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# 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. The legislature finds that hospitals in the  
2 State face major financial challenges in providing quality  
3 health care for Hawaii residents. These challenges are largely  
4 the result of inadequate payments from the medicaid program that  
5 do not cover the actual costs of care. Medicaid is jointly  
6 financed by the federal and state government but, by statutory  
7 formula, the federal government only pays between fifty per cent  
8 and seventy-four per cent of medicaid costs incurred by states  
9 for care delivered to their medicaid beneficiaries. Federal  
10 assistance percentages vary by state, with states that have  
11 lower per capita incomes receiving higher federal matching  
12 rates. Under federal rules, the state share must be public  
13 funds that are not federal funds. The legislature finds that  
14 federal funding to help sustain Hawaii's hospitals financially  
15 may be accessed through a provider fee.

16           The legislature further finds that provider fees exist in  
17 forty-six states and the District of Columbia as a means of



1 drawing down federal funds to sustain their medicaid programs  
2 due to rising state budget deficits, increasing health care  
3 costs, and expanding medicaid enrollment. Provider fees, which  
4 are collected from specific categories of health care providers  
5 that agree to the fee, may be imposed on nineteen different  
6 classes of health care services, including inpatient and  
7 outpatient hospital and nursing facility services.

8 The legislature additionally finds that, in Hawaii, a  
9 provider fee on hospitals has resulted in an increase of  
10 medicaid payments at a time when there are constraints on the  
11 State's budget. The additional federal funds obtained via the  
12 fee program authorized by the hospital sustainability program  
13 has helped to reduce the amount of losses incurred by hospitals  
14 and slow the erosion of access to care for medicaid recipients.

15 The purpose of this Act is to preserve access to health  
16 care for medicaid recipients by extending the hospital  
17 sustainability fee program.

18 SECTION 2. Act 217, Session Laws of Hawaii 2012, section  
19 2, as amended by section 1 of Act 141, Session Laws of Hawaii  
20 2013, as amended by section 1 of Act 123, Session Laws of Hawaii



1 2014, as amended by section 1 of Act 70, Session Laws of Hawaii  
2 2015, is amended as follows:

3 1. By amending the definitions of "net patient service  
4 revenue" and "private hospital" in section -3, Hawaii Revised  
5 Statutes, to read:

6 "Net patient service revenue" means gross revenue from  
7 inpatient and outpatient care provided to hospital patients  
8 converted to net patient revenue utilizing data from Worksheets  
9 G-2 and G-3 of each hospital's medicare cost report for fiscal  
10 year [~~2012-2013.~~] 2013-2014. If the hospital is new or did not  
11 file a fiscal year medicare cost report, the department shall  
12 obtain the hospital's net patient service revenue from the most  
13 recent period available.

14 "Private hospital" means those non-public hospitals named  
15 in attachment A of the medicaid section 1115 demonstration  
16 waiver that were in operation in calendar year [~~2014~~] 2015 and  
17 are currently operating[~~-~~] or any hospitals not named in  
18 attachment A of the medicaid section 1115 demonstration waiver  
19 that became private hospitals in calendar year 2016 and are  
20 currently operating."

1           2. By amending subsection (c) of section -4, Hawaii  
2 Revised Statutes, to read:

3           "(c) Moneys in the hospital sustainability program special  
4 fund shall be used exclusively as follows:

5           (1) ~~[To make direct supplemental uncompensated care and  
6 upper payment limit payments to private hospitals  
7 pursuant to the terms of the section 1115 waiver. At  
8 least eighty eight per cent of the moneys in the  
9 special fund shall be used for this purpose, provided  
10 that in no instance shall a hospital receive  
11 supplemental payments that exceed its allowable  
12 uncompensated care costs,] No less than eighty-eight  
13 per cent of the revenue from the hospital  
14 sustainability fee shall be used to:~~

