

HOUSE BILL NO. HB0057

Upper payment limit program-private hospitals.

Sponsored by: Joint Labor, Health & Social Services Interim Committee

A BILL

for

1 AN ACT relating public welfare; establishing a private
2 hospital assessment as specified; providing for the use of
3 assessments to obtain federal matching funds; providing for
4 payments to private hospitals as specified; establishing an
5 account; providing definitions; providing regulatory
6 authority; providing penalties; and providing for an
7 effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 42-9-101 through 42-9-109 are created
12 to read:

13

14

CHAPTER 9

15

PRIVATE HOSPITAL ASSESSMENT ACT

1

2 **42-9-101. Short title.**

3

4 This chapter shall be known and may be cited as the
5 "Wyoming Private Hospital Assessment Act."

6

7 **42-9-102. Definitions.**

8

9 (a) As used in this chapter:

10

11 (i) "Account" means the private hospital
12 assessment account created by W.S. 42-9-103;

13

14 (ii) "Department" means the department of
15 health;

16

17 (iii) "Fiscal year" means the twelve (12) month
18 period beginning October 1 and ending September 30;

19

20 (iv) "Medicaid" means the medical assistance
21 program established by title XIX of the federal Social
22 Security Act and administered in this state by the

1 department pursuant to the Wyoming Medical Assistance and
2 Services Act;

3

4 (v) "Medicare cost report" means the annual
5 hospital cost report as determined by the centers for
6 medicare and medicaid services and as reported to the
7 health care cost report information system;

8

9 (vi) "Net hospital patient revenue" means gross
10 hospital revenue as reported on the most recently filed
11 medicare cost report, excluding estimated nonhospital
12 ancillary revenue, multiplied by the hospital's ratio of
13 total net to gross revenue. The department shall establish
14 a procedure to reconcile filed cost report information with
15 information from the settled cost report. If a hospital
16 does not file a medicaid cost report, the department shall
17 establish a procedure to determine what the hospital would
18 have reported as net patient hospital revenue if the
19 hospital had filed a medicaid cost report;

20

21 (vii) "Private hospital" means those
22 institutions licensed by the department as hospitals which
23 are not owned or operated by the state or any city, town,

1 county, special district or other political subdivision of
2 the state or local government;

3
4 (viii) "Quarterly adjustment payment" means the
5 payment made to private hospitals pursuant to W.S.
6 42-9-106;

7
8 (ix) "Upper payment limit" means the applicable
9 limitation established pursuant to 42 C.F.R. 447.272, 42
10 C.F.R. 447.321 or as otherwise established by the centers
11 for medicare and medicaid services;

12
13 (x) "Upper payment limit gap" means the amount
14 calculated annually by the department constituting the
15 difference between the applicable upper payment limit and
16 medicaid payments made subject to that limit in a fiscal
17 year, excluding any quarterly adjustment payments
18 authorized by this chapter.

19
20 **42-9-103. Private hospital assessment account.**

21
22 (a) The private hospital assessment account is
23 created.

1

2 (b) The state treasurer shall invest amounts
3 deposited within the account in accordance with law and all
4 investment earnings shall be credited back to the account.
5 Funds in the account are continuously appropriated to the
6 department for the purposes specified in this section.

7

8 (c) The account shall consist of:

9

10 (i) Amounts collected or received by the
11 department from private hospital assessments under this
12 chapter;

13

14 (ii) All federal matching funds received by the
15 department as a result of expenditures made by the
16 department pursuant to this chapter.

17

18 (d) The account shall be used exclusively for the
19 following purposes:

20

21 (i) To pay administrative expenses incurred by
22 the department or its agent in performing the activities
23 authorized by this chapter, provided that these expenses

1 shall not exceed a total of one percent (1%) of the
2 aggregate assessment funds collected in the fiscal year;

3

4 (ii) To secure federal matching funds available
5 through the state medicaid plan as approved pursuant to
6 W.S. 42-9-108, which shall be used to make quarterly
7 adjustment payments as provided by this chapter;

8

9 (iii) To repay to the federal government any
10 excess payments received or made to private hospitals if
11 the state plan, after approval by the federal centers for
12 medicare and medicaid services, is subsequently disapproved
13 for any reason and after the state has exhausted all
14 appeals. Private hospitals shall refund any excess
15 payments to the assessment account. If a private hospital
16 is unable to refund payments as provided in this paragraph,
17 the department shall develop a payment plan to recoup
18 deficient payments and accordingly deduct amounts from
19 future medicaid payments. The department shall refund the
20 federal government for the federal portion of those
21 overpayments;

22

1 (iv) To refund assessments paid by private
2 hospitals for quarterly adjustment payments which were
3 earned but not paid by the department, but only after the
4 payments authorized by paragraphs (i) and (iii) of this
5 section have been made.

6

7 **42-9-104. Assessments.**

8

9 (a) Each private hospital shall pay a private
10 hospital assessment to the department in accordance with
11 this section. Hospitals owned or operated by the state or
12 any city, town, county, special district or other political
13 subdivision of the state or local government shall not be
14 required to pay the assessment required by this section.

15

16 (b) The assessment due under this section shall be
17 imposed each fiscal year in an amount calculated as a
18 uniform percentage of each hospital's net patient revenue.
19 The assessment rate shall be determined by the department
20 on a prospective basis and shall be based on the percentage
21 of net hospital patient revenue needed to generate an
22 amount not to exceed the nonfederal portion of the upper
23 payment limit gap plus the fee authorized by W.S.

