
A BILL FOR AN ACT

RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 217, Session Laws of Hawaii 2012, is
2 amended by amending section 2 to read as follows:

3 "SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 HOSPITAL SUSTAINABILITY PROGRAM

8 § -1 Title. This chapter shall be known and may be
9 cited as the "Hospital Sustainability Program Act".

10 § -2 Findings and declaration of necessity. It is the
11 intent of the legislature to establish a special fund within the
12 state treasury to receive revenue from the imposition of a
13 hospital sustainability fee to be administered by the department
14 [~~and to~~] of human services, which shall use the revenue from the
15 fee and associated federal medicaid matching funds to make
16 direct payments to hospitals and for other purposes as set forth
17 in this chapter.

18 § -3 Definitions. As used in this chapter:

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1 "Department" means the department of human services.

2 "Fiscal year" means a twelve-month period from July 1 of a
3 particular calendar year to June 30 of the following calendar
4 year, inclusive.

5 "Hospital" means any facility licensed pursuant to chapter
6 11-93, Hawaii Administrative Rules.

7 "Inpatient care" means the care of patients whose
8 conditions require admission to a hospital.

9 "Net patient service revenue" means gross revenue from
10 inpatient and outpatient care provided to hospital patients
11 converted to net patient revenue utilizing data from Worksheets
12 G-2 and G-3 of each ~~[hospitals]~~ hospital's medicare cost report
13 for the period ending between July 1, ~~[2009-]~~ 2010, and June
14 30, ~~[2010-]~~ 2011. If the hospital is new or did not file a
15 fiscal year medicare cost report, the department shall obtain
16 the hospital's net patient service revenue from the most recent
17 period available.

18 "Outpatient care" means all services furnished by hospitals
19 to patients who are registered as hospital outpatients.

20 "Private hospital" means those non-public hospitals named
21 in attachment A of the ~~[QUEST-expanded]~~ medicaid section 1115
22 demonstration waiver that were in operation in calendar year
23 2012 and are currently operating.

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1 "Section 1115 waiver" means the [~~QUEST-expanded~~] medicaid
2 section 1115 demonstration waiver [~~(Number 11-W-00001/9).~~] under
3 which the state medicaid program is operating.

4 § -4 Hospital sustainability program special fund. (a)

5 There is created in the state treasury the hospital
6 sustainability program special fund to be administered by the
7 department into which shall be deposited all moneys collected
8 under this chapter.

9 (b) Moneys in the hospital sustainability program special
10 fund shall consist of:

- 11 (1) All revenue received by the department from the
12 hospital sustainability fee;
- 13 (2) All federal medicaid funds received by the department
14 as a result of matching expenditures made with the
15 hospital sustainability fee;
- 16 (3) Any interest or penalties levied in conjunction with
17 the administration of this chapter; and
- 18 (4) Any designated appropriations, federal funds,
19 donations, gifts, or moneys from any other sources.

20 (c) Moneys in the hospital sustainability program special
21 fund shall be used exclusively as follows:

- 22 (1) To make direct payments to private hospitals pursuant
23 to the terms of the section 1115 waiver. At least

1 ~~[ninety-three]~~ eighty-eight per cent of the moneys in
2 the special fund shall be used for this purpose,
3 provided that in no instance shall a hospital receive
4 ~~[supplemental]~~ uncompensated care costs payments that
5 exceed its allowable uncompensated care costs;

6 ~~[(2) Two per cent of the moneys in the special fund shall~~
7 ~~be used for Medicaid covered services for the benefit~~
8 ~~of hospitals;~~

9 ~~(3) Five]~~ (2) Twelve per cent of the moneys in the
10 special fund may be used by the department for other
11 departmental purposes; and

12 ~~[(4)]~~ (3) Any money remaining in the special fund six
13 months after the repeal of this chapter, shall be
14 distributed to hospitals within thirty days in the
15 same proportions as received from the hospitals.

