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SENATE BILL 6045

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State of Washington

64th Legislature

2015 Regular Session

By Senators Becker and Frockt

Read first time 02/23/15. Referred to Committee on Ways & Means.

1 AN ACT Relating to continuation of the hospital safety net  
2 assessment for two additional biennia; amending RCW 74.60.005,  
3 74.60.020, 74.60.030, 74.60.050, 74.60.090, 74.60.100, 74.60.120,  
4 74.60.130, 74.60.150, 74.60.160, and 74.60.901; providing an  
5 expiration date; and declaring an emergency.

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

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

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

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

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

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

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

15 (c) To generate (~~one hundred ninety-nine million eight hundred~~  
16 ~~thousand~~) two hundred eighty-three million dollars (~~in the~~  
17 ~~2013-2015 biennium, phasing down to zero by the end of the 2017-2019~~  
18 ~~biennium,~~) per biennium during the 2015-2017 and 2017-2019 biennia  
19 in new funds to be used in lieu of state general fund payments for  
20 medicaid hospital services;

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

24 (e) To condition the assessment on receiving federal approval for  
25 receipt of additional federal financial participation and on  
26 continuation of other funding sufficient to maintain aggregate  
27 payment levels to hospitals for inpatient and outpatient services  
28 covered by medicaid, including fee-for-service and managed care, at  
29 least at the levels the state paid for those services on July 1,  
30 (~~2009~~) 2015, as adjusted for current enrollment and utilization(~~(,~~  
31 ~~but without regard to payment increases resulting from chapter 30,~~  
32 ~~Laws of 2010 1st sp. sess)).~~

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

35 (1) A dedicated fund is hereby established within the state  
36 treasury to be known as the hospital safety net assessment fund. The  
37 purpose and use of the fund shall be to receive and disburse funds,  
38 together with accrued interest, in accordance with this chapter.  
39 Moneys in the fund, including interest earned, shall not be used or

1 disbursed for any purposes other than those specified in this  
2 chapter. Any amounts expended from the fund that are later recouped  
3 by the authority on audit or otherwise shall be returned to the fund.

4 (a) Any unexpended balance in the fund at the end of a fiscal  
5 (~~(biennium)~~) year shall carry over into the following (~~(biennium)~~)  
6 fiscal year or that fiscal year and the following fiscal year and  
7 shall be applied to reduce the amount of the assessment under RCW  
8 74.60.050(1)(c).

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

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

16 (3) Disbursements from the fund are conditioned upon  
17 appropriation and the continued availability of other funds  
18 sufficient to maintain aggregate payment levels to hospitals for  
19 inpatient and outpatient services covered by medicaid, including fee-  
20 for-service and managed care, at least at the levels the state paid  
21 for those services on July 1, (~~(2009)~~) 2015, as adjusted for current  
22 enrollment and utilization(~~(, but without regard to payment increases~~  
23 ~~resulting from chapter 30, Laws of 2010 1st sp. sess)~~).

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

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

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

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

32 (d) For (~~(one hundred ninety-nine million eight hundred~~  
33 ~~thousand)~~) two hundred eighty-three million dollars (~~(in the~~  
34 ~~2013-2015)~~) per biennium, (~~(phasing down to zero by the end of the~~  
35 ~~2017-2019 biennium)~~) to be used in lieu of state general fund  
36 payments for medicaid hospital services, provided that if the full  
37 amount of the payments required under RCW 74.60.120 and 74.60.130  
38 cannot be distributed in a given fiscal year, this amount must be  
39 reduced proportionately;

1 (e) To repay the federal government for any excess payments made  
2 to hospitals from the fund if the assessments or payment increases  
3 set forth in this chapter are deemed out of compliance with federal  
4 statutes and regulations in a final determination by a court of  
5 competent jurisdiction with all appeals exhausted. In such a case,  
6 the authority may require hospitals receiving excess payments to  
7 refund the payments in question to the fund. The state in turn shall  
8 return funds to the federal government in the same proportion as the  
9 original financing. If a hospital is unable to refund payments, the  
10 state shall develop either a payment plan, or deduct moneys from  
11 future medicaid payments, or both;

