

CHAPTER 113

AN ACT concerning charity care payments to hospitals, amending and supplementing P.L.1992, c.160 and amending P.L.1996, c.28.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 9 of P.L.1992, c.160 (C.26:2H-18.59) is amended to read as follows:

C.26:2H-18.59 Allocation of funds.

9. a. The commissioner shall allocate such funds as specified in subsection e. of this section to the charity care component of the disproportionate share hospital subsidy account. In a given year, the department shall transfer from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services such funds as may be necessary for the total approved charity care disproportionate share payments to hospitals for that year.

b. For the period January 1, 1993 to December 31, 1993, the commission shall allocate \$500 million to the charity care component of the disproportionate share hospital subsidy account. The Department of Health and Senior Services shall recommend the amount that the Division of Medical Assistance and Health Services shall pay to an eligible hospital on a provisional, monthly basis pursuant to paragraphs (1) and (2) of this subsection. The department shall also advise the commission and each eligible hospital of the amount a hospital is entitled to receive.

(1) The department shall determine if a hospital is eligible to receive a charity care subsidy in 1993 based on the following:

Hospital Specific Approved Uncompensated Care-1991

Hospital Specific Preliminary Cost Base-1992

= Hospital Specific % Uncompensated Care (%UC)

A hospital is eligible for a charity care subsidy in 1993 if, upon establishing a rank order of the %UC for all hospitals, the hospital is among the 80% of hospitals with the highest %UC.

(2) The maximum amount of the charity care subsidy an eligible hospital may receive in 1993 shall be based on the following:

Hospital Specific Approved Uncompensated Care-1991

Total approved Uncompensated Care All Eligible Hospitals-1991
X \$500 million

= Maximum Amount of Hospital Specific Charity Care Subsidy for 1993

(3) A hospital shall be required to submit all claims for charity care cost reimbursement, as well as demographic information about the persons who qualify for charity care, to the department in a manner and time frame specified by the Commissioner of Health and Senior Services, in order to continue to be eligible for a charity care subsidy in 1993 and in subsequent years.

The demographic information shall include the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

(4) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(5) The department shall provide for an audit of a hospital's charity care for 1993

within a time frame established by the department.

c. For the period January 1, 1994 to December 31, 1994, a hospital shall receive disproportionate share payments from the Division of Medical Assistance and Health Services based on the amount of charity care submitted to the commission or its designated agent, in a form and manner specified by the commission. The commission or its designated agent shall review and price all charity care claims and notify the Division of Medical Assistance and Health Services of the amount it shall pay to each hospital on a monthly basis based on actual services rendered.

(1) (Deleted by amendment, P.L.1995, c.133.)

(2) If the commission is not able to fully implement the charity care claims pricing system by January 1, 1994, the commission shall continue to make provisional disproportionate share payments to eligible hospitals, through the Division of Medical Assistance and Health Services, based on the charity care costs incurred by all hospitals in 1993, until such time as the commission is able to implement the claims pricing system.

If there are additional charity care balances available after the 1994 distribution based on 1993 charity care costs, the department shall transfer these available balances from the fund to the Division of Medical Assistance and Health Services for an approved one-time additional disproportionate share payment to hospitals according to the methodology provided in section 12 of P.L.1995, c.133 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed \$75.5 million.

(3) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(4) (Deleted by amendment, P.L.1995, c.133.)

d. (Deleted by amendment, P.L.1995, c.133.)

e. The total amount allocated for charity care subsidy payments shall be: in 1994, \$450 million; in 1995, \$400 million; in 1996, \$310 million; in 1997, \$300 million; for the period January 1, 1998 through June 30, 1998, \$160 million; and in fiscal year 1999 and each fiscal year thereafter through fiscal year 2004, \$320 million. Total payments to hospitals shall not exceed the amount allocated for each given year.

f. Beginning January 1, 1995:

(1) The charity care subsidy shall be determined pursuant to section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

(2) A charity care claim shall be valued at the same rate paid to that hospital by the Medicaid program, except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be valued at a rate appropriate for primary care according to a schedule of payments adopted by the commissioner.

(3) The department shall provide for an audit of a hospital's charity care within a time frame established by the commissioner.

2. Section 7 of P.L.1996, c.28 (C.26:2H-18.59e) is amended to read as follows:

C.26:2H-18.59e Determination of charity care subsidy.

7. a. For the period beginning January 1, 1996 and ending June 30, 2004, and except as provided in section 8 of P.L.1996, c.28 (C.26:2H-18.59f), the charity care subsidy shall be determined according to the following methodology.

If the Statewide total of adjusted charity care is less than available charity care funding, a hospital's charity care subsidy shall equal its adjusted charity care.

If the Statewide total of adjusted charity care is greater than available charity care funding, then the hospital-specific charity care subsidy shall be determined by allocating available charity care funds so as to equalize hospital-specific payer mix factors to the Statewide target payer mix factor. Those hospitals with a payer mix factor greater than the Statewide target payer mix factor shall be eligible to receive a subsidy sufficient to reduce their factor to that Statewide

level; those hospitals with a payer mix factor that is equal to or less than the Statewide target payer mix factor shall not be eligible to receive a subsidy.

Charity care subsidy payments shall be based upon actual documented hospital charity care. As used in this section:

(1) The hospital-specific "documented charity care" shall be equal to the dollar amount of charity care provided by the hospital that is verified in the department's most recent charity care audit conducted under the most recent charity care eligibility rules adopted by the department and valued at the same rate paid to that hospital by the Medicaid program.

