SENATE BILL REPORT
HB 1316

As of April 10, 2021

Title: An act relating to the hospital safety net assessment.

Brief Description: Concerning the hospital safety net assessment.

Sponsors: Representatives Cody, Macri, Duerr, Santos, Bateman and Lekanoff.

Brief History: Passed House: 4/6/21, 90-8.
Committee Activity: Ways & Means: 4/10/21.

Brief Summary of Bill

- Extends the Hospital Safety Net Assessment program through July 1, 2025.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sandy Stith (786-7710)

Background: Health care provider-related charges, such as assessments, fees, or taxes have been used in some states to help fund the costs of the Medicaid program. Under federal rules, these provider-related charges include any mandatory payment where at least 85 percent of the burden falls on health care providers. States collect funds from health care providers and pay them back as Medicaid payments. States use these provider-related payments to claim federal matching funds.

To conform to federal laws, health care provider-related assessments, fees, and taxes must be broad-based, uniform, and in compliance with hold harmless provisions. To be broad-based and uniform, respectively, they must be applied to all providers of the same class and be imposed at the same rate to each provider in that class. If a provider-related assessment, fee, or tax is not broad-based or uniform, these provisions may be waived if the assessment, fee, or tax is generally redistributive. The hold harmless provision may not be waived.

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Medicaid payments for these services cannot exceed Medicare reimbursement levels.

The Legislature created a Hospital Safety Net Assessment (HSNA) Program in 2010; hospital payments/safety net in 2011; hospital payments/quality incentive in 2013; and extended the hospital safety net assessment in 2015. An assessment on non-Medicare inpatient days is imposed on most hospitals, and proceeds from the assessments are deposited into the HSNA fund.

Money in the HSNA fund may be used for various increases in hospital payments. In 2010, inpatient and outpatient payment rates were restored to levels in place on June 30, 2009. Beyond that restoration, most hospitals received additional payment rate increases for inpatient and outpatient services. In 2013, the way in which the increases were addressed was changed from a specific percentage of inpatient and outpatient rate increases to an overall level of increase. The overall level of increase was split between fee for service and managed care payments.

The sum of $199.8 million in the 2013-15 biennium may be expended from the HSNA fund in lieu of state general fund payments to hospitals. An additional $1 million per biennium may be disbursed from the HSNA fund for administrative expenses incurred by the Health Care Authority (HCA) related to the assessment program.

The HSNA Program was to originally expire on July 1, 2013. Under the 2013 legislation, the program was to expire on July 1, 2017. Upon expiration of the program, hospital rates would either return to the levels in place on June 30, 2009, or to a rate structure specified in the 2013-15 operating budget. Under the 2013 legislation, the HSNA Program would phase down in equal increments over four years beginning in 2016. The phase down applied to both payments to hospitals and the amounts used in lieu of state general fund payments to hospitals and would phase to zero by the end of fiscal year 2019.

As a condition of these changes under the 2013 legislation, HCA was required to offer to contract with a hospital required to pay the assessment for two-year periods each fiscal biennium. HCA was required to agree to maintain the levels of the assessment, reimbursement rates, and increased payments during that period. In exchange, the hospitals were required to agree not to challenge, administratively or in court, the adequacy of the reduced reimbursement rates in place after the rate restorations. Increases from the current HSNA Program are removed.

The 2015 legislation eliminated the phase down of the program and extended the HSNA Program until July 1, 2019. Upon expiration, rates will return to the level they were on July 1, 2015. This legislation also increased the amount that may be expended from the HSNA fund in lieu of state general fund payments to hospitals from $199.8 million per biennium to $292 million beginning in 2015-2017. Additionally, funding was provided for increased payments for hospital services and grants to certified public expenditure and critical access hospitals. New funding was provided for family and integrated, evidence-based psychiatry

residencies through the University of Washington. Provisions for contracting between hospitals and HCA were changed to allow extension of existing contracts and to disallow reductions in aggregate payments based on variations based on budget-neutral rebasing of payment rates.

In 2017, the Legislature extended the program until July 1, 2021. Payment and assessment levels determined under the 2015 legislation were adjusted.

In 2019, the Legislature extended the program until July 1, 2023. Language was added making clarifications to certified public expenditure hospitals. Provisions were added allowing HCA to offset amounts due from payments scheduled to be made to a hospital from hospitals failing to pay assessments within 90 days of their due date. Payment levels determined under the 2017 legislation were adjusted.

Summary of Bill: The HSNA Program is extended. The intent of the Legislature is to extend funds per biennium to be used in lieu of state general fund payments for Medicaid hospital services through the 2023-2025 biennium.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2021.

Staff Summary of Public Testimony: PRO: By way of context, if this bill is not passed, the funding used in lieu of general-fund state cannot be booked in the Outlook as savings. This is why it is before you now. This program started in 2010 in an attempt to mitigate a $400 million cut to hospitals in the 2009 legislative session at the beginning of a long and deep recession. In 2016, CMS adopted a rule that limited payments that can be passed through managed care organizations. We were conservative in how we structured this program, so the requirements under this rule in 2026, this program will have to be redistributed.

Persons Testifying: PRO: Len Mc Comb, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: No one.