

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5815

Chapter 228, Laws of 2017

65th Legislature
2017 Regular Session

HOSPITAL SAFETY NET ASSESSMENT--EXTENSION

EFFECTIVE DATE: 7/1/2017

Passed by the Senate April 19, 2017
Yeas 47 Nays 2

CYRUS HABIB

President of the Senate

Passed by the House April 18, 2017
Yeas 91 Nays 5

FRANK CHOPP

Speaker of the House of Representatives

Approved May 5, 2017 11:03 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5815** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 5, 2017

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5815

AS AMENDED BY THE HOUSE

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rivers, Cleveland, Becker, and Ranker)

READ FIRST TIME 03/22/17.

1 AN ACT Relating to the hospital safety net assessment; amending
2 RCW 74.60.005, 74.60.010, 74.60.020, 74.60.030, 74.60.050, 74.60.090,
3 74.60.100, 74.60.120, 74.60.130, 74.60.150, 74.60.160, 74.60.901, and
4 74.60.902; adding a new section to chapter 74.60 RCW; providing an
5 effective date; providing an expiration date; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 74.60.005 and 2015 2nd sp.s. c 5 s 1 are each
9 amended to read as follows:

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

15 (2) The legislature finds that federal health care reform will
16 result in an expansion of medicaid enrollment in this state and an
17 increase in federal financial participation.

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

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

1 (b) To generate approximately (~~nine hundred seventy five~~
2 ~~million~~) one billion dollars per state fiscal biennium in new state
3 and federal funds by disbursing all of that amount to pay for
4 medicaid hospital services and grants to certified public expenditure
5 and critical access hospitals, except costs of administration as
6 specified in this chapter, in the form of additional payments to
7 hospitals and managed care plans, which may not be a substitute for
8 payments from other sources, but which include quality improvement
9 incentive payments under RCW 74.09.611;

10 (c) To generate two hundred ninety-two million dollars per
11 biennium during the (~~2015-2017 and~~) 2017-2019 and 2019-2021 biennia
12 in new funds to be used in lieu of state general fund payments for
13 medicaid hospital services;

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

17 (e) To condition the assessment on receiving federal approval for
18 receipt of additional federal financial participation and on
19 continuation of other funding sufficient to maintain aggregate
20 payment levels to hospitals for inpatient and outpatient services
21 covered by medicaid, including fee-for-service and managed care, at
22 least at the (~~levels~~) rates the state paid for those services on
23 July 1, 2015, as adjusted for current enrollment and utilization; and

24 (f) For each of the two biennia starting with fiscal year
25 (~~2016~~) 2018 to generate:

26 (i) Four million dollars for new integrated evidence-based
27 psychiatry residency program slots that did not receive state funding
28 prior to 2016 at the integrated psychiatry residency program at the
29 University of Washington; and

30 (ii) Eight million two hundred thousand dollars for new family
31 medicine residency program slots that did not receive state funding
32 prior to 2016, as directed through the family medicine residency
33 network at the University of Washington, for slots where residents
34 are employed by hospitals.

35 **Sec. 2.** RCW 74.60.010 and 2013 2nd sp.s. c 17 s 2 are each
36 amended to read as follows:

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

39 (1) "Authority" means the health care authority.

1 (2) "Base year" for medicaid payments for state fiscal year
2 ((2014)) 2017 is state fiscal year ((2011)) 2014. For each following
3 year's calculations, the base year must be updated to the next
4 following year.

5 (3) "Bordering city hospital" means a hospital as defined in WAC
6 182-550-1050 and bordering cities as described in WAC 182-501-0175,
7 or successor rules.

8 (4) "Certified public expenditure hospital" means a hospital
9 participating in or that at any point from June 30, 2013, to July 1,
10 2019, has participated in the authority's certified public
11 expenditure payment program as described in WAC 182-550-4650 or
12 successor rule. For purposes of this chapter any such hospital shall
13 continue to be treated as a certified public expenditure hospital for
14 assessment and payment purposes through the date specified in RCW
15 74.60.901. The eligibility of such hospitals to receive grants under
16 RCW 74.60.090 solely from funds generated under this chapter must not
17 be affected by any modification or termination of the federal
18 certified public expenditure program, or reduced by the amount of any
19 federal funds no longer available for that purpose.