16 (d) The department shall utilize federal funds derived
17 from state hospital certified expenditures to make supplemental
18 payments to state hospitals and is authorized to receive
19 intergovernmental transfers from the state hospitals to support
20 direct supplemental payments and increased capitation rates to
21 health plans for the benefit of the state hospitals. During any
22 period in which the hospital sustainability fee is in effect,

1 certified expenditures of state hospitals shall not be used to
2 make or support direct payments to private hospitals.

3 ~~[-(e) The hospital sustainability program special fund
4 appropriation ceiling shall be \$42,000,000 for fiscal year 2012-
5 2013 and \$37,000,000 in federal funds for HMS 401 for fiscal
6 year 2012-2013-]~~

7 § -5 Hospital sustainability fee. (a) Effective July
8 1, 2012, or, if later, the effective date of any necessary
9 federal approvals, the department shall charge and collect
10 provider fees, to be known as the hospital sustainability fee,
11 on inpatient and outpatient care services provided by private
12 hospitals.

13 (b) The hospital sustainability fee shall be based on the
14 net patient service revenue for inpatient services and
15 outpatient services, respectively, of all hospitals that are
16 subject to the hospital sustainability fee.

17 (c) The hospital sustainability fee for inpatient care
18 services may differ from the fee for outpatient care services
19 but the fees shall not in the aggregate exceed three per cent of
20 net patient service revenue as derived from the ~~[hospitals]~~
21 hospital's medicare cost report ending during state fiscal year
22 ~~[2010]~~ 2010-2011. The inpatient hospital sustainability fee
23 shall be ~~[2.471]~~ 2.365 per cent of net inpatient hospital

1 service revenue. The outpatient hospital sustainability fee
2 shall be three per cent of net outpatient hospital service
3 revenue. Each fee shall be the same percentage for all affected
4 hospitals, subject to subsection (d).

5 (d) The department shall exempt children's hospitals,
6 federal hospitals, public hospitals, rehabilitation hospitals,
7 [and] psychiatric hospitals, and any hospital that was not in
8 operation during any part of calendar year 2012 from the
9 hospital sustainability fees on inpatient ~~[and-outpatient care]~~
10 services. In addition, the department shall exempt hospitals
11 with net outpatient revenue of less than ~~[\$45,000,000]~~
12 \$42,500,000 per year (based on fiscal year ~~[2010]~~ 2011 reports),
13 public hospitals, and any hospital that was not in operation
14 during any part of calendar year 2012 from the hospital
15 sustainability fee on outpatient care services.

16 (e) The department, with agreement by the hospital trade
17 association located in Hawaii, may modify the structure of the
18 hospital sustainability program if such modification is
19 necessary to obtain federal waiver approval consistent with the
20 requirements of 42 Code of Federal Regulations section
21 433.68(e)(2).

22 § -6 Hospital sustainability fee assessments. (a)
23 Hospitals shall pay the hospital sustainability fee to the

1 department in accordance with this chapter. The fee shall be
2 divided and paid in four equal installments on a quarterly
3 basis.

4 (b) The department shall collect, and each hospital shall
5 pay, the hospital sustainability fee not later than the
6 fifteenth day after the end of each calendar quarter, provided
7 that if required federal approvals have not been secured by the
8 end of a calendar quarter the fees for that quarter shall be
9 paid within ten days after notification to the hospitals that
10 the required approvals have been received.

11 § -7 **Federal approval.** The department shall seek
12 waivers and any additional approvals from the Centers for
13 Medicare and Medicaid Services that may be necessary to
14 implement the hospital sustainability program.

15 § -8 **Multifacility locations.** If an entity conducts,
16 operates, or maintains more than one hospital licensed by the
17 department of health, the entity shall pay the hospital
18 sustainability fee for each hospital separately.