15           (A) Match federal medicaid funds, with the combined  
16 total to be used to enhance capitated rates to  
17 medicaid managed care health plans for the sole  
18 purpose of increasing medicaid payments to  
19 private hospitals;

20           (B) Match federal medicaid funds for Hawaii's  
21 medicaid disproportionate share hospital



1                   allotment as authorized by current federal law  
2                   for private hospitals;

3           (C) Match federal medicaid funds for a private  
4                   uncompensated care hospital pool for uninsured  
5                   individuals;

6           (D) Match federal medicaid funds with the combined  
7                   total to be used to enhance capitated rates to  
8                   medicaid managed care health plans for the  
9                   purpose of increasing medicaid payments to  
10                  private hospitals through a quality incentive  
11                  pool;

12           (2) Twelve per cent of the moneys in the hospital  
13                   sustainability program special fund may be used by the  
14                   department for other departmental purposes; and

15           (3) Any money remaining in the special fund six months  
16                   after the repeal of this chapter, shall be distributed  
17                   to hospitals within thirty days in the same  
18                   proportions as received from the hospitals."

19           3. By amending subsections (c) and (d) of section -5,  
20 Hawaii Revised Statutes, to read:



1           "(c) The hospital sustainability fee for inpatient care  
2 services may differ from the fee for outpatient care services  
3 but the fees shall not in the aggregate exceed three per cent of  
4 net patient service revenue as derived from the hospital's  
5 medicare cost report ending during state fiscal year [~~2012-~~  
6 ~~2013-~~] 2013-2014. The inpatient hospital sustainability fee  
7 shall [~~be 1.892~~] not exceed three per cent of net inpatient  
8 hospital service revenue. The outpatient hospital  
9 sustainability fee shall be three per cent of net outpatient  
10 hospital service revenue. Each fee shall be the same percentage  
11 for all affected hospitals, subject to subsection (d).

12           (d) The department shall exempt children's hospitals,  
13 federal hospitals, public hospitals, [~~rehabilitation hospitals,~~]  
14 and psychiatric hospitals, and any hospital that was not in  
15 private operation during any part of calendar year [~~2014~~] 2015  
16 from the hospital sustainability fees on inpatient services. In  
17 addition, the department shall exempt [~~hospitals with net~~  
18 ~~outpatient revenue of less than \$50,000,000 per year (based on~~  
19 ~~fiscal year 2012-2013 reports) and~~] public hospitals[~~7~~] and any  
20 hospital that was not in private operation during any part of



1 calendar year [~~2014~~] 2015 from the hospital sustainability fee  
2 on outpatient care services."

3 SECTION 3. Act 217, Session Laws of Hawaii 2012, section  
4 2, as amended by section 1 of Act 141, Session Laws of Hawaii  
5 2013, is amended by amending section -6, Hawaii Revised  
6 Statutes, to read as follows:

7 "§ -6 Hospital sustainability fee assessments. (a)  
8 Hospitals shall pay the hospital sustainability fee to the  
9 department in accordance with this chapter. The fee shall be  
10 divided and paid in [~~four~~] twelve equal installments on a  
11 [~~quarterly~~] monthly basis.

12 (b) The department shall collect, and each hospital shall  
13 pay, the hospital sustainability fee not later than the  
14 [~~fifteenth~~] thirtieth day after the end of each calendar  
15 [~~quarter,~~] month; provided that if required federal approvals  
16 have not been secured by the end of a calendar [~~quarter~~] month  
17 the fees for that [~~quarter~~] month shall be paid within ten days  
18 after notification to the hospitals that the required approvals  
19 have been received."