20 (5) "Critical access hospital" means a hospital as described in
21 RCW 74.09.5225.

22 (6) "Director" means the director of the health care authority.

23 (7) "Eligible new prospective payment hospital" means a
24 prospective payment hospital opened after January 1, 2009, for which
25 a full year of cost report data as described in RCW 74.60.030(2) and
26 a full year of medicaid base year data required for the calculations
27 in RCW 74.60.120(3) are available.

28 (8) "Fund" means the hospital safety net assessment fund
29 established under RCW 74.60.020.

30 (9) "Hospital" means a facility licensed under chapter 70.41 RCW.

31 (10) "Long-term acute care hospital" means a hospital which has
32 an average inpatient length of stay of greater than twenty-five days
33 as determined by the department of health.

34 (11) "Managed care organization" means an organization having a
35 certificate of authority or certificate of registration from the
36 office of the insurance commissioner that contracts with the
37 authority under a comprehensive risk contract to provide prepaid
38 health care services to eligible clients under the authority's
39 medicaid managed care programs, including the healthy options
40 program.

1 (12) "Medicaid" means the medical assistance program as
2 established in Title XIX of the social security act and as
3 administered in the state of Washington by the authority.

4 (13) "Medicare cost report" means the medicare cost report, form
5 2552, or successor document.

6 (14) "Nonmedicare hospital inpatient day" means total hospital
7 inpatient days less medicare inpatient days, including medicare days
8 reported for medicare managed care plans, as reported on the medicare
9 cost report, form 2552, or successor forms, excluding all skilled and
10 nonskilled nursing facility days, skilled and nonskilled swing bed
11 days, nursery days, observation bed days, hospice days, home health
12 agency days, and other days not typically associated with an acute
13 care inpatient hospital stay.

14 (15) "Outpatient" means services provided classified as
15 ambulatory payment classification services or successor payment
16 methodologies as defined in WAC 182-550-7050 or successor rule and
17 applies to fee-for-service payments and managed care encounter data.

18 (16) "Prospective payment system hospital" means a hospital
19 reimbursed for inpatient and outpatient services provided to medicaid
20 beneficiaries under the inpatient prospective payment system and the
21 outpatient prospective payment system as defined in WAC 182-550-1050
22 or successor rule. For purposes of this chapter, prospective payment
23 system hospital does not include a hospital participating in the
24 certified public expenditure program or a bordering city hospital
25 located outside of the state of Washington and in one of the
26 bordering cities listed in WAC 182-501-0175 or successor rule.

27 (17) "Psychiatric hospital" means a hospital facility licensed as
28 a psychiatric hospital under chapter 71.12 RCW.

29 (18) "Rehabilitation hospital" means a medicare-certified
30 freestanding inpatient rehabilitation facility.

31 (19) "Small rural disproportionate share hospital payment" means
32 a payment made in accordance with WAC 182-550-5200 or successor rule.

33 (20) "Upper payment limit" means the aggregate federal upper
34 payment limit on the amount of the medicaid payment for which federal
35 financial participation is available for a class of service and a
36 class of health care providers, as specified in 42 C.F.R. Part 47, as
37 separately determined for inpatient and outpatient hospital services.

38 **Sec. 3.** RCW 74.60.020 and 2015 2nd sp.s. c 5 s 2 are each
39 amended to read as follows:

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

9 (a) Any unexpended balance in the fund at the end of a fiscal
10 year shall carry over into the following fiscal year or that fiscal
11 year and the following fiscal year and shall be applied to reduce the
12 amount of the assessment under RCW 74.60.050(1)(c).

13 (b) Any amounts remaining in the fund after July 1, ((2019))
14 2021, shall be refunded to hospitals, pro rata according to the
15 amount paid by the hospital since July 1, 2013, subject to the
16 limitations of federal law.

