

CHAPTER 136

AN ACT establishing the County Option Hospital Fee Pilot Program and supplementing Title 30 of the Revised Statutes.

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

C.30:4D-7r Short title.

1. This act shall be known and may be cited as “The County Option Hospital Fee Pilot Program Act.”

C.30:4D-7s Definitions relative to “The County Option Hospital Fee Pilot Program Act.”

2. As used in this act:

“Commissioner” means the Commissioner of Human Services.

“Department” means the Department of Human Services.

“Fee” means the local health care-related fee authorized pursuant to this act.

“Hospital” means a hospital that is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and is located within the borders of a participating county.

“Medicaid program” means the “New Jersey Medical Assistance and Health Services Program” established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

“Participating county” means a county with a population greater than 250,000, according to the federal decennial census immediately preceding the effective date of this act; that contains a municipality which: (1) is classified, pursuant to N.J.S.40A:6-4, as a First or Second Class municipality, or a Fourth Class municipality whose population exceeds 20,000, and (2) has a Municipal Revitalization Index score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of this act, that exceeds 60; and which chooses to participate in the pilot program.

“Pilot program” means “The County Option Hospital Fee Pilot Program” established pursuant to this act.

“Proposed fee and expenditure report” means a written report by a participating county that describes how the fee will be imposed in the participating county; how the funds collected from the fee will be used by the participating county, including the amount and services the participating county plans to provide with the funds; and how the plan satisfies paragraph (1) of subsection b. of section 3 of this act.

C.30:4D-7t “The County Option Hospital Fee Pilot Program.”

3. a. There is established “The County Option Hospital Fee Pilot Program” in the Department of Human Services.

b. The purpose of the pilot program is:

(1) to increase financial resources through the Medicaid program to support local hospitals and to ensure that they continue to provide necessary services to low-income citizens; and

(2) to provide participating counties with new fiscal resources.

c. To effectuate the purposes of this program, the commissioner shall authorize no more than seven participating counties in the State for participation in the program. Each participating county shall be authorized to impose a local health care-related fee on hospitals within its borders.

d. A participating county shall submit a proposed fee and expenditure report to the commissioner to ensure that the proposed fee and expenditure plan satisfies paragraph (1) of subsection b. of this section and subsection e. of this section, and does not create a direct or indirect guarantee to hold harmless, as those terms are used in 42 C.F.R. s.433.68(f). The

commissioner shall further review the proposed fee and expenditure report to determine whether it complies with relevant rules and regulations. Each participating county shall consult with affected hospitals within its jurisdiction to prepare the proposed fee and expenditure report before the report is submitted to the commissioner. The commissioner shall make the proposed fee and expenditure report available to the affected hospitals for review and the hospitals shall be permitted to provide comments to the commissioner regarding the report for a period of 21 calendar days from the date the proposed report is made available for review.

e. The board of chosen freeholders of a participating county, following the approval of the participating county's proposed fee and expenditure plan by the commissioner, may adopt an ordinance providing for the imposition of a fee on hospitals located within its borders and for appropriate administrative provisions, including, but not limited to, provisions for the collection of interest and penalties.

The fee shall be implemented in accordance with the provisions of 42 U.S.C. s.1396b(w)(3)(A), and shall be subject to the maximum aggregate amount that may be assessed pursuant to 42 C.F.R. s.433.68(f)(3), or any subsequent maximum amount as may be established by federal law, and shall be subject to a cap as determined by the commissioner. The participating county may exempt a hospital within its jurisdiction from the fee, provided that the exemption complies with the requirements of 42 C.F.R. s.433.68.

The fee authorized pursuant to this act may be collected only to the extent, and for the period, that the commissioner determines that the revenues generated qualify as the State share of Medicaid program expenditures eligible for federal financial participation pursuant to 42 C.F.R. s.433.68.

f. Any subsequent alterations to the fee are subject to the approval of the commissioner prior to implementation. Upon approval, the commissioner shall apply for such State plan amendments or waivers as may be necessary to implement the changes and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

C.30:4D-7u Transfer of funds to commissioner, uses; fee.

4. a. A participating county may transfer funds collected from the fee imposed pursuant to subsection c. of section 3 of this act to the commissioner. The commissioner shall use funds transferred from a participating county, and any matching amount of federal Medicaid funds or other federal funds generated therefrom, for the following purposes: to increase Medicaid payments to hospitals in the jurisdiction from which the funds are received; for payments to managed care organizations that have contracted with Medicaid serving the jurisdiction from which the funds are received for increased hospital or hospital-related payments; and for direct costs related to administrative purposes to implement the pilot program.

The commissioner shall seek to minimize the length of time between the collection of the fee by the participating county and the distribution of payments pursuant to this subsection.

Notwithstanding any other law to the contrary, the commissioner and a participating county are authorized to enter into an intergovernmental transfer agreement as may be necessary to transfer funds under this subsection or to otherwise satisfy the requirements of this act.

b. A participating county may retain the funds collected from the imposition of the fee, in which case the participating county shall generate the same level of funding, in addition to the funds collected from the imposition of the fee, that would be generated by the department through any matching amount of federal Medicaid funds or other federal funds, and use the total funding amount to satisfy paragraph (1) of subsection b. of section 3 of this act.

c. At least 90 percent of the funds collected from imposition of the fee shall be used by a participating county or the department for the benefit of local hospitals within the participating county's borders to ensure that the hospitals continue to provide necessary services to low-income citizens. The participating counties shall transfer at least one percent of funds collected from the imposition of the fee to the department for administration of the program.

C.30:4D-7v Imposition of fee.

5. a. The fee imposed pursuant to subsection c. of section 3 of this act shall be imposed in relation to health care items or services provided only during the effective period of this act, and shall not be collected until the commissioner notifies the appropriate governmental entities that any State plan amendment or waivers submitted pursuant to section 6 of this act have been approved.

b. No hospital subject to the fee shall pass on the cost of the fee to any patient, insurer, self-insured employer program, or other responsible party, nor list it separately on any invoice or statement sent to a patient, insurer, self-insured employer program, or other responsible party.

c. Unless otherwise prohibited by the federal government, no managed care organization operating in the State that has contracted with Medicaid shall retain any funds generated by the fee, other than to offset any increased administrative costs incurred as a result of the pilot program.

d. Funds generated by the fee shall not supplant or offset any current or future State funds allocated to a county participating in the pilot program.

e. Payments distributed to hospitals pursuant to this act shall not supplant or offset any current or future funds paid to hospitals through other State or federal funding mechanisms or pools.

C.30:4D-7w Application by commissioner, approval prior to collection of fee.

6. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program, and shall receive approval for such State plan amendments or waivers prior to collection of a fee authorized pursuant to subsection c. of section 3 of this act.

C.30:4D-7x Rules, regulations.

7. The commissioner shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the implementation of this act which shall include appropriate methodologies for the county proposed fee and expenditure report. Participating counties shall not submit the proposed fee and expenditure plan to the department prior to the adoption of rules and regulations.

8. This act shall take effect on the 180th day after the date of enactment, and shall expire five years after the effective date. All proposed fee and expenditure plans are subject to both approval of the commissioner and such actions by the federal government as are necessary to effectuate the purposes of this act.

Approved November 1, 2018.