1 42-9-103(d)(i). In no event shall the assessment rate
2 exceed the indirect guarantee threshold amount established
3 by 42 C.F.R. 433.68(f)(3)(i) or other federal law.

4

5 (c) Unless otherwise determined by the department,
6 the department shall collect and each private hospital
7 shall pay the assessment required by this section on a
8 quarterly basis, each payment constituting twenty-five
9 percent (25%) of the annual assessment determined by the
10 department. The initial payment shall be due not later
11 than forty-five (45) days after the state plan has been
12 approved by the federal centers for medicare and medicaid
13 services unless a later date is set by the department.
14 Subsequent payments are due not later than forty-five (45)
15 days after the end of each calendar quarter unless a later
16 date is set by the department.

17

18 (d) If a private hospital ceases to operate as a
19 hospital or for any reason ceases to be subject to the
20 assessment imposed under this chapter, the assessment for
21 the fiscal year in which the cessation occurs shall be
22 adjusted by multiplying the annual assessment by a
23 fraction, the numerator of which is the number of days in

1 the year during which the hospital is subject to the
2 assessment and the denominator of which is three hundred
3 sixty-five (365). Immediately upon ceasing to operate as a
4 hospital, or otherwise ceasing to be subject to this
5 chapter, the hospital shall pay the assessment for each
6 quarter as adjusted, to the extent not previously paid.

7

8 **42-9-105. Penalties for failure to pay assessment.**

9

10 (a) If a private hospital fails to pay an assessment
11 due under this chapter, there shall be added to the
12 assessment a penalty equal to five percent (5%) of the
13 amount of the assessment that was not paid when due. The
14 penalty under this section may be waived by the department
15 for good cause. Any payments made after a penalty is
16 assessed under this section shall be credited first to
17 unpaid assessment amounts rather than to penalty amounts,
18 beginning with the most delinquent installment.

19

20 (b) In addition to the penalty under subsection (a)
21 of this section, the department may implement any of the
22 following remedies for failure of a private hospital to pay
23 its assessment when due under this chapter:

1

2 (i) Withhold any medicaid payments, including
3 any quarterly adjustment payments, until the assessment is
4 paid;

5

6 (ii) Suspend or revoke the private hospital's
7 license; or

8

9 (iii) Develop a plan that requires the private
10 hospital to pay any delinquent assessment in installments.

11

12 **42-9-106. Quarterly adjustment payments.**

13

14 (a) To preserve the quality and improve access to
15 hospital services for private hospital inpatient and
16 outpatient services rendered on or after July 1, 2016, the
17 department shall make quarterly adjustment payments as set
18 forth in this section.

19

20 (b) Each private hospital that pays assessments under
21 this chapter and is eligible to receive medicaid payments
22 shall be eligible to receive quarterly adjustment payments
23 as provided in this section. The department shall

1 distribute quarterly adjustment payments in an amount up to
2 but not to exceed the applicable upper payment limit gap.
3 The department shall establish a uniform methodology by
4 which to distribute quarterly adjustment payments in
5 compliance with applicable federal and state medicaid laws
6 and regulations.

7

8 (c) Quarterly adjustment payments shall not be used
9 to offset any other payment by medicaid for hospital
10 inpatient or outpatient services to medicaid beneficiaries,
11 including without limitation any fee-for-service, per diem,
12 private hospital inpatient adjustment or cost settlement
13 payment.

14

15 (d) No private hospital shall be guaranteed,
16 expressly or otherwise, that any quarterly adjustment
17 payment will equal or exceed the amount of the private
18 hospital assessments due under this chapter.

19

20 (e) Monies made available by this chapter shall not
21 be used to replace other general revenues appropriated and
22 funded by the legislature or other revenues used to support
23 medicaid.

1

2 **42-9-107. Discontinuation of the assessment and**
3 **quarterly adjustment payments.**

4

5 (a) The assessment imposed by this chapter shall be
6 discontinued if:

7

8 (i) The state plan amendment reflecting the
9 quarterly adjustment payments authorized by this chapter is
10 not approved by the federal centers for medicare and
11 medicaid services. The department may modify the quarterly
12 adjustment payment provisions as necessary to obtain the
13 federal centers for medicare and medicaid services approval
14 if the changes do not exceed the authority and purposes of
15 this chapter;

16

17 (ii) Federal financial participation to match
18 assessments under this chapter becomes unavailable under
19 federal law. In this event, the department shall terminate
20 the imposition of assessments beginning on the date the
21 federal statutory, regulatory or interpretive change takes
22 effect.

23

1 (b) If collection of the assessment is discontinued
2 as provided in this section, quarterly adjustment payments
3 shall be discontinued and, after payment of all amounts
4 under W.S. 42-9-103(d)(i) and (iii), any assessments
5 remaining in the account shall be returned to the private
6 hospitals from which the assessments were collected on the
7 same basis as they were collected.

8

9 **42-9-108. Approval of state plan; rulemaking.**

10

11 (a) The department shall seek necessary federal
12 approval in the form of state plan amendments in order to
13 continue to implement the provisions of this chapter.

14

15 (b) The department shall adopt rules and regulations
16 necessary to implement the provisions of this chapter and
17 to obtain approval of the state plan amendments.

18

19 **42-9-109. Multiple facilities.**

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21 If a person conducts, operates or maintains more than one
22 (1) private hospital licensed by the department, the person

1 shall pay the assessment for each private hospital
2 separately.

3

4 **Section 2.** This act is effective July 1, 2016.

5

6

(END)