20 SECTION 4. Act 217, Session Laws of Hawaii 2012, section  
21 2, as amended by section 1 of Act 141, Session Laws of Hawaii



1 2013, as amended by section 1 of Act 123, Session Laws of Hawaii  
2 2014, as amended by section 1 of Act 70, Session Laws of Hawaii  
3 2015, is amended by amending section -10, Hawaii Revised  
4 Statutes, to read as follows:

5 "§ -10 Private hospital payments[-] through enhanced  
6 rates to medicaid managed care health plans. [~~(a)~~—The  
7 department shall use moneys solely from the hospital  
8 sustainability program special fund to make direct payments to  
9 private hospitals, pursuant to the terms of the section 1115  
10 waiver, in an amount equal to \$88,000,000 to cover the  
11 uncompensated care costs incurred by private hospitals for  
12 serving medicaid and uninsured individuals during state fiscal  
13 year 2015-2016.

14 ~~(b)~~—The department shall use moneys solely from the  
15 hospital sustainability program special fund to make direct  
16 upper payment limit payments in an amount equal to \$3,975,442,  
17 pursuant to the terms of the section 1115 waiver, to level II  
18 trauma centers verified by the American College of Surgeons and  
19 designated by the department of health, including recognized  
20 specialty children's hospitals that do not pay both the  
21 inpatient and outpatient assessments.





1       ~~(c) The department shall make quarterly payments to~~  
2 ~~private hospitals to reimburse their uncompensated care costs~~  
3 ~~within twenty days after the end of each calendar quarter,~~  
4 ~~provided that payments shall not be due until at least fifteen~~  
5 ~~days after receipt of the fees required by section 6. If the~~  
6 ~~department fails to pay the full amount when due, there shall be~~  
7 ~~added to the payment a penalty equal to prime plus two per cent~~  
8 ~~of the payment that was not paid when due.~~

9       ~~(d) Each eligible hospital's quarterly payment shall be~~  
10 ~~equal to one quarter of its prorated share of uncompensated care~~  
11 ~~costs for the fiscal year in which payment is made, as derived~~  
12 ~~from the uncompensated care costs reported by all private~~  
13 ~~hospitals for fiscal year 2012-2013, provided that:~~

14       ~~(1) Outpatient uncompensated care costs shall be~~  
15       ~~reimbursed at one hundred per cent of reported~~  
16       ~~uncompensated care costs; and~~

17       ~~(2) Inpatient uncompensated care costs shall be reimbursed~~  
18       ~~on a prorated share based on the remaining~~  
19       ~~uncompensated care amounts available through the~~  
20       ~~section 1115 waiver.~~



1 ~~(e) Each eligible hospital's quarterly payment from the~~  
2 ~~hospital sustainability program special fund shall be equal to~~  
3 ~~one quarter of its share of upper payment limit payments for the~~  
4 ~~fiscal year in which payment is made. Eligible hospitals shall~~  
5 ~~receive their payments based on their medicaid utilization to~~  
6 ~~ensure access to care for that beneficiary population.] (a)~~  
7 The department shall use moneys solely from the hospital  
8 sustainability program special fund to fulfill the requirements  
9 of section -4(c).

10 (b) In accordance with title 42 Code of Federal  
11 Regulations section 438, the department shall use revenues from  
12 the hospital sustainability fee and federal matching funds to  
13 enhance the capitated rates paid to medicaid managed care health  
14 plans for the state fiscal year 2016-2017, consistent with the  
15 following objectives:

16 (1) The rate enhancement shall be used exclusively for  
17 increasing reimbursements to private hospitals to  
18 support the availability of services and to ensure  
19 access to care to the medicaid managed care health  
20 plan enrollees;



- 1        (2) The rate enhancement shall be made part of the monthly  
2        capitated rates by the department to medicaid managed  
3        care health plans, which shall provide documentation  
4        to the department and the hospital trade association  
5        located in Hawaii certifying that the revenues  
6        received under paragraph (1) are used in accordance  
7        with this section;
- 8        (3) The rate enhancement shall be actuarially sound and  
9        approved by the federal government for federal fund  
10       participation;
- 11       (4) The rate enhancements shall be retroactive to the  
12       effective date of this Act, or the effective date  
13       approved by the federal government, whichever is  
14       later. Retroactive rate enhancements shall be paid  
15       within thirty days of notification by the Centers for  
16       Medicare and Medicaid Services to the department of  
17       all necessary approvals; and
- 18       (5) Payments made by the medicaid managed care health  
19       plans shall be made within        business days upon  
20       receipt of monthly capitation rates from the  
21       department.