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

17 **Sec. 3.** RCW 74.60.030 and 2014 c 143 s 1 are each amended to  
18 read as follows:

19 (1)(a) Upon satisfaction of the conditions in RCW 74.60.150(1),  
20 and so long as the conditions in RCW 74.60.150(2) have not occurred,  
21 an assessment is imposed as set forth in this subsection(~~(, effective~~  
22 ~~October 1, 2013))~~). (~~Initial assessment notices must be sent to each~~  
23 ~~hospital not earlier than thirty days after satisfaction of the~~  
24 ~~conditions in RCW 74.60.150(1). Payment is due not sooner than thirty~~  
25 ~~days thereafter. Except for the initial)) Assessment(~~(,))~~) notices  
26 must be sent on or about thirty days prior to the end of each quarter  
27 and payment is due thirty days thereafter.~~

28 (b) Effective (~~October 1, 2013~~) July 1, 2015, and except as  
29 provided in RCW 74.60.050:

30 (i) (~~For fiscal year 2014, an annual assessment for amounts~~  
31 ~~determined as described in (b)(ii) through (iv) of this subsection is~~  
32 ~~imposed for the time period of October 1, 2013, through June 30,~~  
33 ~~2014. The initial assessment notice must cover amounts due from~~  
34 ~~October 1, 2013, through either: (A) The end of the calendar quarter~~  
35 ~~prior to the satisfaction of the conditions in RCW 74.60.150(1) if~~  
36 ~~federal approval is received more than forty five days prior to the~~  
37 ~~end of a quarter; or (B) the end of the calendar quarter after the~~  
38 ~~satisfaction of the conditions in RCW 74.60.150(1) if federal~~  
39 ~~approval is received within forty five days of the end of a quarter.~~

1 For subsequent assessments during fiscal year 2014, the authority  
2 shall calculate the amount due annually and shall issue assessments  
3 for the appropriate proportion of the annual amount due from each  
4 hospital;

5 ~~((ii) After the assessments described in (b)(i) of this~~  
6 ~~subsection,))~~ Each prospective payment system hospital, except  
7 psychiatric and rehabilitation hospitals, shall pay a quarterly  
8 assessment. Each quarterly assessment shall be no more than one  
9 quarter of three hundred ~~((forty-four))~~ forty-five dollars for each  
10 annual nonmedicare hospital inpatient day, up to a maximum of fifty-  
11 four thousand days per year. For each nonmedicare hospital inpatient  
12 day in excess of fifty-four thousand days, each prospective payment  
13 system hospital shall pay an assessment of one quarter of seven  
14 dollars for each such day;

15 ~~((iii) After the assessments described in (b)(i) of this~~  
16 ~~subsection,))~~ (ii) Each critical access hospital shall pay a  
17 quarterly assessment of one quarter of ten dollars for each annual  
18 nonmedicare hospital inpatient day;

19 ~~((iv) After the assessments described in (b)(i) of this~~  
20 ~~subsection,))~~ (iii) Each psychiatric hospital shall pay a quarterly  
21 assessment of one quarter of ~~((sixty-seven))~~ sixty-eight dollars for  
22 each annual nonmedicare hospital inpatient day; and

23 ~~((v) After the assessments described in (b)(i) of this~~  
24 ~~subsection,))~~ (iv) Each rehabilitation hospital shall pay a quarterly  
25 assessment of one quarter of ~~((sixty-seven))~~ sixty-eight dollars for  
26 each annual nonmedicare hospital inpatient day.

27 (2) The authority shall determine each hospital's annual  
28 nonmedicare hospital inpatient days by summing the total reported  
29 nonmedicare hospital inpatient days for each hospital that is not  
30 exempt from the assessment under RCW 74.60.040~~((, taken))~~. The  
31 authority shall obtain inpatient data from the hospital's 2552 cost  
32 report data file or successor data file available through the centers  
33 for medicare and medicaid services, as of a date to be determined by  
34 the authority. For state fiscal year ~~((2014))~~ 2016, the authority  
35 shall use cost report data for hospitals' fiscal years ending in  
36 ~~((2010))~~ 2012. For subsequent years, the hospitals' next succeeding  
37 fiscal year cost report data must be used.