19 § -9 **Penalties for failure to pay the hospital**
20 **sustainability fee.** (a) If a hospital fails to pay the full
21 amount of any hospital sustainability fee when due, there shall
22 be added to the fee, unless waived by the department for
23 reasonable cause, a penalty equal to prime plus two per cent of

1 the fee that was not paid when due. Any subsequent payments
2 shall be credited first to unpaid fee amounts beginning with the
3 most delinquent installment rather than to penalty or interest
4 amounts.

5 (b) In addition to the penalty imposed by subsection (a),
6 the department may seek any of the following remedies for the
7 failure of any hospital to pay its fee when due:

- 8 (1) Withholding any medical assistance reimbursement
9 payments until such time as the fee amount is paid in
10 full;
- 11 (2) Suspension or revocation of the hospital license; or
- 12 (3) Development of a plan that requires the hospital to
13 pay any delinquent fee in installments.

14 § -10 Private hospital payments. (a) The department
15 shall use moneys from the hospital sustainability program
16 special fund to make direct payments to private hospitals in an
17 amount equal to [~~\$77,468,401~~] \$81,309,367 to cover the
18 uncompensated care costs incurred by private hospitals for
19 serving medicaid and uninsured individuals during state fiscal
20 year [~~2013-~~] 2014.

21 (b) The department shall make quarterly payments to
22 private hospitals to reimburse their uncompensated care costs
23 within twenty days after the end of each calendar quarter;

1 provided that payments shall not be due until at least fifteen
2 days after receipt of the fees required by section -6. If
3 the department fails to pay the full amount when due, there
4 shall be added to the payment a penalty equal to prime plus two
5 per cent of the payment that was not paid when due.

6 (c) Each eligible hospital's quarterly payment shall be
7 equal to one-quarter of its uncompensated care costs for the
8 fiscal year in which payment is made, as derived from the
9 uncompensated care costs reported by all private hospitals for
10 fiscal year [~~2010~~] 2010-2011.

11 (d) If federal approval pursuant to section -7 is not
12 received until after the end of any quarter for which the
13 hospital sustainability fee is applicable, the department shall
14 make the initial quarterly payments within five days after
15 receipt of the hospital sustainability fee for the respective
16 quarter.

17 (e) To the extent the hospital sustainability program is
18 not effective for the entire year, the hospital sustainability
19 fee, the state medicaid expenses and administrative fee, and the
20 corresponding uncompensated care payments shall be based on the
21 proportion of the fiscal year the program is in effect.

22 § -11 Special designation of hospital sustainability
23 program special fund. Notwithstanding section 37-53, and any

1 law or any administrative rule to the contrary, the specific
2 purposes set out in section -4(c) are established as being
3 exclusive uses of the hospital sustainability program special
4 fund. The hospital sustainability program special fund shall
5 not and may not be used for any other purposes, notwithstanding
6 any authority granted to the governor or any other state
7 official by any other statutory provisions relating to the
8 allocation or reallocation of funds.

9 § -12 Termination. (a) Collection of the hospital
10 sustainability fee established by section -5 shall be
11 discontinued if:

- 12 (1) The required federal approvals specified in
13 section -7 are not granted or are revoked by the
14 Centers for Medicare and Medicaid Services;
- 15 (2) The department reduces funding for hospital services
16 below the state appropriation in effect as of the
17 effective date of this chapter;
- 18 (3) The department or any other state agency uses the
19 money in the hospital sustainability program special
20 fund for any use other than the uses permitted by this
21 chapter; or
- 22 (4) Federal financial participation to match the revenue
23 from the hospital sustainability fee becomes

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1 unavailable under federal law; provided that the
2 department shall terminate the imposition of the
3 hospital sustainability fee beginning on the date the
4 federal statutory, regulatory, or interpretive change
5 takes effect.

6 (b) Notwithstanding section -4(c), if collection of the
7 hospital sustainability fee is discontinued as provided in this
8 section, any remaining moneys in the hospital sustainability
9 program special fund shall be distributed within thirty days to
10 the private hospitals on the same basis as the hospital
11 sustainability fee was collected.

