H-4409.1

HOUSE BILL 2791

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Hunter, Appleton, Jinkins, and Tharinger

Read first time 02/26/14. Referred to Committee on Appropriations.

AN ACT Relating to adjusting timelines regarding the hospital safety net assessment; and amending RCW 74.60.005, 74.60.020, 74.60.050, 74.60.090, 74.60.120, and 74.60.130.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 74.60.005 and 2013 2nd sp.s. c 17 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby support additional payments to hospitals for medicaid services as specified in this chapter.

(2) The legislature finds that federal health care reform will result in an expansion of medicaid enrollment in this state and an increase in federal financial participation. ((~~As a result, the hospital safety net assessment and hospital safety net assessment fund created in this chapter will begin phasing down over a four-year period beginning in fiscal year 2016 as federal medicaid expansion is fully implemented. The state will end its reliance on the assessment and the fund by the end of fiscal year 2019.~~))

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) To generate approximately four hundred forty-six million three hundred thirty-eight thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then phasing down in equal increments to zero by the end of fiscal year 2019,~~)) in new state and federal funds by disbursing all of that amount to pay for medicaid hospital services and grants to certified public expenditure hospitals, except costs of administration as specified in this chapter, in the form of additional payments to hospitals and managed care plans, which may not be a substitute for payments from other sources;

(c) To generate one hundred ninety-nine million eight hundred thousand dollars ((~~in the 2013-2015~~)) per biennium((~~, phasing down to zero by the end of the 2017-2019 biennium,~~)) in new funds to be used in lieu of state general fund payments for medicaid hospital services;

(d) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the payments authorized by this chapter; and

(e) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, 2009, as adjusted for current enrollment and utilization, but without regard to payment increases resulting from chapter 30, Laws of 2010 1st sp. sess.

Sec. 2. RCW 74.60.020 and 2013 2nd sp.s. c 17 s 3 are each amended to read as follows:

(1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the authority on audit or otherwise shall be returned to the fund. ((~~(a)~~))

Any unexpended balance in the fund at the end of a fiscal biennium shall carry over into the following biennium and shall be applied to reduce the amount of the assessment under RCW 74.60.050(1)(c).

((~~(b) Any amounts remaining in the fund after July 1, 2019, shall be refunded to hospitals, pro rata according to the amount paid by the hospital since July 1, 2013, subject to the limitations of federal law.~~))

(2) All assessments, interest, and penalties collected by the authority under RCW 74.60.030 and 74.60.050 shall be deposited into the fund.

(3) Disbursements from the fund are conditioned upon appropriation and the continued availability of other funds sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, 2009, as adjusted for current enrollment and utilization, but without regard to payment increases resulting from chapter 30, Laws of 2010 1st sp. sess.

(4) Disbursements from the fund may be made only:

(a) To make payments to hospitals and managed care plans as specified in this chapter;

(b) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(c) For one million dollars per biennium for payment of administrative expenses incurred by the authority in performing the activities authorized by this chapter;

(d) For one hundred ninety-nine million eight hundred thousand dollars ((~~in the 2013-2015~~)) per biennium((~~, phasing down to zero by the end of the 2017-2019 biennium~~)) to be used in lieu of state general fund payments for medicaid hospital services, provided that if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, this amount must be reduced proportionately;

(e) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations in a final determination by a court of competent jurisdiction with all appeals exhausted. In such a case, the

authority may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop either a payment plan, or deduct moneys from future medicaid payments, or both;

(f) Beginning in state fiscal year 2015, to pay an amount sufficient, when combined with the maximum available amount of federal funds necessary to provide a one percent increase in medicaid hospital inpatient rates to hospitals eligible for quality improvement incentives under RCW 74.09.611.

Sec. 3. RCW 74.60.050 and 2013 2nd sp.s. c 17 s 5 are each amended to read as follows:

(1) The authority, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of notices of assessment by the authority to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable;

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050; and

(c) Adjustment of the assessment amounts in accordance with subsections (2) and (3) of this section.