38 (a) With the exception of a prospective payment system hospital  
39 commencing operations after January 1, 2009, for any hospital without  
40 a cost report for the relevant fiscal year, the authority shall work

1 with the affected hospital to identify appropriate supplemental  
2 information that may be used to determine annual nonmedicare hospital  
3 inpatient days.

4 (b) A prospective payment system hospital commencing operations  
5 after January 1, 2009, must be assessed in accordance with this  
6 section after becoming an eligible new prospective payment system  
7 hospital as defined in RCW 74.60.010.

8 **Sec. 4.** RCW 74.60.050 and 2013 2nd sp.s. c 17 s 5 are each  
9 amended to read as follows:

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

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

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

20 (c) Adjustment of the assessment amounts in accordance with  
21 subsection((s)) (2) (~~and (3)~~) of this section.

22 (2) For state fiscal year ((2015)) 2016 and each subsequent state  
23 fiscal year, the assessment amounts established under RCW 74.60.030  
24 must be adjusted as follows:

25 (a) If sufficient other funds, including federal funds, are  
26 available to make the payments required under this chapter and fund  
27 the state portion of the quality incentive payments under RCW  
28 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment  
29 under RCW 74.60.030, the authority shall reduce the amount of the  
30 assessment to the minimum levels necessary to support those payments;

31 (b) If the total amount of inpatient or outpatient supplemental  
32 payments under RCW 74.60.120 is in excess of the upper payment limit  
33 and the entire excess amount cannot be disbursed by additional  
34 payments to managed care organizations under RCW 74.60.130, the  
35 authority shall proportionately reduce future assessments on  
36 prospective payment hospitals to the level necessary to generate  
37 additional payments to hospitals that are consistent with the upper  
38 payment limit plus the maximum permissible amount of additional  
39 payments to managed care organizations under RCW 74.60.130;

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

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

13 (e) If the number of nonmedicare inpatient days applied to the  
14 rates provided in RCW 74.60.030 will not produce sufficient funds to  
15 support the payments required under this chapter and the state  
16 portion of the quality incentive payments under RCW 74.09.611 and  
17 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may  
18 be increased proportionately by category of hospital to amounts no  
19 greater than necessary in order to produce the required level of  
20 funds needed to make the payments specified in this chapter and the  
21 state portion of the quality incentive payments under RCW 74.09.611  
22 and 74.60.020(4)(f); and

23 (f) Any actual or estimated surplus remaining in the fund at the  
24 end of the fiscal year must be applied to reduce the assessment  
25 amount for the subsequent fiscal year or that fiscal year and the  
26 following year.

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

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

33 ~~(b) If sufficient other funds, including federal funds, are~~  
34 ~~available to make the payments required under this chapter and fund~~  
35 ~~the state portion of the quality incentive payments under RCW~~  
36 ~~74.09.611 and 74.60.020(4)(f) without utilizing the full assessment~~  
37 ~~under RCW 74.60.030, the authority shall reduce the amount of the~~  
38 ~~assessment to the minimum levels necessary to support those payments;~~

39 ~~(c) If in any fiscal year the total amount of inpatient or~~  
40 ~~outpatient supplemental payments under RCW 74.60.120 is in excess of~~

1 ~~the upper payment limit and the entire excess amount cannot be~~  
2 ~~disbursed by additional payments to managed care organizations under~~  
3 ~~RCW 74.60.130, the authority shall proportionately reduce future~~  
4 ~~assessments on prospective payment hospitals to the level necessary~~  
5 ~~to generate additional payments to hospitals that are consistent with~~  
6 ~~the upper payment limit plus the maximum permissible amount of~~  
7 ~~additional payments to managed care organizations under RCW~~  
8 ~~74.60.130;~~