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

20 (3) Disbursements from the fund are conditioned upon
21 appropriation and the continued availability of other funds
22 sufficient to maintain aggregate payment levels to hospitals for
23 inpatient and outpatient services covered by medicaid, including fee-
24 for-service and managed care, at least at the levels the state paid
25 for those services on July 1, 2015, as adjusted for current
26 enrollment and utilization.

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

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

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

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

35 (d) For two hundred ((~~eighty-three~~)) ninety-two million dollars
36 per biennium, to be used in lieu of state general fund payments for
37 medicaid hospital services, provided that if the full amount of the
38 payments required under RCW 74.60.120 and 74.60.130 cannot be
39 distributed in a given fiscal year, this amount must be reduced
40 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. By May 16, 2018 and by
17 each May 16 thereafter, the authority, in cooperation with the
18 department of health, must verify that each hospital eligible to
19 receive quality improvement incentives under the terms of this
20 chapter is in substantial compliance with the reporting requirements
21 in RCW 43.70.052 and 70.01.040 for the prior period. For the purposes
22 of this subsection, "substantial compliance" means, in the prior
23 period, the hospital has submitted at least nine of the twelve
24 monthly reports by the due date. The authority must distribute
25 quality improvement incentives to hospitals that have met these
26 requirements beginning July 1 of 2018 and each July 1 thereafter; and

27 (g) For each state fiscal year (~~2016~~) 2018 through (~~2019~~)
28 2021 to generate:

29 (i) Two million dollars for new integrated evidence-based
30 psychiatry residency program slots that did not receive state funding
31 prior to 2016 at the integrated psychiatry residency program at the
32 University of Washington; and

33 (ii) Four million one hundred thousand dollars for new family
34 medicine residency program slots that did not receive state funding
35 prior to 2016, as directed through the family medicine residency
36 network at the University of Washington, for slots where residents
37 are employed by hospitals.

38 **Sec. 4.** RCW 74.60.030 and 2015 2nd sp.s. c 5 s 3 are each
39 amended to read as follows:

1 (1)(a) Upon satisfaction of the conditions in RCW 74.60.150(1),
2 and so long as the conditions in RCW 74.60.150(2) have not occurred,
3 an assessment is imposed as set forth in this subsection. Assessment
4 notices must be sent on or about thirty days prior to the end of each
5 quarter and payment is due thirty days thereafter.

6 (b) Effective July 1, 2015, and except as provided in RCW
7 74.60.050:

8 (i) Each prospective payment system hospital, except psychiatric
9 and rehabilitation hospitals, shall pay a quarterly assessment. Each
10 quarterly assessment shall be no more than one quarter of three
11 hundred (~~(fifty)~~) eighty dollars for each annual nonmedicare hospital
12 inpatient day, up to a maximum of fifty-four thousand days per year.
13 For each nonmedicare hospital inpatient day in excess of fifty-four
14 thousand days, each prospective payment system hospital shall pay
15 (~~(a)~~) a quarterly assessment of one quarter of seven dollars for
16 each such day, unless such assessment amount or threshold needs to be
17 modified to comply with applicable federal regulations;

18 (ii) Each critical access hospital shall pay a quarterly
19 assessment of one quarter of ten dollars for each annual nonmedicare
20 hospital inpatient day;

21 (iii) Each psychiatric hospital shall pay a quarterly assessment
22 of no more than one quarter of seventy-four dollars for each annual
23 nonmedicare hospital inpatient day; and

24 (iv) Each rehabilitation hospital shall pay a quarterly
25 assessment of no more than one quarter of seventy-four 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. The authority shall
31 obtain inpatient data from the hospital's 2552 cost report data file
32 or successor data file available through the centers for medicare and
33 medicaid services, as of a date to be determined by the authority.
34 For state fiscal year (~~(2016)~~) 2017, the authority shall use cost
35 report data for hospitals' fiscal years ending in (~~(2012)~~) 2013. For
36 subsequent years, the hospitals' next succeeding fiscal year cost
37 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. 5.** RCW 74.60.050 and 2015 2nd sp.s. c 5 s 4 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 (2) of this section.