(2) For state fiscal year 2015, the assessment amounts established under RCW 74.60.030 must be adjusted as follows:

(a) If sufficient other funds, including federal funds, are available to make the payments required under this chapter and fund the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment under RCW 74.60.030, the authority shall reduce the amount of the assessment to the minimum levels necessary to support those payments;

(b) If the total amount of inpatient or outpatient supplemental payments under RCW 74.60.120 is in excess of the upper payment limit and the entire excess amount cannot be disbursed by additional payments to managed care organizations under RCW 74.60.130, the authority shall

proportionately reduce future assessments on prospective payment hospitals to the level necessary to generate additional payments to hospitals that are consistent with the upper payment limit plus the maximum permissible amount of additional payments to managed care organizations under RCW 74.60.130;

(c) If the amount of payments to managed care organizations under RCW 74.60.130 cannot be distributed because of failure to meet federal actuarial soundness or utilization requirements or other federal requirements, the authority shall apply the amount that cannot be distributed to reduce future assessments to the level necessary to generate additional payments to managed care organizations that are consistent with federal actuarial soundness or utilization requirements or other federal requirements;

(d) If required in order to obtain federal matching funds, the maximum number of nonmedicare inpatient days at the higher rate provided under RCW 74.60.030(1)(b)((~~(i)~~)) (ii) may be adjusted in order to comply with federal requirements;

(e) If the number of nonmedicare inpatient days applied to the rates provided in RCW 74.60.030 will not produce sufficient funds to support the payments required under this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may be increased proportionately by category of hospital to amounts no greater than necessary in order to produce the required level of funds needed to make the payments specified in this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f); and

(f) Any actual or estimated surplus remaining in the fund at the end of the fiscal year must be applied to reduce the assessment amount for the subsequent fiscal year.

(3) For each fiscal year after June 30, 2015, the assessment amounts established under RCW 74.60.030 must be adjusted as follows:

(a) ((~~In order to support the payments required in this chapter, the assessment amounts must be reduced in approximately equal yearly increments each fiscal year by category of hospital until the assessment amount is zero by July 1, 2019;~~

~~(b)~~)) If sufficient other funds, including federal funds, are available to make the payments required under this chapter and fund the

state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment under RCW 74.60.030, the authority shall reduce the amount of the assessment to the minimum levels necessary to support those payments;

((~~(c)~~)) (b) If in any fiscal year the total amount of inpatient or outpatient supplemental payments under RCW 74.60.120 is in excess of the upper payment limit and the entire excess amount cannot be disbursed by additional payments to managed care organizations under RCW 74.60.130, the authority shall proportionately reduce future assessments on prospective payment hospitals to the level necessary to generate additional payments to hospitals that are consistent with the upper payment limit plus the maximum permissible amount of additional payments to managed care organizations under RCW 74.60.130;

((~~(d)~~)) (c) If the amount of payments to managed care organizations under RCW 74.60.130 cannot be distributed because of failure to meet federal actuarial soundness or utilization requirements or other federal requirements, the authority shall apply the amount that cannot be distributed to reduce future assessments to the level necessary to generate additional payments to managed care organizations that are consistent with federal actuarial soundness or utilization requirements or other federal requirements;

((~~(e)~~)) (d) If required in order to obtain federal matching funds, the maximum number of nonmedicare inpatient days at the higher rate provided under RCW 74.60.030(1)(b)((~~(i)~~)) (ii) may be adjusted in order to comply with federal requirements;

((~~(f)~~)) (e) If the number of nonmedicare inpatient days applied to the rates provided in RCW 74.60.030 will not produce sufficient funds to support the payments required under this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may be increased proportionately by category of hospital to amounts no greater than necessary in order to produce the required level of funds needed to make the payments specified in this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f); and

((~~(g)~~)) (f) Any actual or estimated surplus remaining in the fund at the end of the fiscal year must be applied to reduce the assessment amount for the subsequent fiscal year.

(4)(a) Any adjustment to the assessment amounts pursuant to this section, and the data supporting such adjustment, including, but not limited to, relevant data listed in (b) of this subsection, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association does not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other action by the authority that is not made in accordance with this chapter.