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

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

21 ~~(f) If the number of nonmedicare inpatient days applied to the~~  
22 ~~rates provided in RCW 74.60.030 will not produce sufficient funds to~~  
23 ~~support the payments required under this chapter and the state~~  
24 ~~portion of the quality incentive payments under RCW 74.09.611 and~~  
25 ~~74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may~~  
26 ~~be increased proportionately by category of hospital to amounts no~~  
27 ~~greater than necessary in order to produce the required level of~~  
28 ~~funds needed to make the payments specified in this chapter and the~~  
29 ~~state portion of the quality incentive payments under RCW 74.09.611~~  
30 ~~and 74.60.020(4)(f); and~~

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

34 ~~(4)))(a) Any adjustment to the assessment amounts pursuant to~~  
35 ~~this section, and the data supporting such adjustment, including, but~~  
36 ~~not limited to, relevant data listed in (b) of this subsection, must~~  
37 ~~be submitted to the Washington state hospital association for review~~  
38 ~~and comment at least sixty calendar days prior to implementation of~~  
39 ~~such adjusted assessment amounts. Any review and comment provided by~~  
40 ~~the Washington state hospital association does not limit the ability~~



1 of the Washington state hospital association or its members to  
2 challenge an adjustment or other action by the authority that is not  
3 made in accordance with this chapter.

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

9 (i) The fund balance;

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

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

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

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

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

26 (vii) The amount of payments made to managed care plans under RCW  
27 74.60.130, including the amount representing additional premium tax,  
28 and the data used to calculate those payments.

29 (c) On a monthly basis, the authority shall provide the  
30 Washington state hospital association the amount of payments made to  
31 managed care plans under RCW 74.60.130, including the amount  
32 representing additional premium tax, and the data used to calculate  
33 those payments.

34 **Sec. 5.** RCW 74.60.090 and 2013 2nd sp.s. c 17 s 8 are each  
35 amended to read as follows:

36 (1) In each fiscal year commencing upon satisfaction of the  
37 applicable conditions in RCW 74.60.150(1), funds must be disbursed  
38 from the fund and the authority shall make grants to certified public

1 expenditure hospitals, which shall not be considered payments for  
2 hospital services, as follows:

3 (a) University of Washington medical center: (~~Three million~~  
4 ~~three hundred thousand dollars per state fiscal year in fiscal years~~  
5 ~~2014 and 2015, and then reduced in approximately equal increments per~~  
6 ~~fiscal year until the grant amount is zero by July 1,~~) Four million  
7 four hundred fifty-five thousand dollars in each state fiscal year  
8 2016 through 2019;

9 (b) Harborview medical center: (~~Seven million six hundred~~  
10 ~~thousand dollars per state fiscal year in fiscal years 2014 and 2015,~~  
11 ~~and then reduced in approximately equal increments per fiscal year~~  
12 ~~until the grant amount is zero by July 1,~~) Ten million two hundred  
13 sixty thousand dollars in each state fiscal year 2016 through 2019;

14 (c) All other certified public expenditure hospitals: (~~Four~~  
15 ~~million seven hundred thousand dollars per state fiscal year in~~  
16 ~~fiscal years 2014 and 2015, and then reduced in approximately equal~~  
17 ~~increments per fiscal year until the grant amount is zero by July~~  
18 ~~1,~~) Six million three hundred forty-five thousand dollars in each  
19 state fiscal year 2016 through 2019. The amount of payments to  
20 individual hospitals under this subsection must be determined using a  
21 methodology that provides each hospital with a proportional  
22 allocation of the group's total amount of medicaid and state  
23 children's health insurance program payments determined from claims  
24 and encounter data using the same general methodology set forth in  
25 RCW 74.60.120 (3) and (4).

