

STATE OF NEW YORK

7217

2023-2024 Regular Sessions

IN ASSEMBLY

May 15, 2023

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the general hospital indigent care pool and funding for safety net and enhanced safety net hospitals; and to amend chapter 474 of the laws of 1996 amending the education law and other laws relating to rates for residential health care facilities, in relation to additional payments for certain inpatient hospital services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (ii) of paragraph b of subdivision 5-d of
2 section 2807-k of the public health law, as amended by section 1 of part
3 E of chapter 57 of the laws of 2023, is amended to read as follows:

4 (ii) Annual distributions pursuant to such regulations for the two
5 thousand twenty through two thousand twenty-five calendar years and each
6 calendar year thereafter shall be in accord with the following:

7 (A) one hundred thirty-nine million four hundred thousand dollars
8 shall be distributed as Medicaid Disproportionate Share Hospital ("DSH")
9 payments to major public general hospitals; and

10 (B) nine hundred sixty-nine million nine hundred thousand dollars as
11 Medicaid DSH payments to eligible general hospitals, other than major
12 public general hospitals.

13 For the calendar years two thousand twenty through two thousand twenty-
14 ty-two, the total distributions to eligible general hospitals, other
15 than major public general hospitals, shall be subject to an aggregate
16 reduction of one hundred fifty million dollars annually, provided that
17 eligible general hospitals, other than major public general hospitals,
18 that qualify as enhanced safety net hospitals under section two thousand
19 eight hundred seven-c of this article shall not be subject to such
20 reduction.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 For the calendar years two thousand twenty-three through two thousand
2 twenty-five and each calendar year thereafter, the total distributions
3 to eligible general hospitals, other than major public general hospi-
4 tals, shall be subject to an aggregate reduction of two hundred [~~thir-~~
5 ~~ty-five~~] seventy-five million four hundred thousand dollars annually,
6 provided that eligible general hospitals, other than major public gener-
7 al hospitals that qualify as enhanced safety net hospitals under section
8 two thousand eight hundred seven-c of this article as of April first,
9 two thousand twenty, shall not be subject to such reduction.

10 Such reductions shall be determined by a methodology to be established
11 by the commissioner. Such methodologies may take into account the payor
12 mix of each non-public general hospital, including the percentage of
13 inpatient days paid by Medicaid.

14 § 2. Section 2807 of the public health law is amended by adding a new
15 subdivision 22 to read follows:

16 22. Adjustments to Medicaid rates. (a) The commissioner shall make
17 adjustments to medical assistance rates in accordance with this subdivi-
18 sion to enhanced safety net hospitals, as defined in paragraph (a) of
19 subdivision thirty-four of section twenty-eight hundred seven-c of this
20 article, and to qualified safety net hospitals, as defined in paragraph
21 (b) of this subdivision, for the purposes of supporting critically need-
22 ed health care services and to ensure the continued maintenance and
23 operation of such hospitals.

24 (b) For the purposes of this subdivision, a "qualified safety net
25 hospital" shall mean a general hospital, other than an enhanced safety
26 net hospital that in any of the previous three calendar years:

27 (i) has met four of the five criteria listed under subparagraph (i) of
28 paragraph (a) of subdivision thirty-four of section twenty-eight hundred
29 seven-c of this article; or

30 (ii) has met the following criteria:

31 (A) not less than forty-five percent of the patients it treats receive
32 medical assistance or are medically uninsured;

33 (B) not less than thirty-six percent of its inpatient discharges are
34 covered by Medicaid;

35 (C) twenty-eight percent or less of its discharged patients are
36 commercially insured;

37 (D) not less than two percent of the patients it provides services to
38 are attributed to the care of uninsured patients; and

39 (E) provides care to uninsured patients in its emergency room, hospi-
40 tal-based clinics and community based clinics, including the provision
41 of important community services, such as dental care and prenatal care;
42 or

43 (iii) is so designated by the commissioner pursuant to findings that
44 takes into account the following criteria:

45 (A) the hospital is operating under financial hardship, evidenced by
46 the operating losses of the hospital or the system of hospitals to which
47 the hospital belongs and/or participation by the hospital in programs
48 established by the commissioner to enable hospitals in financial
49 distress to maintain operations and vital services;

50 (B) the volume of Medicaid and/or medically uninsured patients served
51 by the hospital exceeds the average volume of such services provided by
52 other hospitals in the hospital's region; and

53 (C) the importance of the hospital in enabling Medicaid and/or
54 medically uninsured patients' access to health care services in inpa-
55 tient, outpatient and community settings within the hospital's region.

1 (c) For the state fiscal year commencing April first, two thousand
2 twenty-four and each state fiscal year thereafter, the commissioner
3 shall increase medical assistance rates of payments for inpatient and/or
4 outpatient services made by either state governmental agencies or organ-
5 izations operating in accordance with article forty-three of the insur-
6 ance law or article forty-four of this chapter by an aggregate of:

7 (i) thirty-four million one hundred twenty-five thousand dollars for
8 enhanced safety net hospitals that are major public general hospitals;

9 (ii) two hundred twenty-eight million three hundred seventy-five thou-
10 sand dollars for qualified safety net hospitals and enhanced safety net
11 hospitals other than major public general hospitals, of which at least
12 twelve million five hundred thousand dollars shall be allocated to
13 enhanced safety net hospitals that are federally designated as critical
14 access or sole community hospitals; and

15 (iii) twelve million five hundred thousand dollars for those hospitals
16 eligible under subparagraph (ii) of this paragraph for which the
17 combined payments made, or to be made, under subparagraph (ii) of this
18 paragraph and subdivision five-d of section twenty-eight hundred seven-k
19 of this article for calendar year two thousand twenty-four and each
20 calendar year thereafter, are projected by the commissioner to be less
21 than payments made to such hospitals pursuant to subdivision five-d of
22 section twenty-eight hundred seven-k of this article for calendar year
23 two thousand eighteen.