1        [~~f~~] (c) If federal approval pursuant to section    -7 is  
2 not received until after the end of any [~~quarter~~] month for  
3 which the hospital sustainability fee is applicable, the  
4 department shall make the initial [~~quarterly~~] monthly payments  
5 within five days after receipt of the hospital sustainability  
6 fee for the respective [~~quarter.~~] month.

7        [~~g~~] (d) To the extent the hospital sustainability  
8 program is not effective for the entire year, the hospital  
9 sustainability fee, the state medicaid expenses and  
10 administrative fee, and the corresponding [~~uncompensated care~~]  
11 medicaid managed care health plan payments shall be based on the  
12 proportion of the fiscal year the program is in effect."

13        SECTION 5. Act 217, Session Laws of Hawaii 2012, section  
14 5, as amended by section 2 of Act 141, Session Laws of Hawaii  
15 2013, as amended by section 2 of Act 123, Session Laws of Hawaii  
16 2014, as amended by section 2 of Act 70, Session Laws of Hawaii  
17 2015, is amended to read as follows:

18        "SECTION 5. This Act shall take effect on July 1, 2012,  
19 and shall be repealed on June 30, [~~2016~~] 2017; provided that  
20 section    -4, Hawaii Revised Statutes, in section 2 of this  
21 Act, and the amendment to section 36-30(a), Hawaii Revised



1 Statutes, in section 3 of this Act, shall be repealed on  
2 December 31, [~~2016~~] 2017; provided further that the amendment  
3 to section 36-30(a), Hawaii Revised Statutes, in section 3 of  
4 this Act, shall not be repealed when section 36-30, Hawaii  
5 Revised Statutes, is reenacted on June 30, 2015, pursuant to  
6 section 34(3) of Act 79, Session Laws of Hawaii 2009."

7 SECTION 6. Act 123, Session Laws of Hawaii 2014, section  
8 7, as amended by section 3 of Act 70, Session Laws of Hawaii  
9 2015, is amended to read as follows:

10 "SECTION 7. This Act shall take effect on June 29, 2014;  
11 provided that:

- 12 (1) Section 5 shall take effect on July 1, 2014;
- 13 (2) The amendments made to sections 36-27(a) and 36-30(a),  
14 Hawaii Revised Statutes, in sections 3 and 4 of this  
15 Act shall not be repealed when sections 36-27 and  
16 36-30, Hawaii Revised Statutes, are reenacted on  
17 June 30, 2015, pursuant to section 34 of Act 79,  
18 Session Laws of Hawaii 2009; and
- 19 (3) The amendments made to sections 36-27(a) and 36-30(a),  
20 Hawaii Revised Statutes, in sections 3 and 4 of this  
21 Act shall be repealed on December 31, [~~2016~~] 2017."



1 SECTION 7. There is appropriated out of the hospital  
2 sustainability program special fund the sum of \$70,000,000 or so  
3 much thereof as may be necessary for fiscal year 2016-2017 for  
4 the purposes of the hospital sustainability program special  
5 fund.

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

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

10 SECTION 9. This Act shall take effect on June 29, 2016;  
11 provided that section 7 of this Act shall take effect on July 1,  
12 2070.



**Report Title:**

Hospital Sustainability Program; Extension; Appropriation

**Description:**

Continues the Hospital Sustainability Program for one year. Appropriates funds out of the Hospital Sustainability Program Special Fund for fiscal year 2016-2017. Amends various reimbursement rates under the program to certain private hospitals through medicaid managed care health plans, and uncompensated care and disproportionate share hospital payments. (HB1941 HD1)

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