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

34 **Sec. 6.** RCW 74.60.100 and 2013 2nd sp.s. c 17 s 9 are each  
35 amended to read as follows:

36 In each fiscal year commencing upon satisfaction of the  
37 conditions in RCW 74.60.150(1), the authority shall make access  
38 payments to critical access hospitals that do not qualify for or  
39 receive a small rural disproportionate share hospital payment in a

1 given fiscal year in the total amount of (~~five hundred twenty~~)  
2 seven hundred two thousand dollars from the fund and to critical  
3 access hospitals that receive disproportionate share payments in the  
4 total amount of one million three hundred thirty-six thousand  
5 dollars. The amount of payments to individual hospitals under this  
6 section must be determined using a methodology that provides each  
7 hospital with a proportional allocation of the group's total amount  
8 of medicaid and state children's health insurance program payments  
9 determined from claims and encounter data using the same general  
10 methodology set forth in RCW 74.60.120 (3) and (4). Payments must be  
11 made after the authority determines a hospital's payments under RCW  
12 74.60.110. These payments shall be in addition to any other amount  
13 payable with respect to services provided by critical access  
14 hospitals and shall not reduce any other payments to critical access  
15 hospitals. The authority shall provide a report of such payments to  
16 the Washington state hospital association within thirty days after  
17 payments are made.

18 **Sec. 7.** RCW 74.60.120 and 2014 c 143 s 2 are each amended to  
19 read as follows:

20 (1) (~~Beginning~~) In each state fiscal year (~~2014~~), commencing  
21 (~~thirty days after~~) upon satisfaction of the applicable conditions  
22 in RCW 74.60.150(1), (~~and for the period of state fiscal years 2014~~  
23 ~~through 2019,~~) the authority shall make supplemental payments  
24 directly to Washington hospitals, separately for inpatient and  
25 outpatient fee-for-service medicaid services, as follows:

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

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

1 (c) For inpatient fee-for-service payments for psychiatric  
2 hospitals, (~~six hundred twenty five thousand~~) eight hundred  
3 seventy-five thousand dollars per state fiscal year (~~in fiscal years~~  
4 ~~2014 and 2015, and then amounts reduced in equal increments per~~  
5 ~~fiscal year until the supplemental payment amount is zero by July 1,~~  
6 ~~2019, from the fund,~~) plus federal matching funds;

7 (d) For inpatient fee-for-service payments for rehabilitation  
8 hospitals, (~~one hundred fifty thousand~~) two hundred twenty-five  
9 thousand dollars per state fiscal year (~~in fiscal years 2014 and~~  
10 ~~2015, and then amounts reduced in equal increments per fiscal year~~  
11 ~~until the supplemental payment amount is zero by July 1, 2019, from~~  
12 ~~the fund,~~) plus federal matching funds;

13 (e) For inpatient fee-for-service payments for border hospitals,  
14 two hundred fifty thousand dollars per state fiscal year (~~in fiscal~~  
15 ~~years 2014 and 2015, and then amounts reduced in equal increments per~~  
16 ~~fiscal year until the supplemental payment amount is zero by July 1,~~  
17 ~~2019, from the fund,~~) plus federal matching funds; and

18 (f) For outpatient fee-for-service payments for border hospitals,  
19 two hundred fifty thousand dollars per state fiscal year (~~in fiscal~~  
20 ~~years 2014 and 2015, and then amounts reduced in equal increments per~~  
21 ~~fiscal year until the supplemental payment amount is zero by July 1,~~  
22 ~~2019, from the fund,~~) plus federal matching funds.

23 (2) If the amount of inpatient or outpatient payments under  
24 subsection (1) of this section, when combined with federal matching  
25 funds, exceeds the upper payment limit, payments to each category of  
26 hospital must be reduced proportionately to a level where the total  
27 payment amount is consistent with the upper payment limit. Funds  
28 under this chapter unable to be paid to hospitals under this section  
29 because of the upper payment limit must be paid to managed care  
30 organizations under RCW 74.60.130, subject to the limitations in this  
31 chapter.