12 § -13 **Severability.** If any provision of this chapter or
13 the application thereof to any person or circumstance is held
14 invalid, the invalidity shall not affect other provisions or
15 applications of the chapter that can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this chapter are severable."

18 SECTION 2. Act 217, Session Laws of Hawaii 2012, is
19 amended by amending section 5 to read as follows:

20 "SECTION 5. This Act shall take effect on July 1, 2012,
21 and shall be repealed on June 30, [~~2013~~] 2014; provided that
22 section -4(c), Hawaii Revised Statutes, in section 2 of this
23 Act shall be repealed on December 31, [~~2013~~] 2014."

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1 SECTION 3. There is appropriated out of the hospital
2 facility sustainability program special fund the sum of
3 \$46,000,000, or so much thereof as may be necessary, for fiscal
4 year 2013-2014, with such moneys to be used consistent with the
5 hospital sustainability program special fund.

6 SECTION 4. The sums appropriated shall be expended by the
7 department of human services for the purposes of this Act.

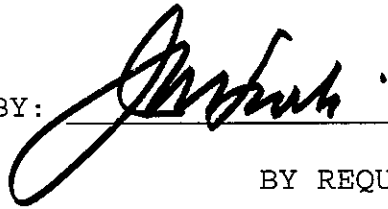
8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act, upon its approval, shall take effect
11 on June 29, 2013.

12

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INTRODUCED BY:



14

BY REQUEST

15

JAN 22 2013

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Report Title:

Hospital Sustainability Program; Hospital Sustainability Program Special Fund

Description:

Amend Act 217, Session Laws of Hawaii 2012, to continue the Hospital Sustainability Program by extending the sunset date of the Act, updating the referral dates in the statute, and to revise the funding amount for the hospital sustainability program for fiscal year 2013-2014. Effective June 29, 2013. Repealed on June 30, 2014.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

PURPOSE: To continue the Hospital Sustainability Program, established by Act 217, Session Laws of Hawaii 2012, by extending the sunset date of the Act, updating the referral dates in the statute, and appropriating funding out of the Hospital Sustainability Program Special Fund for fiscal year 2013-2014. Amend the percentage amounts to be distributed to the hospitals and the Department of Human Services.

MEANS: Amend sections 2 and 5 of Act 217, Session Laws of Hawaii 2012, and adding appropriation language.

JUSTIFICATION: Act 217, Session Laws of Hawaii 2012, established a hospital sustainability fee and the Hospital Sustainability Program Special Fund to receive moneys from the hospital sustainability fee to receive federal Medicaid matching funds under the Medicaid Section 1115 Demonstration Waiver. Act 217 requires the Department of Human Services to charge and collect a provider fee on health care items or services provided by hospitals. Act 217 is to be repealed on June 30, 2013.

The Hospital Sustainability Program levies a fee on non-governmental hospitals and uses that revenue largely to leverage federal funds and increase reimbursement to hospitals, with a greater benefit to those providing proportionately more services to Medicaid recipients and the uninsured. These additional moneys will increase the sustainability of hospitals in Hawaii to continue as a critical part of the safety-net. In addition, some of the moneys will

be utilized by the Department of Human Services to benefit its beneficiaries. This bill proposes to extend the hospital sustainability program for another year and amends the percentage amounts to be distributed to the hospitals and the Department of Human Services.

Impact on the public: Hawaii residents benefit by having more sustainable hospitals and, thereby, have increased access to necessary medical care.

Impact on the department and other agencies: The Department of Human Services will benefit by receiving some additional funds to support its programs. However, the Department will have the increased administrative burden of administering the sustainability fee program.

GENERAL FUND: None.

OTHER FUNDS: \$81,309,367 Hospital Sustainability Program Special Fund.

PPBS PROGRAM DESIGNATION: HMS 401.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: June 29, 2013.