22 (2) For ~~((state fiscal year 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 ~~((€))~~ and outpatient
32 supplemental payments under RCW 74.60.120 is in excess of the upper
33 payment limits and the entire excess amount cannot be disbursed by
34 additional payments to managed care organizations under RCW
35 74.60.130, the authority shall proportionately reduce future
36 assessments on prospective payment hospitals to the level necessary
37 to generate additional payments to hospitals that are consistent with
38 the upper payment limit plus the maximum permissible amount of

1 additional payments to managed care organizations under RCW
2 74.60.130;

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

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

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

25 (f) Any actual or estimated surplus remaining in the fund at the
26 end of the fiscal year must be applied to reduce the assessment
27 amount for the subsequent fiscal year or that fiscal year and the
28 following fiscal years prior to and including fiscal year ((2019))
29 2021.

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

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

6 (i) The fund balance;

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

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

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

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

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

23 (vii) The amount of payments made to managed care plans under RCW
24 74.60.130, including the amount representing additional premium tax,
25 and the data used to calculate those payments.

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

31 **Sec. 6.** RCW 74.60.090 and 2015 2nd sp.s. c 5 s 5 are each
32 amended to read as follows:

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

38 (a) University of Washington medical center: Ten million five
39 hundred fifty-five thousand dollars in each state fiscal year

1 ((2016)) 2018 through ((2019)) 2021 paid as follows, except if the
2 full amount of the payments required under RCW 74.60.120 and
3 74.60.130 cannot be distributed in a given fiscal year, the amounts
4 in this subsection ((~~(ii)~~ and ~~(iii)~~)) must be reduced
5 proportionately:

6 (i) Four million four hundred fifty-five thousand dollars;

7 (ii) Two million dollars to new integrated, evidence-based
8 psychiatry residency program slots that did not receive state funding
9 prior to 2016, at the integrated psychiatry residency program at the
10 University of Washington; and

11 (iii) Four million one hundred thousand dollars to new family
12 medicine residency program slots that did not receive state funding
13 prior to 2016, as directed through the family medicine residency
14 network at the University of Washington, for slots where residents
15 are employed by hospitals;

16 (b) Harborview medical center: Ten million two hundred sixty
17 thousand dollars in each state fiscal year ((2016 through 2019)) 2018
18 through 2021, except if the full amount of the payments required
19 under RCW 74.60.120 and 74.60.130 cannot be distributed in a given
20 fiscal year, the amounts in this subsection must be reduced
21 proportionately;

22 (c) All other certified public expenditure hospitals: Six million
23 three hundred forty-five thousand dollars in each state fiscal year
24 ((2016 through 2019)) 2018 through 2021, except if the full amount of
25 the payments required under RCW 74.60.120 and 74.60.130 cannot be
26 distributed in a given fiscal year, the amounts in this subsection
27 must be reduced proportionately. The amount of payments to individual
28 hospitals under this subsection must be determined using a
29 methodology that provides each hospital with a proportional
30 allocation of the group's total amount of medicaid and state
31 children's health insurance program payments determined from claims
32 and encounter data using the same general methodology set forth in
33 RCW 74.60.120 (3) and (4).

34 (2) Payments must be made quarterly, before the end of each
35 quarter, taking the total disbursement amount and dividing by four to
36 calculate the quarterly amount. The authority shall provide a
37 quarterly report of such payments to the Washington state hospital
38 association.