24 (d) Payments made pursuant to this subdivision may be added to rates
25 of payment, or made as aggregate payments of equal amounts on October
26 first and April first of each state fiscal year, to such enhanced safety
27 net hospitals and qualified safety net hospitals in accordance with a
28 methodology to be established by the commissioner; provided, however,
29 that, the commissioner may make the twelve million five hundred thousand
30 dollars in payments due to eligible hospitals under subparagraph (iii)
31 of paragraph (c) of this subdivision by instead increasing the amount
32 otherwise awarded to such eligible hospitals under programs established
33 by the commissioner to enable hospitals in financial distress to main-
34 tain operations and vital services while working to achieve longer-term
35 sustainability, including, but not limited to, the value based payment
36 quality improvement program.

37 § 3. Subparagraph (v) of paragraph (a) of subdivision 1 of section
38 2807-c of the public health law, as amended by chapter 639 of the laws
39 of 1996, is amended and a new subparagraph (vi) is added to read as
40 follows:

41 (v) adjustments for any modifications to the case payments determined
42 in accordance with paragraph (a), (b), (c) or (d) of subdivision four of
43 this section[-]; and

44 (vi) adjustments for any modifications to the case payments determined
45 in accordance with subdivision twenty-two of section twenty-eight
46 hundred seven of this article.

47 § 4. Subparagraph (v) of paragraph (a) of subdivision 1 of section
48 2807-c of the public health law, as amended by chapter 731 of the laws
49 of 1993, is amended and a new subparagraph (vi) is added to read as
50 follows:

51 (v) adjustments for any modifications to the case payments determined
52 in accordance with paragraph (a), (b), (c) or (d) of subdivision four of
53 this section[-]; and

54 (vi) adjustments for any modifications to the case payments determined
55 in accordance with subdivision twenty-two of section twenty-eight
56 hundred seven of this article.

1 § 5. Subdivision 34 of section 2807-c of the public health law is
2 amended by adding a new paragraph (d) to read as follows:

3 (d) Notwithstanding any inconsistent provision of law or regulation to
4 the contrary, adjustments made pursuant to this subdivision shall be in
5 addition to any adjustments made to medical assistance rates to enhanced
6 safety net hospitals authorized by subdivision twenty-two of section
7 twenty-eight hundred seven of this article.

8 § 6. Subdivision 1 of section 211 of chapter 474 of the laws of 1996
9 amending the education law and other laws relating to rates for residen-
10 tial health care facilities, is amended by adding a new paragraph (g) to
11 read as follows:

12 (g) Notwithstanding any inconsistent provision of law or regulation to
13 the contrary, effective for the state fiscal year beginning April 1,
14 2024, and annually thereafter, the department of health is authorized to
15 pay public general hospitals, other than those operated by the state of
16 New York or the state university of New York, as defined in subdivision
17 10 of section 2801 of the public health law, located in a city with a
18 population of over one million, additional payments for inpatient hospi-
19 tal services of 200 million dollars annually, as medical assistance
20 pursuant to title 11 of article 5 of the social services law for
21 patients eligible for federal financial participation under title XIX of
22 the federal social security act, pursuant to federal laws and regu-
23 lations governing disproportionate share payments to hospitals, based on
24 the relative share of each such non-state operated public general hospi-
25 tal medical assistance and uninsured patient losses. The payments may be
26 added to rates of payment or made as aggregate payments to an eligible
27 public general hospital.

28 § 7. Subdivision 1 of section 212 of chapter 474 of the laws of 1996
29 amending the education law and other laws relating to rates for residen-
30 tial health care facilities, is amended by adding a new paragraph (c) to
31 read as follows:

32 (c) Notwithstanding any inconsistent provision of law or regulation to
33 the contrary, effective for the state fiscal year beginning April 1,
34 2024, and annually thereafter, the department of health is authorized to
35 pay public general hospitals, as defined in subdivision 10 of section
36 2801 of the public health law, operated by the state of New York or the
37 state university of New York or by a county, which shall not include a
38 city with a population of over one million, of the state of New York,
39 and those public general hospitals located in the county of Westchester,
40 the county of Erie or the county of Nassau, additional payments for
41 inpatient hospital services of 100 million dollars annually, as medical
42 assistance payments pursuant to title 11 of article 5 of the social
43 services law for patients eligible for federal financial participation
44 under title XIX of the federal social security act, pursuant to federal
45 laws and regulations governing disproportionate share payments to hospi-
46 tals. The payments may be added to rates of payment or made as aggregate
47 payments to an eligible public general hospital.

48 § 8. This act shall take effect immediately; provided, however that
49 the amendments to paragraph (a) of subdivision 1 of section 2807-c of
50 the public health law made by section three of this act shall be subject
51 to the expiration and reversion of such paragraph when upon such date
52 the provisions of section four of this act shall take effect.