

**Health & Human Services**  
**Appropriations Committee**

**HB 2956**

**Brief Description:** Concerning hospital safety net assessment.

**Sponsors:** Representatives Pettigrew, Williams and Maxwell; by request of Governor Gregoire.

**Brief Summary of Bill**

- Establishes the Hospital Safety Net Assessment Fund.
- Creates assessments on hospitals based on non-Medicare inpatient hospital days.
- Increases hospital payment rates and Disproportionate Share Hospital (DSH) payments.

**Hearing Date:** 2/4/10

**Staff:** Erik Cornellier (786-7116).

**Background:**

Medical assistance is available to eligible low-income state residents and their families from the Department of Social and Health Services (DSHS), 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. Coverage is provided through fee-for-service and managed care systems.

Managed care is a prepaid, comprehensive system of medical and health care delivery, including preventive, primary, specialty, and ancillary health services. Healthy Options is the DSHS Medicaid managed care program for low-income people in Washington. Healthy Options offers eligible families, children under 19, and pregnant women a complete medical benefit package.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The federal government also matches state funding for Disproportionate Share Hospitals (DSH), which are hospitals that serve a disproportionate share of Medicaid clients or the uninsured. States make DSH payments directly to hospitals, and the federal government reimburses them for part of the payments based on each state's Medicaid matching rate. States receive a DSH allotment that sets an upper limit on how much federal Medicaid money states can spend on DSH payments.

Provider taxes have been used by some states to help fund the costs of the Medicaid program. States collect funds from providers and pay them back as Medicaid payments, and they can claim the federal matching share of those payments.

Provider taxes must conform to federal laws requiring that the taxes are generally redistributive in nature and that no hospitals are "held harmless" from the burden 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 payments for these services cannot exceed Medicare reimbursement levels.

### **Summary of Bill:**

#### Intent.

The bill states that its purpose 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 obtain additional funds to restore recent reductions and to support additional payments to hospitals for Medicaid services.

The Legislature finds that Washington hospitals, working with the DSHS, have proposed a hospital safety net assessment to generate additional state and federal funding for the Medicaid program, which will be used to partially restore recent reductions in hospital reimbursement payments and provide for an increase in hospital reimbursement rates. The Hospital Safety Net Assessment Fund (Fund) allows the state to generate additional federal financial participation for the Medicaid program and provides for increased reimbursement to hospitals.

It is the intent of the Legislature:

- to impose a hospital safety net assessment to be used solely for the purposes specified in this act,
- that funds generated by the assessment shall be used solely to augment all other funding sources and not as a substitute for any other funds,
- the total amount assessed shall not exceed the amount needed, in combination with all other available funds, to support the reimbursement rates and other payments in this act, and
- to condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain hospital rates and Small Rural DSH payments at least at levels in effect on June 30, 2009.

#### Assessments.

Effective February 1, 2010, a hospital provider assessment is imposed on certain hospitals unless exempted. Exempted hospitals include those that are owned or operated by the federal or state government, hospitals that participate in the Certified Public Expenditure program, hospitals that do not charge directly or indirectly for hospital services, and long-term acute care hospitals.

The hospital assessments are 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. The assessments increase periodically in four phases. The assessments increase periodically in four phases, and they range from six dollars to \$174 depending on the phase and the type of hospital.

#### Hospital Safety Net Assessment Fund.

The Hospital Safety Net Assessment Fund is created within the state treasury. The DSHS, in cooperation with the Office of Financial Management (OFM), will administer 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.

#### Increased Hospital Payments.

Money in the Fund may be used for various increases in hospital payments. Inpatient and outpatient payment rates are restored to levels in place on June 30, 2009. Small Rural DSH payments are restored to 120 percent of the levels in place on June 30, 2009. Starting February 1, 2010, hospitals receive payment rate increases ranging from four percent to 16 percent for inpatient services and between four percent and 36 percent for outpatient services, depending on the hospital type. Critical Access Hospitals 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 dispersed from the fund for the purpose of ensuring that hospital payment rates are not reduced from the effective date of this act until July 2013.

#### Administration.

The sum of \$1 million per biennium may be disbursed from the Fund for payment of administrative expenses incurred by the DSHS related to this act.

If other funding becomes available to support increased reimbursement rates, the DSHS must reduce the assessment amount. Conversely, if the DSHS determines that there are insufficient funds to support the increased payment rates, the assessment rates will be increased accordingly along with a contingency factor of up to 10 percent.

Any funds left over in the Fund at the end of a biennium carry over into the next biennium and are used to reduce the assessments applied in the following fiscal year.

The DSHS must submit any adjustments to the assessments and the supporting data for the adjustments to the Washington State Hospital Association (WSHA) for review and comment at least 60 days prior to implementing the adjustments.

The DSHS, in cooperation with the OFM, must develop rules for calculating the assessments to individual hospitals, notifying hospitals of the assessed amounts, and collecting the amounts due.

The DSHS must provide data on the Fund balance, assessments paid by each hospital, and annual Medicaid fee-for-service and Healthy Options payments for inpatient and outpatient hospital services to WSHA by November 30 of each year.

The DSHS must amend its DSH reporting instructions to ensure that it receives the necessary data to report on Healthy Options hospital payments.

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

#### Conditions.

The assessment, collection, and disbursement of funds is subject to three conditions. First, the federal Center for Medicare and Medicaid Services (CMS) must approve any necessary state plan amendments or waivers. Second, the DSHS must withdraw the pending state plan amendment to reduce hospital rates based on the 2009-11 operating budget. Third, the DSHS must amend its contracts with managed care organizations to the extent necessary to comply with the provisions of the bill.

The act does not take effect or ceases to be imposed if one of six conditions is met. First, an appellate court or CMS determines that any portion of the act is invalid, except for the section related to payments to Critical Access Hospitals that are not eligible for Small Rural DSH payments. Second, Medicaid inpatient or outpatient payment rates are reduced below levels specified in the act. Third, 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. Fourth, the OFM certifies that the Legislature has provided appropriations for the next fiscal year to support the increased payments. Fifth, other funding available for the Medicaid program is not sufficient to maintain Medicaid inpatient or outpatient reimbursement rates for hospitals and Small Rural DSH payments at 100 percent of levels in effect on July 1, 2009. Sixth, the fund is used to supplant other funds.

#### Expiration.

This act expires on July 1, 2013.

**Appropriation:** None.

**Fiscal Note:** Requested on 1/20/2010

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