

CHAPTER 61

AN ACT concerning the County Option Hospital Fee Pilot Program and amending P.L.2018, c.136.

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

1. Section 1 of P.L.2018, c.136 (C.30:4D-7r) is amended to read as follows:

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

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

2. Section 2 of P.L.2018, c.136 (C.30:4D-7s) is amended to read as follows:

C.30:4D-7s Definitions relative to "The County Option Hospital Fee 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 healthcare-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, notwithstanding the provisions of any other law or regulation to the contrary, a county that chooses to participate in the program, has a population greater than 250,000, according to the federal decennial census immediately preceding the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), and 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 Distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of P.L.2018, c.136 (C.30:4D-7r et seq.), that exceeds 60; or, based on the 2019 ACS 5 Year Survey Data, a county that chooses to participate in the program and contains a municipality with a population greater than 30,000 whose 2020 Municipal Revitalization Index Distress score is greater than or equal to 35 (1) excluding counties with a municipality with a population greater than 125,000, (2) excluding counties with a population less than 150,000, and (3) excluding counties with a median household income greater than \$110,000.

"Program" means "The County Option Hospital Fee 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.

3. Section 3 of P.L.2018, c.136 (C.30:4D-7t) is amended to read as follows:

C.30:4D-7t "County Option Hospital Fee Program."

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

- b. The purpose of the 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. Each participating county shall be authorized by the commissioner to impose a local healthcare-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 County commissioners 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 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.

g. Neither the State nor a participating county shall be liable for any amount of a local healthcare-related fee imposed on a hospital pursuant to this act that the hospital fails to pay or does not pay in a timely manner to the assessing county.

4. Section 4 of P.L.2018, c.136 (C.30:4D-7u) is amended to read as follows:

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

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 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.

5. Section 5 of P.L.2018, c.136 (C.30:4D-7v) is amended to read as follows:

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 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 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.

6. Section 8 of P.L.2018, c.136 is amended to read as follows:

8. 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.

7. This act shall take effect immediately.

Approved July 5, 2022.