

STATE OF NEW YORK

8928

IN SENATE

March 28, 2024

Introduced by Sens. RIVERA, BAILEY, GOUNARDES, HOYLMAN-SIGAL, JACKSON, LIU, MYRIE, PARKER, PERSAUD, RAMOS, SALAZAR, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed 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:

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

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

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

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

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

For the calendar years two thousand twenty-three through two thousand twenty-five and each calendar year thereafter, the total distributions

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

LBD08098-02-3

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

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

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

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

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

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

28 (ii) has met the following criteria:

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

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

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

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

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

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

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

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

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

54 (c) For the state fiscal year commencing April first, two thousand
55 twenty-four and each state fiscal year thereafter, the commissioner
56 shall increase medical assistance rates of payments for inpatient and/or

1 outpatient services made by either state governmental agencies or organ-
2 izations operating in accordance with article forty-three of the insur-
3 ance law or article forty-four of this chapter by an aggregate of:

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

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

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

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

34 § 3. Subparagraph (v) of paragraph (a) of subdivision 1 of section
35 2807-c of the public health law, as amended by chapter 639 of the laws
36 of 1996, is amended and a new subparagraph (vi) is added to read as
37 follows:

38 (v) adjustments for any modifications to the case payments determined
39 in accordance with paragraph (a), (b), (c) or (d) of subdivision four of
40 this section[+]; and

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

44 § 4. Subparagraph (v) of paragraph (a) of subdivision 1 of section
45 2807-c of the public health law, as amended by chapter 731 of the laws
46 of 1993, is amended and a new subparagraph (vi) is added to read as
47 follows:

48 (v) adjustments for any modifications to the case payments determined
49 in accordance with paragraph (a), (b), (c) or (d) of subdivision four of
50 this section[+]; and

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

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

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

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

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

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

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

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