the Office of Financial Management (OFM), administers the program and monitor the fund. Proceeds from the assessments are deposited into the fund, and the interest earned on money in the fund is credited to the fund.

The hospital assessment is based on the number of non-Medicare inpatient days. The amount of the assessment varies by hospital type and is reduced if a hospital has more than 60,000 patient days per year. Additionally, the assessment varies by time period and generally increases over the following four phases: July 2009 through January 2010; February through December 2010; January through June 2011; and July 2011 through June 2013.

The following types of hospitals are exempt from paying assessments: those that are owned or operated by the federal or state government; those that participate in the Certified Public Expenditure (CPE) program; those that do not charge directly or indirectly for hospital services; and long-term acute care hospitals.

A CMS waiver is necessary because the assessment is neither broad-based nor uniform, so it must pass a statistical test demonstrating that the relationship between the number of Medicaid beds and the percentage of the total assessment is not stronger under the proposed system than under a broad-based and uniform system.

Once the necessary conditions are met, money from the fund may be used to restore inpatient and outpatient payment rates, and restore and raise by 20 percent the small rural disproportionate share hospital (DSH) payment levels in place on June 30, 2009. After February 1, 2010, hospitals are provided rate increases that vary by hospital and service type, ranging from 4 percent to 16 percent for inpatient services and between 4 percent and 36 percent for outpatient services. Critical Access Hospitals (CAH) that are not eligible for small rural DSH payments receive payments of \$50 per Medicaid inpatient day. Hospitals that are exempt from the assessments are not excluded from the rate increases.

The sum of \$32 million per biennium may be spent from the fund for the purpose of ensuring that no reductions in hospital payment rates take place from the effective date of this act until July 2013. The sum of \$1 million per biennium may be spent for the department's administrative costs.

If other funding becomes available to support increased reimbursement rates, the department must reduce the assessment amount, and conversely, if DSHS determines that there are insufficient funds to support the increased payment rates, the assessment rates are increased accordingly.

Hospitals must treat the assessments as operating overhead expenses, and they may not pass on the costs of the assessments to patients.

This act becomes null and void under any of the following conditions: an appellate court or CMS invalidates any portion of the act with an exception for the payment increase for CAH

hospitals that are not eligible for DSH; Medicaid hospital rates are reduced below levels specified in the bill; the increased hospital payments are not eligible for federal matching funds, except for payments for the University of Washington Medical Center and Harborview Medical Center; OFM certifies that the Legislature has provided appropriations for the next fiscal year to support the increased payments; or the fund is used to supplant other funds.

The bill contains an expiration date of July 1, 2013.

Appropriation: None.

Fiscal Note: Requested on January 25, 2010.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: This bill is necessary to protect our hospitals and the safety net in our state.

Persons Testifying: PRO: Senator Keiser, prime sponsor.