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

36 (a) Applying the medicaid fee-for-service rates in effect on July  
37 1, 2009, without regard to the increases required by chapter 30, Laws  
38 of 2010 1st sp. sess. to each hospital's inpatient fee-for-services  
39 claims and medicaid managed care encounter data for the base year;

1 (b) Applying the medicaid fee-for-service rates in effect on July  
2 1, 2009, without regard to the increases required by chapter 30, Laws  
3 of 2010 1st sp. sess. to all hospitals' inpatient fee-for-services  
4 claims and medicaid managed care encounter data for the base year;  
5 and

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

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

12 (a) Applying the medicaid fee-for-service rates in effect on July  
13 1, 2009, without regard to the increases required by chapter 30, Laws  
14 of 2010 1st sp. sess. to each hospital's outpatient fee-for-services  
15 claims and medicaid managed care encounter data for the base year;

16 (b) Applying the medicaid fee-for-service rates in effect on July  
17 1, 2009, without regard to the increases required by chapter 30, Laws  
18 of 2010 1st sp. sess. to all hospitals' outpatient fee-for-services  
19 claims and medicaid managed care encounter data for the base year;  
20 and

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

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

29 (6) Payments must be made in quarterly installments on or about  
30 the last day of every quarter. (~~The initial payment must be made  
31 within thirty days after satisfaction of the conditions in RCW  
32 74.60.150(1) and must include all amounts due from July 1, 2013, to  
33 either: (a) The end of the calendar quarter prior to when the  
34 conditions in RCW 70.60.150(1) [74.60.150(1)] are satisfied if  
35 approval is received more than forty five days prior to the end of a  
36 quarter; or (b) the end of the calendar quarter after the  
37 satisfaction of the conditions in RCW 74.60.150(1) if approval is  
38 received within forty five days of the end of a quarter.~~)

39 (7) A prospective payment system hospital commencing operations  
40 after January 1, 2009, is eligible to receive payments in accordance

1 with this section after becoming an eligible new prospective payment  
2 system hospital as defined in RCW 74.60.010.

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

5 **Sec. 8.** RCW 74.60.130 and 2014 c 143 s 3 are each amended to  
6 read as follows:

7 (1) For state fiscal year ~~((2014))~~ 2016 and for each subsequent  
8 fiscal year, commencing within thirty days after satisfaction of the  
9 conditions in RCW 74.60.150(1) and subsection ~~((+6))~~ (5) of this  
10 section, ~~((and for the period of state fiscal years 2014 through~~  
11 ~~2019,))~~ the authority shall increase capitation payments in a manner  
12 consistent with federal contracting requirements to managed care  
13 organizations by an amount at least equal to the amount available  
14 from the fund after deducting disbursements authorized by RCW  
15 74.60.020(4) (c) through (f) and payments required by RCW 74.60.080  
16 through 74.60.120. The capitation payment under this subsection must  
17 be no less than one hundred ~~((fifty-three))~~ million ~~((one hundred~~  
18 ~~thirty-one thousand six hundred))~~ dollars per state fiscal year ~~((in~~  
19 ~~fiscal years 2014 and 2015, and then the increased capitation payment~~  
20 ~~amounts are reduced in equal increments per fiscal year until the~~  
21 ~~increased capitation payment amount is zero by July 1, 2019,))~~ plus  
22 the maximum available amount of federal matching funds. The initial  
23 payment following satisfaction of the conditions in RCW 74.60.150(1)  
24 must include all amounts due from July 1, ~~((2013))~~ 2015, to the end  
25 of the calendar month during which the conditions in RCW 74.60.150(1)  
26 are satisfied. Subsequent payments shall be made monthly.

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

34 ~~(3))~~ Payments to individual managed care organizations shall be  
35 determined by the authority based on each organization's or network's  
36 enrollment relative to the anticipated total enrollment in each  
37 program for the fiscal year in question, the anticipated utilization  
38 of hospital services by an organization's or network's medicaid

1 enrollees, and such other factors as are reasonable and appropriate  
2 to ensure that purposes of this chapter are met.