(b) The authority shall provide the following data to the Washington state hospital association sixty days before implementing any revised assessment levels, detailed by fiscal year, beginning with fiscal year 2011 and extending to the most recent fiscal year, except in connection with the initial assessment under this chapter:

(i) The fund balance;

(ii) The amount of assessment paid by each hospital;

(iii) The state share, federal share, and total annual medicaid fee-for-service payments for inpatient hospital services made to each hospital under RCW 74.60.120, and the data used to calculate the payments to individual hospitals under that section;

(iv) The state share, federal share, and total annual medicaid fee-for-service payments for outpatient hospital services made to each hospital under RCW 74.60.120, and the data used to calculate annual payments to individual hospitals under that section;

(v) The annual state share, federal share, and total payments made to each hospital under each of the following programs: Grants to certified public expenditure hospitals under RCW 74.60.090, for critical access hospital payments under RCW 74.60.100; and disproportionate share programs under RCW 74.60.110;

(vi) The data used to calculate annual payments to individual hospitals under (b)(v) of this subsection; and

(vii) The amount of payments made to managed care plans under RCW 74.60.130, including the amount representing additional premium tax, and the data used to calculate those payments.

Sec. 4. RCW 74.60.090 and 2013 2nd sp.s. c 17 s 8 are each amended to read as follows:

(1) In each fiscal year commencing upon satisfaction of the applicable conditions in RCW 74.60.150(1), funds must be disbursed from the fund and the authority shall make grants to certified public expenditure hospitals, which shall not be considered payments for hospital services, as follows:

(a) University of Washington medical center: Three million three hundred thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then reduced in approximately equal increments per fiscal year until the grant amount is zero by July 1, 2019~~));

(b) Harborview medical center: Seven million six hundred thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then reduced in approximately equal increments per fiscal year until the grant amount is zero by July 1, 2019~~));

(c) All other certified public expenditure hospitals: Four million seven hundred thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then reduced in approximately equal increments per fiscal year until the grant amount is zero by July 1, 2019~~)). The amount of payments to individual hospitals under this subsection must be determined using a methodology that provides each hospital with a proportional allocation of the group's total amount of medicaid and state children's health insurance program payments determined from claims and encounter data using the same general methodology set forth in RCW 74.60.120 (3) and (4).

(2) Payments must be made quarterly, taking the total disbursement amount and dividing by four to calculate the quarterly amount. The initial payment, which must include all amounts due from and after July 1, 2013, to the date of the initial payment, must be made within thirty days after satisfaction of the conditions in RCW 74.60.150(1). The authority shall provide a quarterly report of such payments to the Washington state hospital association.

Sec. 5. RCW 74.60.120 and 2013 2nd sp.s. c 17 s 11 are each amended to read as follows:

(1) Beginning in state fiscal year 2014, commencing thirty days after satisfaction of the applicable conditions in RCW 74.60.150(1)((~~,~~ ~~and for the period of state fiscal years 2014 through 2019,~~)) the authority shall make supplemental payments directly to Washington

hospitals, separately for inpatient and outpatient fee-for-service medicaid services, as follows:

(a) For inpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, twenty-nine million two hundred twenty-five thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019,~~)) from the fund, plus federal matching funds;

(b) For outpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, thirty million dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019,~~)) from the fund, plus federal matching funds;

(c) For inpatient fee-for-service payments for psychiatric hospitals, six hundred twenty-five thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019,~~)) from the fund, plus federal matching funds;

(d) For inpatient fee-for-service payments for rehabilitation hospitals, one hundred fifty thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019,~~)) from the fund, plus federal matching funds;

(e) For inpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019,~~)) from the fund, plus federal matching funds; and

(f) For outpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019,~~)) from the fund, plus federal matching funds.

(2) If the amount of inpatient or outpatient payments under subsection (1) of this section, when combined with federal matching funds, exceeds the upper payment limit, payments to each category of hospital must be reduced proportionately to a level where the total

payment amount is consistent with the upper payment limit. Funds under this chapter unable to be paid to hospitals under this section because of the upper payment limit must be paid to managed care organizations under RCW 74.60.130, subject to the limitations in this chapter.

(3) The amount of such fee-for-service inpatient payments to individual hospitals within each of the categories identified in subsection (1)(a), (c), (d), and (e) of this section must be determined by:

(a) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to each hospital's inpatient fee-for-services claims and medicaid managed care encounter data for the base year;

(b) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to all hospitals' inpatient fee-for-services claims and medicaid managed care encounter data for the base year; and

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(4) The amount of such fee-for-service outpatient payments to individual hospitals within each of the categories identified in subsection (1)(b) and (f) of this section must be determined by:

(a) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to each hospital's outpatient fee-for-services claims and medicaid managed care encounter data for the base year;

(b) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to all hospitals' outpatient fee-for-services claims and medicaid managed care encounter data for the base year; and

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(5) Thirty days before the initial payments and sixty days before the first payment in each subsequent fiscal year, the authority shall provide each hospital and the Washington state hospital association with an explanation of how the amounts due to each hospital under this section were calculated.