1 **Sec. 7.** RCW 74.60.100 and 2015 2nd sp.s. c 5 s 6 are each
2 amended to read as follows:

3 In each fiscal year commencing upon satisfaction of the
4 conditions in RCW 74.60.150(1), the authority shall make access
5 payments to critical access hospitals that do not qualify for or
6 receive a small rural disproportionate share hospital payment in a
7 given fiscal year in the total amount of (~~seven hundred~~) two
8 million thirty-eight thousand dollars from the fund (~~and to critical~~
9 ~~access hospitals that receive disproportionate share payments in the~~
10 ~~total amount of one million three hundred thirty six thousand~~
11 ~~dollars~~). The amount of payments to individual hospitals under this
12 section must be determined using a methodology that provides each
13 hospital with a proportional allocation of the group's total amount
14 of medicaid and state children's health insurance program payments
15 determined from claims and encounter data using the same general
16 methodology set forth in RCW 74.60.120 (3) and (4). Payments must be
17 made after the authority determines a hospital's payments under RCW
18 74.60.110. These payments shall be in addition to any other amount
19 payable with respect to services provided by critical access
20 hospitals and shall not reduce any other payments to critical access
21 hospitals. The authority shall provide a report of such payments to
22 the Washington state hospital association within thirty days after
23 payments are made.

24 **Sec. 8.** RCW 74.60.120 and 2015 2nd sp.s. c 5 s 7 are each
25 amended to read as follows:

26 (1) In each state fiscal year, commencing upon satisfaction of
27 the applicable conditions in RCW 74.60.150(1), the authority shall
28 make supplemental payments directly to Washington hospitals,
29 separately for inpatient and outpatient fee-for-service medicaid
30 services, as follows unless there are federal restrictions on doing
31 so. If there are federal restrictions, to the extent allowed, funds
32 that cannot be paid under (a) of this subsection, should be paid
33 under (b) of this subsection, and funds that cannot be paid under (b)
34 of this subsection, shall be paid under (a) of this subsection:

35 (a) For inpatient fee-for-service payments for prospective
36 payment hospitals other than psychiatric or rehabilitation hospitals,
37 twenty-nine million one hundred sixty-two thousand five hundred
38 dollars per state fiscal year plus federal matching funds;

1 (b) For outpatient fee-for-service payments for prospective
2 payment hospitals other than psychiatric or rehabilitation hospitals,
3 thirty million dollars per state fiscal year plus federal matching
4 funds;

5 (c) For inpatient fee-for-service payments for psychiatric
6 hospitals, eight hundred seventy-five thousand dollars per state
7 fiscal year plus federal matching funds;

8 (d) For inpatient fee-for-service payments for rehabilitation
9 hospitals, two hundred twenty-five thousand dollars per state fiscal
10 year plus federal matching funds;

11 (e) For inpatient fee-for-service payments for border hospitals,
12 two hundred fifty thousand dollars per state fiscal year plus federal
13 matching funds; and

14 (f) For outpatient fee-for-service payments for border hospitals,
15 two hundred fifty thousand dollars per state fiscal year plus federal
16 matching funds.

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

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

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

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

1 Totaling the inpatient fee-for-service claims payments and inpatient
2 managed care encounter rate payments for all hospitals during the
3 base year; and

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

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

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

14 Totaling the outpatient fee-for-service claims payments and
15 outpatient managed care encounter rate payments for each hospital
16 during the base year;

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

21 Totaling the outpatient fee-for-service claims payments and
22 outpatient managed care encounter rate payments for all hospitals
23 during the base year; and

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

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

31 (6) Payments must be made in quarterly installments on or about
32 the last day of every quarter.

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

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

1 **Sec. 9.** RCW 74.60.130 and 2015 2nd sp.s. c 5 s 8 are each
2 amended to read as follows:

3 (1) For state fiscal year 2016 and for each subsequent fiscal
4 year, commencing within thirty days after satisfaction of the
5 conditions in RCW 74.60.150(1) and subsection (5) of this section,
6 the authority shall increase capitation payments in a manner
7 consistent with federal contracting requirements to managed care
8 organizations by an amount at least equal to the amount available
9 from the fund after deducting disbursements authorized by RCW
10 74.60.020(4) (c) through (f) and payments required by RCW 74.60.080
11 through 74.60.120. When combined with applicable federal matching
12 funds, the capitation payment under this subsection must be ((no less
13 than ninety six million dollars per state fiscal year plus the
14 maximum available amount of federal matching funds)) at least three
15 hundred sixty million dollars per year. The initial payment following
16 satisfaction of the conditions in RCW 74.60.150(1) must include all
17 amounts due from July 1, 2015, to the end of the calendar month
18 during which the conditions in RCW 74.60.150(1) are satisfied.
19 Subsequent payments shall be made monthly.