3 ~~((4))~~ (3) If the federal government determines that total  
4 payments to managed care organizations under this section exceed what  
5 is permitted under applicable medicaid laws and regulations, payments  
6 must be reduced to levels that meet such requirements, and the  
7 balance remaining must be applied as provided in RCW 74.60.050.  
8 Further, in the event a managed care organization is legally  
9 obligated to repay amounts distributed to hospitals under this  
10 section to the state or federal government, a managed care  
11 organization may recoup the amount it is obligated to repay under the  
12 medicaid program from individual hospitals by not more than the  
13 amount of overpayment each hospital received from that managed care  
14 organization.

15 ~~((5))~~ (4) Payments under this section do not reduce the amounts  
16 that otherwise would be paid to managed care organizations: PROVIDED,  
17 That such payments are consistent with actuarial soundness  
18 certification and enrollment.

19 ~~((6))~~ (5) Before making such payments, the authority shall  
20 require medicaid managed care organizations to comply with the  
21 following requirements:

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

32 (b) Managed care organizations shall expend the increased  
33 capitation payments under this section in a manner consistent with  
34 the purposes of this chapter, with the initial expenditures to  
35 hospitals to be made within thirty days of receipt of payment from  
36 the authority. Subsequent expenditures by the managed care plans are  
37 to be made before the end of the quarter in which funds are received  
38 from the authority;

39 (c) Providing that any delegation or attempted delegation of an  
40 organization's or network's obligations under agreements with the

1 authority do not relieve the organization or network of its  
2 obligations under this section and related contract provisions.

3 ~~((+7))~~ (6) No hospital or managed care organizations may use the  
4 payments under this section to gain advantage in negotiations.

5 ~~((+8))~~ (7) No hospital has a claim or cause of action against a  
6 managed care organization for monetary compensation based on the  
7 amount of payments under subsection ~~((+6))~~ (5) of this section.

8 ~~((+9))~~ (8) If funds cannot be used to pay for services in  
9 accordance with this chapter the managed care organization or network  
10 must return the funds to the authority which shall return them to the  
11 hospital safety net assessment fund.

12 **Sec. 9.** RCW 74.60.150 and 2013 2nd sp.s. c 17 s 15 are each  
13 amended to read as follows:

14 (1) The assessment, collection, and disbursement of funds under  
15 this chapter shall be conditional upon:

16 (a) Final approval by the centers for medicare and medicaid  
17 services of any state plan amendments or waiver requests that are  
18 necessary in order to implement the applicable sections of this  
19 chapter including, if necessary, waiver of the broad-based or  
20 uniformity requirements as specified under section 1903(w)(3)(E) of  
21 the federal social security act and 42 C.F.R. 433.68(e);

22 (b) To the extent necessary, amendment of contracts between the  
23 authority and managed care organizations in order to implement this  
24 chapter; and

25 (c) Certification by the office of financial management that  
26 appropriations have been adopted that fully support the rates  
27 established in this chapter for the upcoming fiscal year.

28 (2) This chapter does not take effect or ceases to be imposed,  
29 and any moneys remaining in the fund shall be refunded to hospitals  
30 in proportion to the amounts paid by such hospitals, if and to the  
31 extent that any of the following conditions occur:

32 (a) The federal department of health and human services and a  
33 court of competent jurisdiction makes a final determination, with all  
34 appeals exhausted, that any element of this chapter, other than RCW  
35 74.60.100, cannot be validly implemented;

36 (b) Funds generated by the assessment for payments to prospective  
37 payment hospitals or managed care organizations are determined to be  
38 not eligible for federal match;



1 (c) Other funding sufficient to maintain aggregate payment levels  
2 to hospitals for inpatient and outpatient services covered by  
3 medicaid, including fee-for-service and managed care, at least at the  
4 levels the state paid for those services on July 1, ~~((2009))~~ 2015, as  
5 adjusted for current enrollment and utilization(~~(, but without regard~~  
6 ~~to payment increases resulting from chapter 30, Laws of 2010 1st sp.~~  
7 ~~sess. 7))~~) is not appropriated or available;

8 (d) Payments required by this chapter are reduced, except as  
9 specifically authorized in this chapter, or payments are not made in  
10 substantial compliance with the time frames set forth in this  
11 chapter; or

12 (e) The fund is used as a substitute for or to supplant other  
13 funds, except as authorized by RCW 74.60.020.

