

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 134

4
5 By: Senators Teague, Crumbly, Elliott, Files, S. Harrelson, G. Jeffress, J. Jeffress, Luker, B. Sample, D.
6 Wyatt
7 By: Representatives Ingram, Allen, D. Altes, Catlett, Cheatham, Dale, Gaskill, Hall, Hickerson, D.
8 Hutchinson, Hyde, Lea, Leding, Lindsey, Lovell, Pennartz, Perry, Pierce, T. Rogers, G. Smith, Steel, T.
9 Steele, Tyler, Wardlaw, B. Wilkins, Webb, Wright, Woods

For An Act To Be Entitled

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12 AN ACT TO AMEND THE ASSESSMENT FEE LEVIED ON
13 HOSPITALS TO IMPROVE HEALTH CARE ACCESS FOR THE
14 CITIZENS OF ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

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18 AN ACT TO AMEND THE ASSESSMENT FEE LEVIED
19 ON HOSPITALS TO IMPROVE HEALTH CARE
20 ACCESS FOR THE CITIZENS OF ARKANSAS.

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code Title § 20-77-1902(a)(2), concerning the
26 assessment fee on hospitals, is amended to read as follows:

27 (2) The assessment rate shall be determined annually based upon the
28 percentage of net patient revenue needed to generate an amount up to the
29 nonfederal portion of the upper payment limit gap plus the annual fee to be
30 paid to Medicaid under § 20-77-1904(f)(1)(C), but in no case ~~greater than one~~
31 ~~percent (1%) of net patient revenue~~ at a rate that would cause the assessment
32 proceeds to exceed the indirect guarantee threshold set forth in 42 CFR §
33 433.68(f)(3)(i).

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35 SECTION 2. Arkansas Code § 20-77-1903(b)(3), concerning rules for the
36 administration of the hospital fee program, is amended to read as follows:



1 (3) The rules adopted under subdivision (b)(1) of this section shall
 2 include any necessary forms for:

3 (A) Proper imposition and collection of the assessment
 4 imposed under § 20-77-1902;

5 (B) Enforcement of this subchapter, including without
 6 limitation letters of caution or sanctions; and

7 (C) Reporting of net patient revenue.

8
 9 SECTION 3. Arkansas Code § 20-77-1906(c), concerning failure of a
 10 hospital to timely pay the hospital fee, is amended to add an additional
 11 subdivision to read as follows:

12 (3) If the division is unable to recoup from Medicaid payments
 13 the full amount of any unpaid assessment or penalty assessment, or both, the
 14 division may:

15 (A) Intercept a state tax refund claimed by the hospital
 16 up to the full amount of the hospital's unpaid obligation; and

17 (B) File suit in a court of competent jurisdiction to
 18 collect up to double the amount due, the division's costs related to the suit
 19 and reasonable attorneys' fees.

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 21 SECTION 4. Arkansas Code § 20-77-1909 is amended to read as follows:
 22 20-77-1909. Effectiveness and cessation.

23 (a) The assessment imposed under § 20-77-1902 ~~shall not take effect or~~
 24 ~~shall cease to be imposed, the Medicaid hospital access payments made under §~~
 25 ~~20-77-1908 shall cease to be paid,~~ and any moneys remaining in the Hospital
 26 Assessment Account in the Arkansas Medicaid Program Trust Fund shall be
 27 refunded to hospitals in proportion to the amounts paid by them if:

28 ~~(1) The appropriations for any state fiscal year from the~~
 29 ~~General Revenue Fund Account of the State Apportionment Fund for hospital~~
 30 ~~payments under the state Medicaid program are less than the preceding state~~
 31 ~~fiscal year;~~

32 ~~(2) The Division of Medical Services of the Department of Human~~
 33 ~~Services makes changes in its rules that reduce hospital inpatient payment~~
 34 ~~rates, outpatient payment rates, or adjustment payments, including any cost-~~
 35 ~~settlement protocol, that were in effect on January 1, 2009; or~~

36 ~~(3)~~(1) The inpatient or outpatient hospital access payments

1 required under § 20-77-1908 are changed or the assessments imposed under §
2 20-77-1902 are not eligible for federal matching funds under Title XIX of the
3 Social Security Act, 42 U.S.C. § 1396 et seq., or Title XXI of the Social
4 Security Act, 42 U.S.C. § 1397aa et seq.; or

5 (2) It is determined in the course of an administrative
6 adjudication or in an action under § 25-15-207 that the Division of Medical
7 Services of the Department of Human Services:

8 (A) Established Medicaid hospital payment rates that
9 include an offset, in whole or in part, for any hospital access payments
10 under § 20-77-1908; or

11 (B) Included the net effect of any hospital access payment
12 under § 20-77-1908 when considering whether Medicaid hospital payment rates
13 are:

14 (i) Consistent with efficiency, economy, and quality
15 of care; and

16 (ii) Sufficient to enlist enough providers so that
17 Medicaid care and services are available at least to the extent that the care
18 and services are available to the general population in the geographic area.

19 (b)(1) The assessment imposed under § 20-77-1902 ~~shall not take effect~~
20 ~~or~~ shall cease to be imposed and the Medicaid hospital access payments under
21 § 20-77-1908 shall cease to be paid if the assessment is determined to be an
22 impermissible tax under Title XIX of the Social Security Act, 42 U.S.C. §
23 1396 et seq.

24 (2) Moneys in the Hospital Assessment Account in the Arkansas
25 Medicaid Program Trust Fund derived from assessments imposed before the
26 determination described in subdivision (b)(1) of this section shall be
27 disbursed under § 20-77-1908 to the extent federal matching is not reduced
28 due to the impermissibility of the assessments, and any remaining moneys
29 shall be refunded to hospitals in proportion to the amounts paid by them.

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