For 1996, documented charity care shall equal the audited, Medicaid-priced amounts reported for the first three quarters of 1995. This amount shall be multiplied by 1.33 to determine the annualized 1995 charity care amount. For 1997 and the period from January 1, 1998 through June 30, 1998, documented charity care shall be equal to the audited Medicaid-priced amounts for the last quarter two years prior to the payment period and the first three quarters of the year prior to the payment period. For fiscal year 1999 and each fiscal year thereafter, documented charity care shall be equal to the audited Medicaid-priced amounts for the most recent calendar year;

(2) In 1996, the hospital-specific "operating margin" shall be equal to: the hospital's 1993 and 1994 income from operations minus its 1993 and 1994 charity care subsidies divided by its 1993 and 1994 total operating revenue minus its 1993 and 1994 charity care subsidies. After calculating each hospital's operating margin, the department shall determine the Statewide median operating margin.

In 1997 and each year thereafter, the hospital-specific "operating margin" shall be calculated in the same manner as for 1996, but on the basis of income from operations, total operating revenue and charity care subsidies data from the three most current years;

(3) The hospital-specific "profitability factor" shall be determined annually as follows. Those hospitals that are equal to or below the Statewide median operating margin shall be assigned a profitability factor of "1." For those hospitals that are above the Statewide median operating margin, the profitability factor shall be equal to:

$$1 - \frac{.75 \times (\text{hospital specific operating margin} - \text{Statewide median operating margin})}{\text{highest hospital specific operating margin} - \text{Statewide median operating margin}}$$

(4) The hospital-specific "adjusted charity care" shall be equal to a hospital's documented charity care times its profitability factor;

(5) The hospital-specific "revenue from private payers" shall be equal to the sum of the gross revenues, as reported to the department in the hospital's most recently available New Jersey Hospital Cost Reports for all non-governmental third party payers including, but not limited to, Blue Cross and Blue Shield plans, commercial insurers and health maintenance organizations;

(6) The hospital-specific "payer mix factor" shall be equal to a hospital's adjusted charity care divided by its revenue from private payers; and

(7) The "Statewide target payer mix factor" is the lowest payer mix factor to which all hospitals receiving charity care subsidies can be reduced by spending all available charity care subsidy funding for that year.

b. For the purposes of this section, "income from operations" and "total operating revenue" shall be defined by the department in accordance with financial reporting requirements established pursuant to N.J.A.C.8:31B-3.3.

c. Charity care subsidy payments shall commence on or after the date of enactment of P.L.1996, c.28 and the full calendar year 1996 allocation shall be disbursed by January 31, 1997.

C.26:2H-18.59i Reimbursed documented charity care; charity care subsidy formula, after July 1, 2004.

3. a. Beginning July 1, 2004 and each year thereafter:

(1) Reimbursed documented charity care shall be equal to the Medicaid-priced amounts of charity care claims submitted to the Department of Health and Senior Services for the most recent calendar year, adjusted, as necessary, to reflect the annual audit results. These amounts shall be augmented to reflect payments to hospitals by the Medicaid program for Graduate Medical Education and Indirect Medical Education based on the most recent Graduate Medical Education and Indirect Medical Education formulas utilized by the federal Medicare program.

(2) Hospital-specific reimbursed documented charity care shall be equal to the Medicaid-priced dollar amount of charity care provided by a hospital as submitted to the Department of Health and Senior Services for the most recent calendar year. A sample of the claims submitted by the hospital to the department shall be subject to an annual audit conducted pursuant to applicable charity care eligibility criteria.

b. Beginning July 1, 2004 and each year thereafter, the charity care subsidy shall be determined according to the following methodology:

(1) Each hospital shall be ranked in order of its hospital-specific, relative charity care percentage, or RCCP, by dividing the amount of hospital-specific gross revenue for charity care patients by the hospital's total gross revenue for all patients.

(2) The nine hospitals with the highest RCCPs shall receive a charity care payment equal to 96% of each hospital's hospital-specific reimbursed documented charity care. The hospital ranked number 10 shall receive a charity care payment equal to 94% of its hospital-specific reimbursed documented charity care, and each hospital ranked number 11 and below shall receive two percentage points less than the hospital ranked immediately above that hospital.

(3) Notwithstanding the provisions of paragraph (2) of this subsection to the contrary, each of the hospitals located in the 10 municipalities in the State with the lowest median annual household income according to the most recent census data, shall be ranked from the hospital with the highest hospital-specific reimbursed documented charity care to the hospital with the lowest hospital-specific reimbursed documented charity care. The hospital in each of the 10 municipalities, if any, with the highest documented hospital-specific charity care shall receive a charity care payment equal to 96% of its hospital-specific reimbursed documented charity care.

(4) Notwithstanding the provisions of this subsection to the contrary, no hospital shall receive reimbursement for less than 43% of its hospital-specific reimbursed documented charity care.

c. To ensure that charity care subsidy payments remain viable and appropriate, the State shall maintain the charity care subsidy at an amount not less than 75% of the Medicaid-priced amounts of charity care provided by hospitals in the State. In addition, these amounts shall be augmented to reflect payments to hospitals by the Medicaid program for Graduate Medical Education and Indirect Medical Education based on the most recent Graduate Medical Education and Indirect Medical Education formulas utilized by the federal Medicare program.

d. Notwithstanding any other provisions of this section to the contrary, in the event that the change from the charity care subsidy formula in effect for fiscal year 2004 to the formula established pursuant to this section in effect for fiscal year 2005, reduces, for any reason, the amount of the charity care subsidy payment to a hospital below the amount that the hospital received under the formula in effect in fiscal year 2004, the hospital shall receive a payment equal to the amount it would have received under the formula in effect for fiscal year 2004.

4. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health and Senior Services shall adopt regulations necessary to implement the provisions of this act.

5. This act shall take effect on July 1, 2004.

Approved August 6, 2004.