14 **Sec. 10.** RCW 74.60.160 and 2013 2nd sp.s. c 17 s 17 are each  
15 amended to read as follows:

16 (1) The legislature intends to provide the hospitals with an  
17 opportunity to contract with the authority each fiscal biennium to  
18 protect the hospitals from future legislative action during the  
19 biennium that could result in hospitals receiving less from  
20 supplemental payments, increased managed care payments,  
21 disproportionate share hospital payments, or access payments than the  
22 hospitals expected to receive in return for the assessment based on  
23 the biennial appropriations and assessment legislation.

24 (2) Each odd-numbered year after enactment of the biennial  
25 omnibus operating appropriations act, the authority shall offer to  
26 enter into a contract or to extend an existing contract for the  
27 period of the fiscal biennium beginning July 1st with a hospital that  
28 is required to pay the assessment under this chapter. The contract  
29 must include the following terms:

30 (a) The authority must agree not to do any of the following:

31 (i) Increase the assessment from the level set by the authority  
32 pursuant to this chapter on the first day of the contract period for  
33 reasons other than those allowed under RCW 74.60.050(~~((+3+))~~) (2)(e);

34 (ii) Reduce aggregate payment levels to hospitals for inpatient  
35 and outpatient services covered by medicaid, including fee-for-  
36 service and managed care, (~~((allowing for variations due to budget-~~  
37 ~~neutral rebasing and))~~) adjusting for changes in enrollment and  
38 utilization, from the levels the state paid for those services on the  
39 first day of the contract period;

1 (iii) For critical access hospitals only, reduce the levels of  
2 disproportionate share hospital payments under RCW 74.60.110 or  
3 access payments under RCW 74.60.100 for all critical access hospitals  
4 below the levels specified in those sections on the first day of the  
5 contract period;

6 (iv) For prospective payment system, psychiatric, and  
7 rehabilitation hospitals only, reduce the levels of supplemental  
8 payments under RCW 74.60.120 for all prospective payment system  
9 hospitals below the levels specified in that section on the first day  
10 of the contract period unless the supplemental payments are reduced  
11 under RCW 74.60.120(2);

12 (v) For prospective payment system, psychiatric, and  
13 rehabilitation hospitals only, reduce the increased capitation  
14 payments to managed care organizations under RCW 74.60.130 below the  
15 levels specified in that section on the first day of the contract  
16 period unless the managed care payments are reduced under RCW  
17 74.60.130(~~((4))~~) (3); or

18 (vi) Except as specified in this chapter, use assessment revenues  
19 for any other purpose than to secure federal medicaid matching funds  
20 to support payments to hospitals for medicaid services; and

21 (b) As long as payment levels are maintained as required under  
22 this chapter, the hospital must agree not to challenge the  
23 authority's reduction of hospital reimbursement rates to July 1,  
24 2009, levels, which results from the elimination of assessment  
25 supported rate restorations and increases, under 42 U.S.C. Sec.  
26 1396a(a)(30)(a) either through administrative appeals or in court  
27 during the period of the contract.

28 (3) If a court finds that the authority has breached an agreement  
29 with a hospital under subsection (2)(a) of this section, the  
30 authority:

31 (a) Must immediately refund any assessment payments made  
32 subsequent to the breach by that hospital upon receipt; and

33 (b) May discontinue supplemental payments, increased managed care  
34 payments, disproportionate share hospital payments, and access  
35 payments made subsequent to the breach for the hospital that are  
36 required under this chapter.

37 (4) The remedies provided in this section are not exclusive of  
38 any other remedies and rights that may be available to the hospital  
39 whether provided in this chapter or otherwise in law, equity, or  
40 statute.

1       **Sec. 11.** RCW 74.60.901 and 2013 2nd sp.s. c 17 s 19 are each  
2 amended to read as follows:

3       This chapter expires July 1, (~~2017~~) 2019.

4       NEW SECTION.   **Sec. 12.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of  
6 the state government and its existing public institutions, and takes  
7 effect immediately.

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