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

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

39 (4) Payments under this section do not reduce the amounts that
40 otherwise would be paid to managed care organizations: PROVIDED, That

1 such payments are consistent with actuarial soundness certification
2 and enrollment.

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

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

16 (b) Managed care organizations shall expend the increased
17 capitation payments under this section in a manner consistent with
18 the purposes of this chapter, with the initial expenditures to
19 hospitals to be made within thirty days of receipt of payment from
20 the authority. Subsequent expenditures by the managed care plans are
21 to be made before the end of the quarter in which funds are received
22 from the authority;

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

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

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

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

36 **Sec. 10.** RCW 74.60.150 and 2015 2nd sp.s. c 5 s 9 are each
37 amended to read as follows:

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

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

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

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

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

17 (a) The federal department of health and human services and a
18 court of competent jurisdiction makes a final determination, with all
19 appeals exhausted, that any element of this chapter, other than RCW
20 74.60.100, cannot be validly implemented;

21 (b) Funds generated by the assessment for payments to prospective
22 payment hospitals or managed care organizations are determined to be
23 not eligible for federal ~~((match))~~ matching funds in addition to
24 those federal funds that would be received without the assessment, or
25 the federal government replaces medicaid matching funds with a block
26 grant or grants;

27 (c) Other funding sufficient to maintain aggregate payment levels
28 to hospitals for inpatient and outpatient services covered by
29 medicaid, including fee-for-service and managed care, at least at the
30 ~~((levels))~~ rates the state paid for those services on July 1, 2015,
31 as adjusted for current enrollment and utilization is not
32 appropriated or available;

33 (d) Payments required by this chapter are reduced, except as
34 specifically authorized in this chapter, or payments are not made in
35 substantial compliance with the time frames set forth in this
36 chapter; or

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

1 **Sec. 11.** RCW 74.60.160 and 2015 2nd sp.s. c 5 s 10 are each
2 amended to read as follows:

3 (1) The legislature intends to provide the hospitals with an
4 opportunity to contract with the authority each fiscal biennium to
5 protect the hospitals from future legislative action during the
6 biennium that could result in hospitals receiving less from
7 supplemental payments, increased managed care payments,
8 disproportionate share hospital payments, or access payments than the
9 hospitals expected to receive in return for the assessment based on
10 the biennial appropriations and assessment legislation.

11 (2) Each odd-numbered year after enactment of the biennial
12 omnibus operating appropriations act, the authority shall ~~((offer to~~
13 ~~enter into a contract or to))~~ extend ~~((an))~~ the existing contract for
14 the period of the fiscal biennium beginning July 1st with a hospital
15 that is required to pay the assessment under this chapter or shall
16 offer to enter into a contract with any hospital subject to this
17 chapter that has not previously been a party to a contract or whose
18 contract has expired. The contract must include the following terms:

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

20 (i) Increase the assessment from the level set by the authority
21 pursuant to this chapter on the first day of the contract period for
22 reasons other than those allowed under RCW 74.60.050(2)(e);

23 (ii) Reduce aggregate payment levels to hospitals for inpatient
24 and outpatient services covered by medicaid, including fee-for-
25 service and managed care, adjusting for changes in enrollment and
26 utilization, from the levels the state paid for those services on the
27 first day of the contract period;

28 (iii) For critical access hospitals only, reduce the levels of
29 disproportionate share hospital payments under RCW 74.60.110 or
30 access payments under RCW 74.60.100 for all critical access hospitals
31 below the levels specified in those sections on the first day of the
32 contract period;