(6) Payments must be made in quarterly installments on or about the last day of every quarter, except that the initial payment must be made within thirty days after satisfaction of the conditions in RCW 74.60.150(1) and must include all amounts due from July 1, 2013, to the date of the initial payment.

(7) A prospective payment system hospital commencing operations after January 1, 2009, is eligible to receive payments in accordance with this section after becoming an eligible new prospective payment system hospital as defined in RCW 74.60.010.

(8) Payments under this section are supplemental to all other payments and do not reduce any other payments to hospitals.

Sec. 6. RCW 74.60.130 and 2013 2nd sp.s. c 17 s 12 are each amended to read as follows:

(1) For state fiscal year 2014, commencing within thirty days after satisfaction of the conditions in RCW 74.60.150(1) and subsection (6) of this section((~~, and for the period of state fiscal years 2014 through 2019,~~)) the authority shall increase capitation payments to managed care organizations by an amount at least equal to the amount available from the fund after deducting disbursements authorized by RCW 74.60.020(4) (c) through (f) and payments required by RCW 74.60.080 through 74.60.120. The capitation payment under this subsection must be no less than one hundred fifty-three million one hundred thirty-one thousand six hundred dollars per state fiscal year ((~~in fiscal years 2014 and 2015, and then the increased capitation payment amounts are reduced in equal increments per fiscal year until the increased capitation payment amount is zero by July 1, 2019,~~)) plus the maximum available amount of federal matching funds. The initial payment following satisfaction of the conditions in RCW 74.60.150(1) must include all amounts due from July 1, 2013. Subsequent payments shall be made quarterly.

(2) In fiscal years 2015, 2016, and 2017, the authority shall use any additional federal matching funds for the increased managed care capitation payments under subsection (1) of this section available from medicaid expansion under the federal patient protection and affordable care act to substitute for assessment funds which otherwise would have been used to pay managed care plans under this section.

(3) Payments to individual managed care organizations shall be determined by the authority based on each organization's or network's enrollment relative to the anticipated total enrollment in each program for the fiscal year in question, the anticipated utilization of hospital services by an organization's or network's medicaid enrollees, and such other factors as are reasonable and appropriate to ensure that purposes of this chapter are met.

(4) If the federal government determines that total payments to managed care organizations under this section exceed what is permitted under applicable medicaid laws and regulations, payments must be reduced to levels that meet such requirements, and the balance remaining must be applied as provided in RCW 74.60.050. Further, in the event a managed care organization is legally obligated to repay amounts distributed to hospitals under this section to the state or federal government, a managed care organization may recoup the amount it is obligated to repay under the medicaid program from individual hospitals by not more than the amount of overpayment each hospital received from that managed care organization.

(5) Payments under this section do not reduce the amounts that otherwise would be paid to managed care organizations: PROVIDED, That such payments are consistent with actuarial soundness certification and enrollment.

(6) Before making such payments, the authority shall require medicaid managed care organizations to comply with the following requirements:

(a) All payments to managed care organizations under this chapter must be expended for hospital services provided by Washington hospitals, which for purposes of this section includes psychiatric and rehabilitation hospitals, in a manner consistent with the purposes and provisions of this chapter, and must be equal to all increased capitation payments under this section received by the organization or network, consistent with actuarial certification and enrollment, less an allowance for any estimated premium taxes the organization is required to pay under Title 48 RCW associated with the payments under this chapter;

(b) Before the end of the quarter in which funds are paid to them, managed care organizations shall expend the increased capitation

payments under this section in a manner consistent with the purposes of this chapter;

(c) Providing that any delegation or attempted delegation of an organization's or network's obligations under agreements with the authority do not relieve the organization or network of its obligations under this section and related contract provisions.

(7) No hospital or managed care organizations may use the payments under this section to gain advantage in negotiations.

(8) No hospital has a claim or cause of action against a managed care organization for monetary compensation based on the amount of payments under subsection (6) of this section.

(9) If funds cannot be used to pay for services in accordance with this chapter the managed care organization or network must return the funds to the authority which shall return them to the hospital safety net assessment fund.

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