33 (iv) For prospective payment system, psychiatric, and
34 rehabilitation hospitals only, reduce the levels of supplemental
35 payments under RCW 74.60.120 for all prospective payment system
36 hospitals below the levels specified in that section on the first day
37 of the contract period unless the supplemental payments are reduced
38 under RCW 74.60.120(2);

39 (v) For prospective payment system, psychiatric, and
40 rehabilitation hospitals only, reduce the increased capitation

1 payments to managed care organizations under RCW 74.60.130 below the
2 levels specified in that section on the first day of the contract
3 period unless the managed care payments are reduced under RCW
4 74.60.130(3); or

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

8 (b) As long as payment levels are maintained as required under
9 this chapter, the hospital must agree not to challenge the
10 authority's reduction of hospital reimbursement rates to July 1,
11 2009, levels, which results from the elimination of assessment
12 supported rate restorations and increases, under 42 U.S.C. Sec.
13 1396a(a)(30)(a) either through administrative appeals or in court
14 during the period of the contract.

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

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

20 (b) May discontinue supplemental payments, increased managed care
21 payments, disproportionate share hospital payments, and access
22 payments made subsequent to the breach for the hospital that are
23 required under this chapter.

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

28 **Sec. 12.** RCW 74.60.901 and 2015 2nd sp.s. c 5 s 11 are each
29 amended to read as follows:

30 This chapter expires July 1, (~~2019~~) 2021.

31 **Sec. 13.** RCW 74.60.902 and 2010 1st sp.s. c 30 s 22 are each
32 amended to read as follows:

33 Upon expiration of chapter 74.60 RCW, inpatient and outpatient
34 hospital reimbursement rates shall return to a (~~rate structure~~)
35 funding level as if the four percent medicaid inpatient and
36 outpatient rate reductions did not occur on July 1, 2009, using the
37 rate structure in effect July 1, 2015, or as otherwise specified in
38 the (~~2013-15~~) 2019-2021 biennial operating appropriations act.

1 NEW SECTION. **Sec. 14.** A new section is added to chapter 74.60
2 RCW to read as follows:

3 (1) The estimated hospital net financial benefit under this
4 chapter shall be determined by the authority by summing the following
5 anticipated hospital payments, including all applicable federal
6 matching funds, specified in RCW 74.60.090 for grants to certified
7 public expenditure hospitals, RCW 74.60.100 for payments to critical
8 access hospitals, RCW 74.60.110 for payments to small rural
9 disproportionate share hospitals, RCW 74.60.120 for direct
10 supplemental payments to hospitals, RCW 74.60.130 for managed care
11 capitation payments, RCW 74.60.020(4)(f) for quality improvement
12 incentives, minus the total assessments paid by all hospitals under
13 RCW 74.60.030 for hospital assessments, and minus any taxes paid on
14 RCW 74.60.130 for managed care payments.

15 (2) If, for any reason including reduction or elimination of
16 federal matching funds, the estimated hospital net financial benefit
17 falls below one hundred thirty million dollars in any state fiscal
18 year, the office of financial management shall direct the authority
19 to modify the assessment rates provided for in RCW 74.60.030, and the
20 office of financial management is authorized to direct the authority
21 to adjust the amounts disbursed from the fund, including
22 disbursements for payments under RCW 74.60.020(4)(f) and payments to
23 hospitals under RCW 74.60.090 through 74.60.130 and 74.60.020(4)(g),
24 such that the estimated hospital net financial benefit is equal to
25 the amount disbursed from the fund for use in lieu of state general
26 fund payments. Each category of adjusted payments to hospitals under
27 RCW 74.60.090 through 74.60.130 and payments under RCW
28 74.60.020(4)(g) must bear the same relationship to the total of such
29 adjusted payments as originally provided in this chapter.

30 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of
32 the state government and its existing public institutions, and takes
33 effect July 1, 2017.

 Passed by the Senate April 19, 2017.
 Passed by the House April 18, 2017.
 Approved by the Governor May 5, 2017.
 Filed in Office of Secretary of State May 5, 2017.

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